

1-1 By: Menéndez, Campbell S.B. No. 1538
1-2 (In the Senate - Filed March 11, 2021; March 24, 2021, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 23, 2021, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 23, 2021,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1538 By: Hancock

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to insurer restrictions and duties regarding repair of a
1-22 motor vehicle covered under an insurance policy.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 1952.301, Insurance Code, is amended to
1-25 read as follows:

1-26 Sec. 1952.301. LIMITATIONS AND DUTIES REGARDING REPAIR OF
1-27 MOTOR VEHICLE [~~LIMITATION ON PARTS, PRODUCTS, OR REPAIR PERSONS OR~~
1-28 ~~FACILITIES PROHIBITED]~~. (a) In this section:

1-29 (1) "New motor vehicle" has the meaning assigned by
1-30 Section 2301.002, Occupations Code.

1-31 (2) "Non-original equipment" means a part, product, or
1-32 repair process used in the repair of a motor vehicle that is not
1-33 made by or for or used by that vehicle's manufacturer or
1-34 distributor.

1-35 (b) Under an automobile insurance policy that is delivered,
1-36 issued for delivery, or renewed in this state, for damage to a motor
1-37 vehicle that has been owned by the insured for 36 months or less and
1-38 that was a new motor vehicle when delivered to the insured, the
1-39 insurer:

1-40 (1) shall require that a part, product, or repair
1-41 process used to repair the vehicle be the original equipment
1-42 manufacturer's or distributor's part, product, or repair process,
1-43 unless the insured opts to use non-original equipment in accordance
1-44 with Subsection (f); and

1-45 (2) may not limit the beneficiary of the policy from
1-46 selecting a repair person or facility to repair damage to the
1-47 vehicle.

1-48 (c) Under [~~Except as provided by rules adopted by the~~
1-49 ~~commissioner, under~~] an automobile insurance policy that is
1-50 delivered, issued for delivery, or renewed in this state, an
1-51 insurer may not directly or indirectly limit the insurer's coverage
1-52 under a policy covering damage to a motor vehicle that has been
1-53 owned by the insured for more than 36 months by:

1-54 (1) specifying the brand, type, kind, age, vendor,
1-55 supplier, or condition of parts or products or the repair process
1-56 that may be used to repair the vehicle; or

1-57 (2) limiting the beneficiary of the policy from
1-58 selecting a repair person or facility to repair damage to the
1-59 vehicle.

1-60 (d) In settling a liability claim by a third party against

2-1 an insured for property damage claimed by the third party for damage
2-2 to the third party's motor vehicle that has been owned by the third
2-3 party for 36 months or less and that was a new motor vehicle when
2-4 delivered to the third party, an insurer:

2-5 (1) shall require that a part, product, or repair
2-6 process used to repair the vehicle be the original equipment
2-7 manufacturer's or distributor's part, product, or repair process,
2-8 unless the third-party claimant opts to use non-original equipment
2-9 in accordance with Subsection (f); and

2-10 (2) may not require the third-party claimant to use a
2-11 particular repair person or facility to repair damage to the
2-12 vehicle.

2-13 (e) [~~(b)~~] In settling a liability claim by a third party
2-14 against an insured for property damage claimed by the third party to
2-15 a motor vehicle that has been owned by the insured for more than 36
2-16 months, an insurer may not require the third-party claimant to have
2-17 the motor vehicle repairs made by a particular repair person or
2-18 facility or to use a particular brand, type, kind, age, vendor,
2-19 supplier, or condition of parts or products or a particular repair
2-20 process.

2-21 (f) An insured or third-party claimant may opt to accept the
2-22 use of non-original equipment in the repair of the insured's or
2-23 claimant's motor vehicle by signing a written disclosure. The
2-24 disclosure must:

- 2-25 (1) be signed before repair of the vehicle begins;
- 2-26 (2) be delivered as an attachment to a written
2-27 estimate provided for the repair of the vehicle;
- 2-28 (3) be written in at least a 12-point font; and
- 2-29 (4) include the following language:

2-30 "I am opting to accept the use of a non-original equipment
2-31 manufacturer's or distributor's part, product, or repair process in
2-32 the repair of my vehicle, and I understand and agree that:

2-33 1. the attached repair estimate is based on the use of
2-34 a non-original equipment manufacturer's or distributor's part,
2-35 product, or repair process that is supplied by a manufacturer or
2-36 distributor that is not my motor vehicle's manufacturer or
2-37 distributor; and

2-38 2. the warranty for the non-original equipment
2-39 manufacturer's or distributor's part, product, or repair process is
2-40 provided by the manufacturer or distributor of that part, product,
2-41 or repair process and not by my motor vehicle's manufacturer or
2-42 distributor."

2-43 (g) An insurer that delivers, issues for delivery, or renews
2-44 an automobile insurance policy in this state may not require or
2-45 request that a repair person or facility use any specific
2-46 percentage of non-original equipment in the repair of a motor
2-47 vehicle.

2-48 SECTION 2. The change in law made by this Act applies only
2-49 to an insurance policy that is delivered, issued for delivery, or
2-50 renewed on or after January 1, 2022. A policy delivered, issued for
2-51 delivery, or renewed before that date is governed by the law as it
2-52 existed immediately before the effective date of this Act, and that
2-53 law is continued in effect for that purpose.

2-54 SECTION 3. This Act takes effect September 1, 2021.

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