

BILL ANALYSIS

Senate Research Center
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S.B. 1717
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DIGEST AND PURPOSE

In an effort to reduce their exposure and increase profits, insurance companies or their representatives attempt to reach settlement agreements with third parties who are involved in an automobile accident with parties covered by the insurance company. It is the practice of insurance companies to contact third-parties in order to obtain a statement regarding the accident; a practice that many times is detrimental to the interests of the third-party. Solicitation of accident victims is prohibited by law. This prohibition applies to everyone, including attorneys, physicians, chiropractors and insurance companies. Insurance companies may only contact their named insured client because they have a contractual relationship with them. Insurance companies do not have a contractual relationship with accident victims, but their practice is to contact them anyway. As proposed, S.B. 1717 amend the Insurance Code, Chapter 5A, to require a cooling off period before an insurer can attempt to settle or take statements from a third party.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 5A, Insurance Code, by adding Article 5.06-8, as follows:

Art. 5.06-8. RELEASE FROM LIABILITY; PROHIBITION; PENALTY

Sec. 1. DEFINITIONS. Defines “motor vehicle insurer,” “release agreement,” and “representative.”

Sec. 2. PROHIBITION. (a) Provides that a representative of a motor vehicle insurer may not obtain or attempt to obtain a release agreement from a person on or before the 30th day after the date of the motor vehicle accident that is the subject of the release agreement or, except as provided by the Texas Rules of Civil Procedure, obtain or attempt to obtain from an actual or potential third party claimant, for the purpose of negotiating a release agreement, a written or oral statement regarding a motor vehicle accident on or before the 15th day after the date of the accident.

(b) Provides that a release agreement obtained in violation of Subsection (a)(1) of this section is voidable by the person from whom the release agreement was obtained.

(c) Provides that a statement obtained in violation of Subsection (a)(2) of this section is not admissible against the person who made the statement in an action relating to damages arising out of the motor vehicle accident that is the subject of the statement.

Sec. 3. PENALTY. Provides that an insurer or a representative of an insurer who violates this article is subject to an administrative penalty under Chapter 84 of this code.

SECTION 2. (a) Effective date: September 1, 2001.

(b) Makes application of this Act prospective.