

# SENATE BILL REPORT

## SHB 3053

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As of February 28, 2008

**Title:** An act relating to auto glass repair.

**Brief Description:** Regulating auto glass repair.

**Sponsors:** House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Kirby, Rodne, Simpson, Roach, Kelley, Sullivan, Conway and Ormsby).

**Brief History:** Passed House: 2/04/08, 66-31.

**Committee Activity:** Financial Institutions & Insurance: 2/26/08.

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### SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

**Staff:** Diane Smith (786-7410)

**Background:** The insurance industry is regulated by the Insurance Commissioner, under the statutory provisions set forth in Title 48 RCW. 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. 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 or provides administrative services. In 2007 the Legislature passed SSB 5052. The new law provides that a person has the right to choose any automobile glass repair or replacement facility for the repair of a loss relating to motor vehicle glass. If an insurer or its TPA owns, in whole or in part, a facility, the insurer or TPA must verbally inform the person making the claim of their right to choose any facility and of the TPA's relationship to the insurer; and post a notice in each of the 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 facility. If it is a mobile facility, the insurer or its TPA must verbally provide the notice before beginning the repair or replacement.

A private right of action does not exist for violations.

**Summary of Bill:** When a person is making a glass claim, the insurer must verbally ask the person if they have chosen a facility. If the person indicates a facility, the insurer or TPA may not recommend a facility that is owned, whole or in part, by the insurer or TPA. If no choice

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is indicated, the insurer may recommend a facility owned, whole or in part, by the insurer or TPA. If it does so, the insurer or TPA must provide a: notice regarding the relationship between the facility and the insurer or TPA; and choice of facilities including a list of facilities that are comparable and in reasonable proximity to the person.

The provision regarding notice where a mobile facility is concerned is removed.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Substitute Bill:** PRO: This bill is trimmed down substantially from last year's original version. We need to require verbal disclosure in the very beginning of the glass claim. Consumers have choice. They are notified of the ownership interest of the insurer and the TPA. They must be asked if they have already chosen a shop, first, before the conversation goes a different direction. Then, if they have chosen, they are not to be talked out of their choice. If they have not chosen, then the 800-number can recommend whatever they want. Steering is illegal in Washington because it is potentially dangerous. But there is a loophole, that is a reason I did not like last year's bill. This bill closes the loophole. The work since the last bill, covered four points made by the insurance companies. All but one were complied with. As far as the gag order, all we want is that true facts are presented to the insured: we have no intent to gag anyone. It is not about interfering with the relationship between the company and the insured; waiver of deductibles; the right of an agency to work with a TP; or necessarily with scripts. Many insurance companies give the customer the right to choose. The 800-number of Safelite solutions, however, set up an appointment with their approved shop unless they are instructed otherwise. The notice must be at the right time in the transaction so that the insured hears it. We need to prevent steering the customer away from their stated choice. They do not understand they are not talking to their insurance company when they are really talking to TPA. Customers' choices about the shop to do the work should not be influenced by fear caused by statements made to sound like facts.

CON: This bill is unnecessary. Last year's bill passed the Senate and the House unanimously. While the glass companies had disagreements with the bill, insurers also had profound disagreements. These disagreements were carefully negotiated and insurers also gave up things to get a resolution. That is what compromise is, and that is how most legislation is crafted. Had we known we would be back again this year, we would have proceeded differently last year. Insurers need to communicate with their policy holders about what the policy benefits are. There are no consumers before this committee. Where are they? There are no consumer interests at stake here. We have a segment of the business using legislation to gain an advantage by interfering in market competition. This bill reduces information available to the policy holder and is bad public policy. Not being able to share benefits of the policy may have unanticipated consequences, like the customer paying out of pocket. Insurance regulations require full disclosure of policy benefits. On the federal level, TPAs have been upheld. Let last year's bill have time to work. We want a seamless claims

process. We don't get complaints. If people don't listen, I don't know what more we can do. Changing the law every year makes it hard for companies to implement it correctly. The bill does effect agents – they are the first point of contact in most all cases.

**Persons Testifying:** PRO: Representative Kirby, prime sponsor; Lisa Thatcher; Christy Newman, All Star Auto Glass.

CON: Pam Shearer, Auto Glass Plus; Mel Sorenson, Property Casualty Insurance; Cliff Webster, American Insurance Association; Dan Coyne, Belron US/Safelife; Jean Leonard, Washington Insurers State Farm Insurance.