

HOUSE BILL REPORT

HB 2782

As Reported by House Committee On:
Consumer Protection & Business

Title: An act relating to automobile insurance policies.

Brief Description: Concerning automobile insurance policies.

Sponsors: Representative Kirby.

Brief History:

Committee Activity:

Consumer Protection & Business: 2/4/20, 2/7/20 [DPS].

Brief Summary of Substitute Bill

- Defines basic contract of automobile insurance and creates requirements for such policies related to automobile repairs.

HOUSE COMMITTEE ON CONSUMER PROTECTION & BUSINESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives Kirby, Chair; Blake, Duerr, Johnson, J., Ryu, Santos and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Vick, Ranking Minority Member; Hoff, Assistant Ranking Minority Member; Barkis, Dufault, Volz and Ybarra.

Staff: Robbi Kesler (786-7153).

Background:

The Office of the Insurance Commissioner (OIC) is responsible for the regulation of property casualty insurance in Washington. The OIC is authorized to regulate both the rates and contracts of the companies doing business in this state. Automobile insurance must include coverage for damages resulting from underinsured motor vehicles. An insurer must provide coverage for insureds who are legally entitled to recover damages for bodily injury, death, or

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property damage from owners or operators of underinsured motor vehicles, hit-and-run motor vehicles, and phantom vehicles. Existing statutes require the coverage to apply to "accidents."

The Washington Consumer Protection Act (CPA) declares that unfair and deceptive practices in trade or commerce that harm the public interest are illegal. Washington law also includes specific practices that the Legislature has determined to be unfair or deceptive practices. The OIC has the authority to adopt rules to prohibit unfair or deceptive practices. Violations of the statutes and rules can be punished by fine by the OIC. The OIC may also issue a cease and desist order.

Violations of provisions of the unfair practice statutes and rules have been held to be violations of the CPA.

Summary of Substitute Bill:

The substitute bill defines "basic contract of automobile insurance" as any automobile insurance policy that includes first-party coverage for automobile physical damage. Claims paid under a basic contract of automobile insurance must be based upon the reasonable and necessary costs at the claimant's chosen repair facility, and when the automobile is deemed repairable the insurer must pay to restore the vehicle to its condition prior to the loss. Restoration of the automobile to its condition prior to the loss includes repair process, including the explicit processes, tolerances, and other technical requirements or instructions for the repair of a motor vehicle including scans, calibrations, or diagnostic tests of vehicle electronic systems that the motor vehicle manufacturer makes available to dealerships, independent repair shops, and insurers generally. "Repair processes" does not include position statements, recommendations, directives, suggestions, or advice regarding the use of any particular brand, type, or manufacturer of parts, tools, or equipment.

The insurance company has the burden to prove unreasonableness of repair procedures and charges. Insurance companies are not required to pay for parts supplied by the original equipment manufacturer unless the use of alternate parts would fail to restore the vehicle to its condition prior to the loss.

Violations of the basic contract of automobile insurance constitute a violation of the Consumer Protection Act and are considered unfair or deceptive practices related to insurance policies.

Substitute Bill Compared to Original Bill:

The provision which make changes to underinsured insurance policy regulations were removed. A repair process definition was added. Repair requirements were changed to include required repair processes. The bill removed a provision which required an appraisal and umpire process.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Insurance companies often do not want to pay for the full cost of repairs that would restore the vehicle. Repair facilities are liable for repairs and should be given deference to making the decision on how to repair the vehicle to its condition prior to the loss. Premiums may go up, but consumers deserve a vehicle that is repaired to a high standard. Customers should be given a rental car when they experience a loss as a result of an underinsured at-fault party. An appraisal process would provide a better public policy to protect consumers.

(Opposed) Insurance policies should contain better consumer protections for automobile repair and disputes after an automobile is damaged. The current process is heavily weighted in favor of insurance companies. The bill also provides certainty for rental car benefits for underinsured policies. Most consumers do not have issues with insurance claims. There are times when the cost of installing original manufacture equipment does not make sense because there are often comparable repair parts available for use. Repairs are in compliance with safety standards but should be allowed to be made in a cost effective manner. Insurance companies want the cars they cover to continue to be safe. The language is a mandate for original equipment manufacturer parts which will make cost rise, without offering a comparative benefit.

(Other) Appraisers should be competent and disinterested, and it should be clarified that appraisers are not adjusters. There should be a defined person that will make a decision about which cars are repairable.

Persons Testifying: (In support) Representative Kirby, prime sponsor; Jeff Butler, Washington Independent Collision Repairer's Association; Mike Harber, Harber Appraisal; and Paul Veillon, Galileo Law PLLC.

(Opposed) Kenton Brine, Northwest Insurance Council; Mel Sorensen, American Property and Casualty Insurance Association; Jean Leonard, National Association of Mutual Insurance Commissioners and Washington Insurers; and Catalina Pareja, Like Kind and Quality Corporation.

(Other) Lonnie Johns-Brown, Office of the Insurance Commissioner.

Persons Signed In To Testify But Not Testifying: None.