

BILL ANALYSIS

C.S.H.B. 1348
By: Clardy
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that, in order to protect the motoring public, automobile repairs must be made safely, which requires quality parts, technical knowledge, appropriate equipment, and adherence to accepted procedures. There are concerns that automobile insurers are placing pressure on repair facilities to cut corners in pursuit of profit and that public safety is at risk because low-quality parts are being forced on facilities through insurers' refusal to pay for a more expensive, higher-quality part. C.S.H.B. 1348 seeks to address this issue by ensuring repairs are made using safe parts and according to accepted safety procedures.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 1348 amends the Insurance Code to prohibit an insurer writing automobile insurance in Texas from requiring that a vehicle be repaired with a part or product on the basis that the part or product is the least expensive part or product available or requiring that the beneficiary of a policy purchase any part or product from any vendor or supplier, including an out-of-state vendor or supplier, on the basis that the part or product is the least expensive part or product available.

C.S.H.B. 1348 prohibits an insurer from considering a specified part or product for the repair of a motor vehicle to be of like kind and quality as an original equipment manufacturer part or product for any purpose unless the insurer or the manufacturer of the specified part or product has conclusively demonstrated that the specified part or product:

- meets the fit, finish, and quality criteria established for the part or product by the original equipment manufacturer of the part or product;
- is the same weight and metal hardness established for the part or product by the original equipment manufacturer of the part or product; and
- has been tested using the same crash and safety test criteria used by the original equipment manufacturer of the part or product.

The bill authorizes the repair of a motor vehicle covered under an automobile insurance policy with a part or product that is of like kind and quality as an original equipment manufacturer part or product.

C.S.H.B. 1348 prohibits an insurer, an employee or agent of the insurer, an insurance adjuster, or an entity that employs an insurance adjuster from directly or indirectly limiting the insurer's coverage under an automobile insurance policy that is delivered, issued for delivery, or renewed in Texas and covers damage to a motor vehicle by:

- intimidating, coercing, or threatening the beneficiary to induce the beneficiary to use a particular repair person or facility; or
- offering an incentive or inducement, other than a warranty issued by a repair person or facility, for the beneficiary to use a particular repair person or facility.

The bill prohibits those individuals and entities, in settling a liability claim by a third party against an insured for property damage claimed by the third party, from intimidating, coercing, or threatening the third-party claimant in such a manner or offering such an incentive or inducement to the third-party claimant.

C.S.H.B. 1348 revises the prohibition against an insurer directly or indirectly limiting the insurer's coverage under a policy covering damage to a motor vehicle by limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle in the following ways:

- extending the prohibition to an employee or agent of the insurer, an insurance adjuster, or an entity that employs an insurance adjuster; and
- changing the prohibited action to limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle to the vehicle's condition before the damage occurred in order for the beneficiary to obtain the repair without owing any out-of-pocket cost other than the deductible.

C.S.H.B. 1348 extends to an employee or agent of the insurer, an insurance adjuster, and an entity that employs an insurance adjuster the prohibitions against an insurer, in settling a liability claim by a third party against an insured for property damage claimed by the third party, requiring the third-party claimant to have repairs made by a particular repair person or facility or to use a particular brand, type, kind, age, vendor, supplier, or condition of parts or products. The bill specifies that such use is to repair damage to the vehicle to the vehicle's condition before the damage occurred.

C.S.H.B. 1348 revises the list of acts in which an insurer, an employee or agent of the insurer, an insurance adjuster, or an entity that employs an insurance adjuster is prohibited from engaging in connection with the repair of damage to a motor vehicle covered under an automobile insurance policy in the following ways:

- adding a prohibition against offering, communicating, or suggesting in any manner that a particular repair person or facility will provide faster repair times, faster service, or more efficient claims handling than another repair person or facility;
- adding a prohibition against disregarding a repair operation or cost identified by an estimating system, including the system's procedural pages and any repair, process, or procedure recommended by the original equipment manufacturer of a part or product; and
- changing, with respect to the prohibition against restricting the right of a beneficiary or third-party claimant to choose a repair person or facility by requiring the beneficiary or third-party claimant to travel a certain distance to repair the damage, the applicable distance from an unreasonable distance to a distance considered inconvenient by a beneficiary or third-party claimant.

C.S.H.B. 1348 defines "estimating system," "prevailing rate," and "reasonable and necessary amount" for purposes of statutory provisions relating to the repair of a motor vehicle under an automobile insurance policy or the enforcement of those provisions, as applicable. The bill excludes from the term "repair person or facility" a person who exclusively provides automobile glass replacement, glass repair services, or glass products.

C.S.H.B. 1348 applies only to an insurance policy that is delivered, issued for delivery, or renewed on or after January 1, 2020.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1348 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes an authorization for certain motor vehicles to be repaired with a part or product that is of like kind and quality as an original equipment manufacturer part or product.