

# HOUSE BILL REPORT

## SSB 5052

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### As Passed House:

April 4, 2007

**Title:** An act relating to auto glass repair and third party administrators.

**Brief Description:** Prohibiting interested third parties from processing insurance claims.

**Sponsors:** By Senate Committee on Financial Institutions & Insurance (originally sponsored by Senators Eide, Roach, Franklin, Hobbs, Fairley, Kastama, Prentice, Jacobsen, Shin and Parlette).

### Brief History:

#### Committee Activity:

Insurance, Financial Services & Consumer Protection: 3/20/07, 3/27/07 [DP].

#### Floor Activity:

Passed House: 4/4/07, 95-0.

### Brief Summary of Substitute Bill

- States that a person has a right to choose any glass repair facility for the repair of a loss relating to motor vehicle glass.
- Establishes notice requirements for an insurer or third-party administrator processing glass claims.

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## HOUSE COMMITTEE ON INSURANCE, FINANCIAL SERVICES & CONSUMER PROTECTION

**Majority Report:** Do pass. Signed by 8 members: Representatives Kirby, Chair; Kelley, Vice Chair; Roach, Ranking Minority Member; Strow, Assistant Ranking Minority Member; Hurst, Rodne, Santos and Simpson.

**Staff:** Sarah Beznoska (786-7109).

### Background:

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The insurance industry is regulated by the Insurance Commissioner, pursuant to the statutory provisions set forth in Title 48 RCW.

A third-party administrator (TPA) is an entity that manages an insurance program for an organization, and functions as an intermediary between an insurer and an insured. A TPA is sometimes used by insurers with respect to insurance programs. A TPA typically processes claims and may also collect premiums, solicit enrollees, and underwrite.

Under current insurance rules, an insurer generally must make a good faith effort to honor a request for repairs to be made in a specific repair shop and cannot arbitrarily deny a request. There are currently no state statutes related to the use of certain TPAs by insurers.

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**Summary of Bill:**

A person has the right to choose any glass repair facility for the repair of a loss relating to motor vehicle glass.

An insurer or its TPA that owns, in whole or in part, an automobile glass repair facility is required, when processing a glass-only claim, to verbally inform the person making the claim of the right to choose any glass repair facility and of the TPA's relationship to the insurer.

In addition, if an insurer or an insurer's TPA owns an interest in an automobile glass repair or replacement facility, a notice must be posted in each of the automobile glass repair or replacement facilities. The notice must state that the facility is owned in whole or in part by the insurer or the insurer's TPA and that the consumer has a right to seek repairs at any automobile glass repair or replacement facility.

The notice must be prominently posted, in not less than 18-point font, in a location where it is likely to be seen and read by a customer. If the automobile glass repair or replacement facility is mobile, the insurer or its TPA must verbally provide the notice prior to commencement of the repair or replacement.

When a person makes a claim and the person's motor vehicle is repaired at an automobile glass repair or replacement facility that is subject to the notice requirements, the person may file a complaint with the Office of the Insurance Commissioner. A private right of action does not exist.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In Support of Substitute Senate Bill) There are examples of steering. Consumers call the claims department and the claims department tries to sell a different glass shop. Even when the consumer rejects the alternative glass shop, the claims department continues to try to get the consumer to go to a consumer glass shop. The consumer is unaware of the relationship between these claims departments and the glass shops.

This bill makes it clear that the consumer has the right to choose and educates the public. An insurer is in a position of authority and can try to convince a consumer that he or she is doing something wrong by choosing a particular glass shop. Consumers are being told that they made a wrong choice and the law needs to be changed to fix that. However, even under the bill, there could still be steering. The Senate bill needs to be made stronger and we support changes that do that.

Section 4 in the bill requires the insurer to notify if the insurer owns in whole or in part a glass facility. It should go further and state that any time there is a glass claim, there is a right to choose. In addition, notice of the relationship between the third party administrator and the repair facility should be given to the consumer at a time when the consumer can make a decision.

The bill provides a right to complain to the Office of the Insurance Commissioner, but that right already exists. It should be made clear that anyone can make this complaint, including other shops.

We support the Substitute Senate Bill, but we do not support any changes to it. The language in the Substitute Senate Bill was agreed on even though neither side was 100 percent happy. The Substitute Senate Bill was negotiated on quick turnarounds and we were willing to support that bill, but not any changes to the Substitute Senate Bill. The Substitute Senate Bill as it came from the Senate makes clear that any insurer has an obligation to give notice to the consumer that the consumer has the right to choose. If there is a grammatical change that needs to be made to make that clear, that is technical change not a substantive change. Not all repair facilities are created equal so the bill should preserve the ability of an insurer to inform consumers that there may be other benefits if other options are selected. An insurer should not be prohibited from notifying consumer of other benefits that the consumer might not be aware of, such as a lifetime warranty that might not be available from all repair facilities. We oppose any changes that would prevent the insurer from providing this sort of advice to the consumer. This is not steering, but counseling a consumer about where to get the best deal.

In Washington last year we had 31,400 glass claims and 22,000 by independent glass shops. Nationally, there was one complaint per month. There is not a problem with steering.

We read the bill to state that where there is an ownership interest on the part of the insurer or the third-party-administrator, there is a requirement to give notice.

(Opposed to Substitute Senate Bill) We oppose any changes to the Substitute Senate Bill that were agreed on. We thought there was an agreement on the Substitute Senate Bill between the insurance industry and the glass shops. Changes that state an insurer is prohibited from interfering with the choice creates ambiguity about what interference means and that is

problematic. Changes that prohibit giving consumer advice about good or bad repair shops is also problematic.

**Persons Testifying:** (In Support of Substitute Senate Bill) Pam Shearer, Auto Glass Plus; Christy Newman, All-Star Auto Glass; Tom Grim, Independent Glass Association; Mel Sorenson, Property Casualty Insurance Association; Carrie Tellefson, Progressive; Cliff Webster, American Insurance Association; Jean Leonard, State Farm Insurance and Washington Insurers; and Mike Kappahan, Farmers Insurance.

(Opposed to Substitute Senate Bill) Dan Coyne, Safelite.

**Persons Signed In To Testify But Not Testifying:** None.