

BILL ANALYSIS

Senate Research Center
88R6056 JES-F

S.B. 1083
By: King
Business & Commerce
3/27/2023
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under the current Texas 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 in the repair industry about the varying degree of quality and safety of parts, products, and repair processes between those of an original equipment manufacturer (OEM) and the aftermarket and when a particular part, product, or repair process should be used. This often puts a body shop owner in the difficult position of wanting to perform a repair one way and the insurance company seeking another way.

Given that the goal of these repairs should be to return the motor vehicle to its pre-damaged condition, protect the motoring public, and meet the insured's expectations, this legislation creates a preference for the use of an OEM's part, product, and repair process on a motor vehicle in the first 36 months after it is purchased new by the insured. While there is a preference for OEM in this time frame, the insured can still opt-in to the use of non-OEM parts, products, and repair processes by signing a written disclosure allowing for such use prior to the repair. S.B. 1083 gives the customer a choice at the time of repair.

As a result of these elements and the customer choice provided, an additional provision is included to prevent an insurer from requiring or requesting a repair person or facility to use any specific percentage of non-OEM parts, products, or repair processes on a motor vehicle.

In the 87th Session, the Senate passed S.B. 1538 which is identical to S.B. 1083.

As proposed, S.B. 1083 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) Defines "new motor vehicle" and "non-original equipment."

(b) Provides that under an automobile insurance policy that is delivered, issued for delivery, or renewed in this state, for damage to a motor vehicle that has been owned by the insured for 36 months or less and that was a new motor vehicle when delivered to the insured, the insurer:

(1) is required to require that a part, product, or repair process used to repair the vehicle be the original equipment manufacturer's or distributor's

part, product, or repair process, unless the insured opts to use non-original equipment in accordance with Subsection (f); and

(2) is prohibited from limiting the beneficiary of the policy from selecting a repair person or facility to repair damage to the vehicle.

(c) Prohibits an insurer, under an automobile insurance policy that is delivered, issued for delivery, or renewed in this state, rather than 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 been owned by the insured for more than 36 months by:

(1) specifying the brand, type, kind, age, vendor, supplier, or condition of parts or products or the repair process that is authorized to be used to repair the vehicle; or

(2) makes no changes to this subdivision.

(d) Provides that an insurer, in settling a liability claim by a third party against an insured for property damage claimed by the third party for damage to the third party's motor vehicle that has been owned by the third party for 36 months or less and that was a new motor vehicle when delivered to the third party:

(1) is required to require that a part, product, or repair process used to repair the vehicle be the original equipment manufacturer's or distributor's part, product, or repair process, unless the third-party claimant opts to use non-original equipment in accordance with Subsection (f); and

(2) is prohibited from requiring the third-party claimant to use a particular repair person or facility to repair damage to the vehicle.

(e) Prohibits an insurer, in settling a liability claim by a third party against an insured for property damage claimed by the third party to a motor vehicle that has been owned by the insured for more than 36 months, from requiring the third-party claimant to have the 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.

(f) Authorizes an insured or third-party claimant to opt to accept the use of non-original equipment in the repair of the insured's or claimant's motor vehicle by signing a written disclosure. Requires that the disclosure:

(1) be signed before repair of the vehicle begins;

(2) be delivered as an attachment to a written estimate provided for the repair of the vehicle;

(3) be written in at least a 12-point font; and

(4) include certain language. Sets forth the language required to be included on the disclosure.

(g) Prohibits an insurer that delivers, issues for delivery, or renews an automobile insurance policy in this state from requiring or requesting that a repair person or facility use any specific percentage of non-original equipment in the repair of a motor vehicle.

SECTION 2. Makes application of this Act prospective to January 1, 2024.

SECTION 3. Effective date: September 1, 2023.