

ASSEMBLY BILL

No. 1200

Introduced by Assembly Member Hayashi

February 27, 2009

An act to amend Section 758.5 of the Insurance Code, relating to motor vehicle insurance.

legislative counsel's digest

AB 1200, as amended, Hayashi. Motor vehicle insurance: direct repair programs.

Existing law prohibits insurers from requiring that an automobile be repaired at a specific automotive repair dealer. Under existing law, an insurer may suggest or recommend a specific automotive repair dealer under certain specified circumstances.

This bill would state that nothing in that provision ~~prohibits an insurer from providing a claimant with truthful, nondeceptive information regarding the benefits of selecting a specific automotive repair dealer, including, but not limited to, the availability and duration of repair warranties~~ *restricts the ability of an insurer to explain benefits the insurer provides as part of the claims process.*

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 758.5 of the Insurance Code is amended
- 2 to read:

1 758.5. (a) No insurer shall require that an automobile be
 2 repaired at a specific automotive repair dealer, as defined in Section
 3 9880.1 of the Business and Professions Code. Nothing in this
 4 section prohibits an insurer from providing a claimant with truthful,
 5 nondeceptive information regarding the benefits of selecting a
 6 specific automotive repair dealer, including, but not limited to, the
 7 availability and duration of repair warranties. *section restricts the*
 8 *ability of an insurer to explain benefits the insurer provides as*
 9 *part of the claims process.*

10 (b) (1) No insurer shall suggest or recommend that an
 11 automobile be repaired at a specific automotive repair dealer unless
 12 either of the following applies:

- 13 (A) A referral is expressly requested by the claimant.
- 14 (B) The claimant has been informed in writing of the right to
 15 select the automotive repair dealer.

16 (2) If the recommendation is accepted by the claimant, the
 17 insurer shall cause the damaged vehicle to be restored to its
 18 condition prior to the loss at no additional cost to the claimant
 19 other than as stated in the policy or as is otherwise allowed by law.
 20 If the recommendation of an automotive repair dealer is done
 21 orally, and if the oral recommendation is accepted by the claimant,
 22 the insurer shall provide the information contained in this
 23 paragraph, as noted in the statement below, to the claimant at the
 24 time the recommendation is made. The insurer shall send the
 25 written notice required by this paragraph within five calendar days
 26 from the oral recommendation. The written notice required by this
 27 paragraph shall include the following statement plainly printed in
 28 no less than 10-point type:

29 “WE ARE PROHIBITED BY LAW FROM REQUIRING THAT
 30 REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR
 31 DEALER. YOU ARE ENTITLED TO SELECT THE AUTO
 32 BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY
 33 US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR
 34 DEALER THAT WILL REPAIR YOUR DAMAGED VEHICLE.
 35 IF YOU AGREE TO USE OUR RECOMMENDED
 36 AUTOMOTIVE REPAIR DEALER, WE WILL CAUSE THE
 37 DAMAGED VEHICLE TO BE RESTORED TO ITS
 38 CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL
 39 COST TO YOU OTHER THAN AS STATED IN THE
 40 INSURANCE POLICY OR AS OTHERWISE ALLOWED BY

1 LAW. IF YOU EXPERIENCE A PROBLEM WITH THE REPAIR
2 OF YOUR VEHICLE, PLEASE CONTACT US IMMEDIATELY
3 FOR ASSISTANCE.”

4 (c) Except as provided in subparagraph (A) of paragraph (1) of
5 subdivision (b), after the claimant has chosen an automotive repair
6 dealer, the insurer shall not suggest or recommend that the claimant
7 select a different automotive repair dealer.

8 (d) Any insurer that, by the insurance contract, suggests or
9 recommends that an automobile be repaired at a particular
10 automotive repair dealer shall also do both of the following:

11 (1) Prominently disclose the contractual provision in writing to
12 the insured at the time the insurance is applied for and at the time
13 the claim is acknowledged by the insurer.

14 (2) If the claimant elects to have the vehicle repaired at the shop
15 of his or her choice, the insurer shall not limit or discount the
16 reasonable repair costs based on charges that would have been
17 incurred had the vehicle been repaired by the insurer’s chosen
18 shop.

19 (e) For purposes of this section, “claimant” means a first-party
20 claimant or insured, or a third-party claimant who asserts a right
21 of recovery for automotive repairs under an insurance policy.

22 (f) The powers of the commissioner to enforce this section shall
23 include those granted in Article 6.5 (commencing with Section
24 790) of Chapter 1 of Part 2 of Division 1.