

AMENDED IN SENATE AUGUST 18, 2009

AMENDED IN SENATE JULY 14, 2009

AMENDED IN SENATE JUNE 25, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

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 authorize an insurer to provide a claimant with specific truthful and nondeceptive information regarding the services and benefits available to the claimant during the claims process ~~pursuant to the policy~~, as specified.

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. The Legislature finds and declares all of the~~
2 ~~following:~~

3 ~~(a) Claimants whose vehicles have been damaged in accidents~~
4 ~~should be fully informed regarding the benefits and services offered~~
5 ~~by insurance companies as part of the claims process. Those~~
6 ~~benefits and services include, but are not limited to, policy terms~~
7 ~~regarding repair warranties, the type of replacement parts used in~~
8 ~~the repair, the anticipated time to repair the damaged vehicle, the~~
9 ~~anticipated costs associated with the repairs, and the quality of the~~
10 ~~workmanship.~~

11 ~~(b) Claimants benefit because being informed about the benefits~~
12 ~~and services offered by insurance companies allows them to make~~
13 ~~meaningful choices regarding the repair process and the automotive~~
14 ~~repair dealer to be used.~~

15 ~~(c) Insurers should present that information in a truthful and~~
16 ~~nondeceptive manner.~~

17 ~~SEC. 2.~~

18 ~~SECTION 1.~~ Section 758.5 of the Insurance Code is amended
19 to read:

20 758.5. (a) No insurer shall require that an automobile be
21 repaired at a specific automotive repair dealer, as defined in Section
22 9880.1 of the Business and Professions Code.

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

26 (A) A referral is expressly requested by the claimant.

27 (B) The claimant has been informed in writing of the right to
28 select the automotive repair dealer.

29 (2) An insurer may provide the claimant with specific truthful
30 and nondeceptive information regarding the services and benefits
31 available to the claimant during the claims process ~~pursuant to the~~
32 ~~policy.~~ This may include, but is not limited to, information about
33 the repair warranties offered, the type of replacement parts to be
34 used, the anticipated time to repair the damaged vehicle, and the
35 quality of the workmanship available to the claimant.

36 (3) If an insurer’s recommendation of an automotive repair
37 dealer is accepted by the claimant, the insurer shall cause the
38 damaged vehicle to be restored to its condition prior to the loss at

1 no additional cost to the claimant other than as stated in the policy
2 or as is otherwise allowed by law. If the recommendation of an
3 automotive repair dealer is done orally, and if the oral
4 recommendation is accepted by the claimant, the insurer shall
5 provide the information contained in this paragraph, as noted in
6 the statement below, to the claimant at the time the
7 recommendation is made. The insurer shall mail or provide the
8 notice required by this paragraph within five calendar days from
9 the acceptance of the recommendation. The written notice required
10 by this paragraph shall include the following statement plainly
11 printed in no less than 10-point type in a separate and freestanding
12 document:

13 “WE ARE PROHIBITED BY LAW FROM REQUIRING THAT
14 REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR
15 DEALER. YOU ARE ENTITLED TO SELECT THE AUTO
16 BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY
17 US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR
18 DEALER THAT WILL REPAIR YOUR DAMAGED VEHICLE.
19 WE RECOMMEND YOU CONTACT ANY OTHER
20 AUTOMOTIVE REPAIR DEALER YOU ARE CONSIDERING
21 TO CLARIFY ANY QUESTIONS YOU MAY HAVE
22 REGARDING SERVICES AND BENEFITS. IF YOU AGREE
23 TO USE OUR RECOMMENDED AUTOMOTIVE REPAIR
24 DEALER, WE WILL CAUSE THE DAMAGED VEHICLE TO
25 BE RESTORED TO ITS CONDITION PRIOR TO THE LOSS
26 AT NO ADDITIONAL COST TO YOU OTHER THAN AS
27 STATED IN THE INSURANCE POLICY OR AS OTHERWISE
28 ALLOWED BY LAW. IF YOU EXPERIENCE A PROBLEM
29 WITH THE REPAIR OF YOUR VEHICLE, PLEASE CONTACT
30 US IMMEDIATELY FOR ASSISTANCE.”

31 (c) Except as provided in subparagraph (A) of paragraph (1) of
32 subdivision (b), or as to information of the kind authorized by
33 paragraph (2) of subdivision (b), after the claimant has chosen an
34 automotive repair dealer, the insurer shall not suggest or
35 recommend that the claimant select a different automotive repair
36 dealer.

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

- 1 (1) Prominently disclose the contractual provision in writing to
- 2 the insured at the time the insurance is applied for and at the time
- 3 the claim is acknowledged by the insurer.
- 4 (2) If the claimant elects to have the vehicle repaired at the shop
- 5 of his or her choice, the insurer shall not limit or discount the
- 6 reasonable repair costs based on charges that would have been
- 7 incurred had the vehicle been repaired by the insurer’s chosen
- 8 shop.
- 9 (e) For purposes of this section, “claimant” means a first-party
- 10 claimant or insured, or a third-party claimant who asserts a right
- 11 of recovery for automotive repairs under an insurance policy.
- 12 (f) The powers of the commissioner to enforce this section shall
- 13 include those granted in Article 6.5 (commencing with Section
- 14 790) of Chapter 1 of Part 2 of Division 1.
- 15 (g) The changes to this section made by the act enacted during
- 16 the 2009–10 Regular Session that amended this section shall only
- 17 apply to actions filed on or after January 1, 2010.