

Senate Bill No. 551

CHAPTER 791

An act to add Section 758.5 to the Insurance Code, relating to auto insurance.

[Approved by Governor October 10, 2003. Filed
with Secretary of State October 11, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 551, Speier. Insurance: automotive repair dealers.

Existing law generally regulates insurers by, among other things, defining certain unlawful practices.

This bill would codify existing regulatory law and would prohibit an insurer from requiring that an automobile be repaired at a specific automotive repair dealer, as defined. It would also prohibit an insurer from suggesting or recommending that an automobile be repaired at a specific automotive repair dealer unless the claimant requested the referral or the claimant is informed, in writing, of his or her rights, as specified. This bill would also require the insurer, if the suggestion or recommendation that an automobile be repaired at a specific automotive repair dealer is contained in the insurance contract, to disclose that provision, in writing at specified times, and would prohibit the insurer, if the insured chooses the automotive repair dealer, from limiting or discounting the reasonable repair costs, as specified.

The bill would grant the Insurance Commissioner specified enforcement powers with respect to these provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 758.5 is added to the Insurance Code, to read:
758.5. (a) No insurer shall require that an automobile be repaired at a specific automotive repair dealer, as defined in Section 9880.1 of the Business and Professions Code.

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

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

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

(2) If the recommendation is accepted by the claimant, the insurer shall cause the damaged vehicle to be restored to its condition prior to



the loss at no additional cost to the claimant other than as stated in the policy or as is otherwise allowed by law. If the recommendation of an automotive repair dealer is done orally, and if the oral recommendation is accepted by the claimant, the insurer shall provide the information contained in this paragraph, as noted in the statement below, to the claimant at the time the recommendation is made. The insurer shall send the written notice required by this paragraph within five calendar days from the oral recommendation. The written notice required by this paragraph shall include the following statement plainly printed in no less than 10-point type:

“WE ARE PROHIBITED BY LAW FROM REQUIRING THAT REPAIRS BE DONE AT A SPECIFIC AUTOMOTIVE REPAIR DEALER. YOU ARE ENTITLED TO SELECT THE AUTO BODY REPAIR SHOP TO REPAIR DAMAGE COVERED BY US. WE HAVE RECOMMENDED AN AUTOMOTIVE REPAIR DEALER THAT WILL REPAIR YOUR DAMAGED VEHICLE. IF YOU AGREE TO USE OUR RECOMMENDED AUTOMOTIVE REPAIR DEALER, WE WILL CAUSE THE DAMAGED VEHICLE TO BE RESTORED TO ITS CONDITION PRIOR TO THE LOSS AT NO ADDITIONAL COST TO YOU OTHER THAN AS STATED IN THE INSURANCE POLICY OR AS OTHERWISE ALLOWED BY LAW. IF YOU EXPERIENCE A PROBLEM WITH THE REPAIR OF YOUR VEHICLE, PLEASE CONTACT US IMMEDIATELY FOR ASSISTANCE.”

(c) Except as provided in subparagraph (A) of paragraph (1) of subdivision (b), after the claimant has chosen an automotive repair dealer, the insurer shall not suggest or recommend that the claimant select a different automotive repair dealer.

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

(1) Prominently disclose the contractual provision in writing to the insured at the time the insurance is applied for and at the time the claim is acknowledged by the insurer.

(2) If the claimant elects to have the vehicle repaired at the shop of his or her choice, the insurer shall not limit or discount the reasonable repair costs based on charges that would have been incurred had the vehicle been repaired by the insurer’s chosen shop.

(e) For purposes of this section, “claimant” means a first-party claimant or insured, or a third-party claimant who asserts a right of recovery for automotive repairs under an insurance policy.



(f) The powers of the commissioner to enforce this section shall include those granted in Article 6.5 (commencing with Section 790) of Chapter 1 of Part 2 of Division 1.

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