



STATE FARM

FARMERS

LIBERTY MUTUAL GROUP

PROGRESSIVE

ALLSTATE

NAMIC

September 24, 2009

Honorable Arnold Schwarzenegger
Governor, State of California
State Capitol, Governor's Office
Sacramento, CA 95814

Attn: Susan Kennedy, Chief of Staff

Signature Request for AB 1200 (Hayashi)

Dear Governor Schwarzenegger:

The Personal Insurance Federation of California (PIFC), representing insurers who write over 70% of the auto insurance sold in the state, including State Farm, Allstate, Farmers, Liberty Mutual Group, Progressive, and NAMIC, **urges your signature on AB 1200** authored by Assembly Member Hayashi.

Under current law (CIC Section 758.5) auto insurers are prohibited from forcing a driver to a particular auto repair facility. AB 1200 does not change this prohibition. However, because existing law artificially limits an insurer's constitutional free speech, the law fails to give consumers a complete picture of their auto repair options and benefits of their policy.

AB 1200 states that "An insurer may provide the claimant with specific truthful and non-deceptive information regarding the services and benefits available to the claimant during the claims process." It further states, "This may include, but is not limited to, information about the repair warranties offered, the type of replacement parts to be used, the anticipated time to repair the damaged vehicle, and the quality of the workmanship available to the claimant."

Our opponents want to use the current law to keep customers in the dark about their auto repair options. For them, it is not enough to prevent auto

insurers from requiring a specific auto body shop. In fact, they would prefer to “lock in” a customer by depriving them of an informed choice about alternatives, including an insurer’s direct repair programs (DRP). A DRP is a network of vetted body shops that operate under contracts covering warranties, guaranteed prices, experience and service. AB 1200 would prevent the opponent’s anti-consumer result.

AB 1200 seeks to ensure that every consumer can make an informed choice by balancing the need for claimants to 1) understand the benefits of an auto insurance policy, including the benefits that DRPs provide, and 2) be free to choose an auto repair facility without auto insurer coercion. AB 1200 guarantees that drivers can make an informed choice when selecting an auto repair facility.

AB 1200 is consistent with Federal Court decisions affirming an insurer’s constitutionally protected commercial free speech right to provide truthful and non-deceptive information. Consumers, the court recognized, benefit from information that allows them to make informed choices. When this issue has arisen in other states, courts have strongly outlined the benefits of informed consumer choice. In the leading decision, *Allstate v. Abbott*, 495 Fed.3rd 151 (2007), the Fifth Circuit Court of Appeals overturned a Texas law that prohibited an insurer from recommending policyholders have their vehicles repaired at an insurer-owned body shop. Relying on a long line of commercial free speech cases, the court said:

“Consumers benefit from more, rather than less, information. Attempting to control the outcome of the consumer decisions following such communications by restricting lawful commercial speech is not an appropriate way to advance a state interest in protecting consumers.”

For the reasons stated above, **PIFC urges your signature on this important measure** by Assembly Member Hayashi. If you have any questions, please contact Michael A. Gunning at (916) 442-6646.

Sincerely,

Rex Frazier
President

Michael A. Gunning
Vice President

cc: The Honorable Mary Hayashi, Author
Susan Kennedy, Chief of Staff
Mike Pro시오, Deputy Legislative Secretary, Office of the Governor
Office of the Insurance Advisor