

By: Talton

H.B. No. 302

Substitute the following for H.B. No. 302:

By: Van Arsdale

C.S.H.B. No. 302

A BILL TO BE ENTITLED

AN ACT

relating to settlement of certain liability claims under an auto insurance policy.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Article 5.07-1(g), Insurance Code, is amended to read as follows:

(g) In the settlement of liability claims by a third party against an insured for property damage claimed by the third party, an insurer may not require the third-party claimant to have repairs made by ~~[a]~~ particular repair persons ~~[person]~~ or facilities ~~[facility]~~ or to use a particular brand, type, kind, age, vendor, supplier, or condition of parts or products. This subsection does not prohibit an insurer from referring a third-party claimant to particular repair persons or facilities or recommending the use of a particular brand, type, kind, age, vendor, supplier, or condition of parts or products if the third-party claimant solicits this information. A third-party claimant may bring an action to recover damages for a violation of this subsection. A third-party claimant who prevails in an action under this subsection is entitled to recover:

(1) the claimant's actual damages, not to exceed \$5,000;

(2) attorney's fees as described by Chapter 38, Civil Practice and Remedies Code; and

1 (3) court costs.

2 SECTION 2. This Act applies only to a violation of Article
3 5.07-1(g), Insurance Code, as amended by this Act, that occurs on or
4 after the effective date of this Act. A violation of Article
5 5.07-1(g), Insurance Code, that occurs before the effective date of
6 this Act is governed by the law as it existed immediately before the
7 effective date of this Act, and that law is continued in effect for
8 this purpose.

9 SECTION 3. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2003.