



MEMORANDUM

Date: June 24, 2009

To: The Honorable Ron Calderon, Chair
The Honorable Dave Cogdill, Vice Chair
Members, Senate Banking, Finance & Insurance Committee

From: Rex D. Frazier, President
Michael A. Gunning, Vice President
Kimberley Dellinger, General Counsel
Ermelinda Ruiz, Legislative Advocate

Re: AB 1200 (Hayashi) Motor Vehicle Insurance: Direct Repair Programs

Senate Banking, Finance & Insurance Committee
Hearing July 1, 2009
PIFC Position: Support

The Personal Insurance Federation of California, representing insurers who write over 60% of the auto insurance sold in the state, including State Farm, Allstate, Farmers, Liberty Mutual Group, 21st Century, Progressive, and NAMIC, **supports AB 1200 by Assembly Member Hayashi.**

Existing law prohibits auto insurers from forcing a driver to a particular auto repair facility, but fails to ensure that drivers get a complete picture of their auto repair options. AB 1200 guarantees that drivers can make an informed choice when selecting an auto repair facility.

Insurance Code Section 758.5 (2004/Speier) prohibits auto insurers from *requiring* a claimant to use a specific auto repair facility. Senator Speier declared that her measure would “eliminate the insurance industry practice of ‘steering’ auto body repair work. Steering occurs when an insurer prevents a consumer from having auto body repairs done at a repair shop preferred by the consumer.” Auto insurers do not object to this law.

However, some body shop owners 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. They want to “lock in” a customer by depriving them of an informed choice about alternatives, including an auto insurer’s “direct repair program (DRP).”* A DRP is a network of vetted body shops that operate under contracts covering warranties, guaranteed prices, experience and service.

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-

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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.

AB 1200 would ensure that every consumer can make an informed choice of auto repair facilities. It would provide an appropriate balance of 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 shop without auto insurer coercion.

For the foregoing reasons, **PIFC supports AB 1200** and urges your “**yes**” vote. If you have any questions regarding PIFC’s support, please contact Michael Gunning at (916) 442-6646.

cc: Assembly Member Hayashi (Author)
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