
**Consumer Protection & Business
Committee**

HB 1428

Brief Description: Concerning automobile insurance policies.

Sponsors: Representatives Kirby, Ryu, Sutherland and Pollet.

Brief Summary of Bill

- Requires basic contracts of automobile insurance to provide that, when an automobile is deemed repairable, it must be restored to its condition prior to the loss.
- Provides payment of a claim must be based on reasonable and necessary costs at the claimant's chosen repair facility.
- Provides insurance companies are not required to pay for parts supplied by the original equipment manufacturer, unless necessary to restore the vehicle to pre-loss condition.

Hearing Date: 2/8/21

Staff: John Burzynski (786-7133).

Background:

The Office of the Insurance Commissioner (OIC) has the power and duty to enforce Washington insurance laws and regulations. The OIC enjoys broad authority to define unfair or deceptive trade practices.

For purposes of Washington insurance law, an automobile is a motor vehicle designed for carrying ten passengers or less, used for the transportation of persons, and registered or

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principally garaged in Washington, excluding motorcycles and motor-driven cycles, farm tractors and other self-propelled equipment designed for principal use off public roads, vehicles operated on rails or crawler-treads, vehicles located for use as a residence, motor homes, and mopeds.

Washington law provides a cause of action against an insurer for unreasonable denial of a claim for coverage or payment of benefits, to recover actual damages, costs, and attorney's fees. Washington law also provides a cause of action for unfair competition and business practices, to obtain an injunction and recover actual damages, costs, and attorney's fees.

Summary of Bill:

Automobile Restoration.

Every basic contract of automobile insurance must contain the following language: "When an automobile is deemed repairable, the automobile must be restored to its condition prior to the loss."

Payment Based on Reasonable and Necessary Costs.

Payment of a claim under a basic contract of automobile insurance for automobile physical damage must be based upon the reasonable and necessary costs at the claimant's chosen repair facility. The insurance company has the burden to prove the unreasonableness of vehicle repair procedures, charges, or both.

Parts Supplied by Original Equipment Manufacturers.

Automobile insurance companies are not required to pay for parts supplied by the original equipment manufacturer, except to the extent that the use of alternate parts would fail to restore the vehicle to its condition prior to the loss.

Claimant's Chosen Repair Facility.

The claimant's chosen repair facility may perform repair processes if the repair processes are reasonable and necessary to restore the automobile to its condition prior to the loss. Payment of the claim must not intentionally disregard or deny repair processes necessary to restore the automobile to its condition prior to the loss.

Defined Terms.

"Basic contract of automobile insurance" means any automobile insurance policy that includes first-party coverage for automobile physical damage.

"Repair processes" means 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.

Enforcement.

A violation of this section is deemed an unreasonable denial of a claim in violation of the Insurance Fair Conduct Act, and an unfair practice in violation of the Consumer Protection Act. Both acts may be enforced through a private civil action.

Appropriation: None.

Fiscal Note: Not requested.

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