

SUBJECT: Prohibiting certain automobile insurer practices related to vehicle repair

COMMITTEE: Insurance — committee substitute recommended

VOTE: 6 ayes — Lucio, G. Bonnen, Lambert, Paul, C. Turner, Vo

1 nay — Oliverson

2 absent — S. Davis, Julie Johnson

WITNESSES: For — Chad Kiffe, Eric McKenzie and Burl Richards, Auto Body Association of Texas; John Kopriva, Houston Auto Body Association; Gerald Condon, Southeast Texas Collision Repair Group, Collision and Classic Inc; Ware Wendell, Texas Watch; Greg Luther, The Houston Auto Body Association and Helfman Motors; Marcia Seebachan; (*Registered, but did not testify*: Eric Allen, Eric Bowman, Brian Brunson, Greg Cinicolo, Mark Crocker, Jeff Davis, Nicholas DeLuca, Brandon Dodd, Richard Dragulski, Carmen Duke, Kevin Ellison, Jace Fincher, Bryan Garrison, Brandon Gillespy, Dean Griffin, Ed Griffin, Sergio Hernandez, Kevin Jordan, Marty Kelley, Les Kubena, Phil McCasland, Robert McDorman, Chad Neal, Emilio Negrete, David Osburn, Logan Payne, Corey Pigg, Matt Pulin, Mike Querry, Mark Roberts, Darrell Smith, Luis Solis, Ross Talmadge, Wesley Thedford, Jill Tuggle, Salvador Villapando, Gordon Voss, Mark Waugh, Doug White, and David Willett, Auto Body Association of Texas; Mark Waugh and Brandon Gillespy, Park Place Dealerships; Byron Campbell, Alliance of Automobile Manufacturers; Kenneth Gardner, Auto Tech Services, Inc; Trent Townsend, Dallas Fort Worth New Car Dealers Association; Robert Peeler, Ford Motor Company; Larry Cernosek, Sylvia Cernosek, and Gayle Kopriva, Houston Auto Body Association; Wyatt Wainwright, Houston Auto Dealers Association; Manuel Rubio, Miracle Body and Paint; Greg Cinicolo, Dale Jones, and Ted Wernimont, Park Place Dealerships; Pamela Crail, SA Auto Dealers; Andrea Trevino, Southside Paint and Body; Robert Braziel, Texas Automobile Dealers Association; Sandra Haverlah, Texas Consumer Association; Will Adams, Texas Trial Lawyers Association; Todd Tracy)

Against — Jay Thompson, AFACT; Joe Woods, American Property Casualty Insurance Association; Kevin Fisk, LKQ Corporation; Paul Martin, National Association of Mutual Insurance Companies; Tchad Taormina, Texas Automotive Recyclers Association; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Thomas Tucker, The Auto Care Association; (*Registered, but did not testify*: Lee Ann Alexander, Liberty Mutual Insurance; Connie Johnson, Progressive; Jessica Boston, Texas Association of Business; Cathy DeWitt, USAA; Jeanette Rash, Zone One Auto; David Baker; Christopher Moppin)

On — (*Registered, but did not testify*: Kimberly Donovan and Melissa Hamilton, Office of Public Insurance Counsel; Nancy Clark and Rachel Cloyd, Texas Department of Insurance)

DIGEST:

CSHB 1348 would prohibit an automobile insurer from requiring that a vehicle be repaired with a part or product on the basis that it was the least expensive part available. An insurer also could not require a beneficiary to purchase a part or product from any vendor or supplier on the basis that it was the least expensive part available.

The bill would prohibit an insurer from considering a specified part or product for the repair of a vehicle to be of like kind and quality as an original equipment manufacturer part, unless the insurer or manufacturer conclusively demonstrated that the part:

- met the fit, finish, and quality criteria established by the original manufacturer;
- was the same weight and metal hardness established by the original manufacturer; and
- had been tested using the same crash and safety test criteria used by the original manufacturer.

An insurer, insurance employee or agent, insurance adjuster, or entity that employed an insurance adjuster could not limit the insurer's coverage under a policy covering damage to a motor vehicle by:

- limiting the beneficiary from selecting a repair person or facility to repair damage to the vehicle's condition before the damage occurred in order for the beneficiary to obtain the repair without owing out-of-pocket costs other than the deductible;
- inducing a beneficiary through intimidation, coercion, or threats to use a particular repair person or facility; or
- offering an incentive or inducement, other than a warranty, for the beneficiary to use a particular repair person or facility.

In settling a liability claim by a third party against an insured for property damage claimed by the third party, an insurer, employee or agent of an insurer, an insurance adjuster, or an entity that employed an insurance adjuster could not:

- require the third-party claimant to use a particular brand, type, vendor, or condition of parts or products to repair damage to the vehicle to the vehicle's condition before the damage occurred;
- intimidate, coerce, or threaten the third-party claimant to induce the claimant to use a particular repair person or facility; or
- offer an incentive or inducement, other than a warranty, for the third-party claimant to use a particular repair person or facility.

CSHB 1348 would prohibit an insurer, employee or agent of an insurer, insurance adjuster, or entity that employed an insurance adjuster, in connection with the repair of damage to a vehicle covered under a policy, from:

- offering, communicating, or suggesting that a particular repair person or facility would provide faster repair or more efficient claims handling; or
- disregarding a repair operation or cost identified by an estimating system.

The bill would specify that the above entities could not require a beneficiary or third-party claimant to travel a distance that was considered

inconvenient by the beneficiary or claimant to repair vehicle damage.

Regardless of the prohibition on disregarding a repair operation or cost identified by an estimating system, a covered vehicle could be repaired with a part or product that was of like kind and quality as an original equipment manufacturer part.

"Estimating system" would mean an automobile collision damage estimating system generally accepted by the automobile repair industry for use in writing a repair estimate.

A repair person or facility would not include a person who exclusively provided automobile glass replacement, repair, or products.

The bill would define "prevailing rate" as the rate identified by a rate survey that was conducted by a third party, designed to be transparent and unbiased, and based on the posted retail labor rates and not direct repair program shop rates that operated under a contract with an insurer.

A "reasonable and necessary amount" would mean the amount determined by the original equipment manufacturer and estimating systems required to repair a vehicle to the condition before the covered damage occurred.

The bill would take effect September 1, 2019, and would apply only to an insurance policy issued on or after January 1, 2020.

**SUPPORTERS
SAY:**

CSHB 1348 would ensure that all Texans had safe repairs to their damaged vehicles. Currently, some automobile insurance providers seek to cut costs in pursuit of profit by refusing to pay for parts, requiring collision shops that are liable for the repairs to use inferior after-market parts. In certain head-to-head tests, after-market parts were found to be less reliable than original equipment manufacturer (OEM) parts. The bill would require parts used for repairs be quality parts that had been proven safe in crash tests, though the bill would not go so far as to mandate the use of OEM parts.

CSHB 1348 also would strengthen laws prohibiting insurers from "steering" customers to cheaper repair shops, would accurately define the prevailing rates of repair shop pricing, and would require vehicles to be restored to their "like kind and quality" condition. As vehicle technology becomes more innovative, it is increasingly important to repair vehicles to manufacturer standards, ensuring that vehicles' advanced systems continue to work effectively. Texans deserve the right to safely operate used and repaired vehicles without fear that a crash would remove their means of getting to work or even threaten their lives because the vehicle was not repaired to automaker standards.

OPPONENTS
SAY:

CSHB 1348 effectively would end the after-market automobile parts industry, affecting many jobs and the Texas economy. The bill would require insurers use automaker standards for repairs, which likely would mandate that OEM parts be used. Alternative parts often are made by the same vehicle manufacturers and are identical to OEM parts. Companies test those parts to ensure that they are equally safe and reliable. If only OEM parts could be used for repairs, the supply of available parts would be restricted, increasing costs for repairs that ultimately would be passed down to consumers.