

By: Carona

S.B. No. 435

A BILL TO BE ENTITLED

AN ACT

relating to insurer interests in certain motor vehicle repair facilities.

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

SECTION 1. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2306 to read as follows:

CHAPTER 2306. INSURER INTERESTS IN REPAIR FACILITIES PROHIBITED

Sec. 2306.001. DEFINITIONS. In this chapter:

(1) "Insurer" means an insurer authorized by the Texas Department of Insurance to write motor vehicle insurance in this state, including a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange. The term includes an entity that is an affiliate of an insurer as described by Section 823.003, Insurance Code.

(2) "Repair facility" has the meaning assigned by Section 2304.001.

Sec. 2306.002. INTEREST PROHIBITED. An insurer may not hold or acquire any ownership interest in a repair facility.

Sec. 2306.003. ACTION TO COMPEL COMPLIANCE. (a) An individual aggrieved by a violation of this chapter by an insurer may bring an action for injunctive or other appropriate relief to compel the insurer to comply with the requirements adopted under this chapter.

(b) A plaintiff who prevails in an action under this section

1 is entitled to recover reasonable attorney's fees and court costs.

2 Sec. 2306.004. DIVESTITURE REQUIREMENTS; DISCLOSURE. (a)
3 An insurer that, on September 1, 2003, has an ownership interest in
4 a repair facility must divest itself of any interest in the facility
5 not later than September 1, 2005.

6 (b) During the period in which the insurer maintains its
7 interest in the repair facility before the divestiture required
8 under this section, the insurer shall disclose to each insured that
9 the insured has the right to use any repair facility selected by the
10 insured. The insurer shall make the disclosure in writing in the
11 manner prescribed by the commissioner of insurance and shall
12 provide the disclosure:

13 (1) at the time the policy is delivered, issued for
14 delivery, or renewed; and

15 (2) when a claim covered by the policy is reported to
16 the insurer by the insured.

17 (c) This section expires December 1, 2005.

18 SECTION 2. Chapter 2306, Occupations Code, as added by this
19 Act, applies only to an action that is commenced on or after the
20 effective date of this Act. An action that is commenced before the
21 effective date of this Act is governed by the law applicable to the
22 action immediately before the effective date of this Act, and that
23 law is continued in effect for that purpose.

24 SECTION 3. (a) Except as provided by Subsection (b) of this
25 section, this Act takes effect September 1, 2003.

26 (b) Section 2306.003, Occupations Code, as added by this
27 Act, takes effect September 1, 2005.