

BILL ANALYSIS

C.S.H.B. 302
By: Talton
Insurance
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Under current state law, an insurer is prohibited from requiring a third-party claimant to have repairs made by particular repair persons or facilities or to use particular parts or products, in the settlement of certain liability claims under an auto insurance policy. However, a third-party claimant does not currently have the right to bring an action against an insurer who violates this law. C.S.H.B. 302 allows a third-party claimant to bring an action to recover damages for such a violation.

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. 302 amends the Insurance Code to provide that an insurer is not prohibited from referring a third-party claimant to particular repair persons or facilities or recommending the use of parts or products if the third-party claimant solicits this information. The bill authorizes a third-party claimant to bring an action to recover damages for a violation of provisions prohibiting insurers from requiring the use of repair persons or facilities or parts or products. The bill entitles a third-party claimant who prevails in an action to recover actual damages, not to exceed \$5000, attorney's fees, and court costs.

EFFECTIVE DATE

On passage or, if the Act does receive the necessary vote, the Act takes effect September 1, 2003.

COMPARISON OF ORIGINAL TO SUBSTITUTE

C.S.H.B. 302 modifies the original by removing the provision which defined a violation as an unfair and deceptive act or practice in business of insurance. The substitute adds that a third-party claimant may bring an action to recover damages for a violation and specifies the damages to which a claimant is entitled. The substitute adds that an insurer is not prohibited from referring a third-party claimant to particular persons or facilities and from recommending particular parts or products if the claimant solicits this information.