

BILL ANALYSIS

Senate Research Center

S.B. 1538
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Background:

Under current Section 1952.301, Insurance Code, an insurer is not required to use a particular part, product, or repair process in the effort to return an insured's motor vehicle to its pre-damaged condition after damage to the motor vehicle. There is considerable debate about the varying degree of quality and safety of parts, products, and repair processes between those of an original equipment manufacturer and the aftermarket and when a particular part, product, or repair process should be used.

Solution:

Given that the goal of these repairs is to return the motor vehicle to its pre-damaged condition, protect the motoring public, and meet the insured's expectations, S.B. 1538 seeks to require the use of an original equipment manufacturer's part, product, and repair process on a motor vehicle with an unexpired original equipment manufacturer's warranty. This provision will create a bright line test for the repair industry and prevent jeopardizing an insured's warranty on the motor vehicle. The bill also provides that if a covered repair requires an original equipment manufacturer's part or product that is no longer manufactured to restore the motor vehicle to its pre-damaged condition, the insurer must approve a part or product that is of like kind and quality to the original equipment manufacturer's manufactured part or product.

As proposed, S.B. 1538 amends current law relating to insurer restrictions and duties regarding repair of a motor vehicle covered under an insurance policy.

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 Section 1952.301, Insurance Code, as follows:

Sec. 1952.301. New heading: LIMITATIONS AND DUTIES REGARDING REPAIR OF MOTOR VEHICLE. (a) Prohibits an insurer, under an automobile insurance policy, rather than prohibits an insurer except as provided by rules adopted by the commissioner of insurance under an automobile insurance policy, that is delivered, issued for delivery, or renewed in this state, from directly or indirectly limiting the insurer's coverage under a policy covering damage to a motor vehicle that has an unexpired manufacturer's warranty. Makes a nonsubstantive change.

(a-1) Provides that conduct prohibited by Subsection (a) includes:

(1) specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products or the repair process that may be used to repair the vehicle, unless the specified part, product, or repair process is the

manufacturer's warranted part, product, or repair process for a motor vehicle that has an unexpired manufacturer's warranty; or

(2) makes no changes to this subdivision.

(b) Prohibits an insurer, in settling a liability claim by a third party against an insured for property damage claimed by the third party, from requiring the third-party claimant to have motor vehicle repairs made by a particular repair person or facility or to use a particular brand, type, kind, age, vendor, supplier, or condition of parts or products or a particular repair process, unless the part, product, or repair process is the manufacturer's warranted part, product, or repair process for a motor vehicle that has an unexpired manufacturer's warranty; or

(c) Requires the insurer, if a covered repair to a third party's or the insured's motor vehicle requires an original equipment manufacturer's part or product that is no longer manufactured, to use the insurer's best efforts to ensure the repair can be made using the necessary part or product along with any necessary repair process to restore the motor vehicle to the vehicle's pre-damaged condition.

SECTION 2. Makes application of this Act prospective to January 1, 2022.

SECTION 3. Effective date: September 1, 2021.