



Personal Insurance Federation of California

California's Personal Lines Trade Association

REPRESENTING THE LEADING AUTOMOBILE AND HOMEOWNERS INSURERS

State Farm • Farmers • 21st Century Insurance Group • SAFECO • Progressive

MEMORANDUM

STAFF

Dan Dunmoyer
President

Diane Colborn
Vice President of Legislative
& Regulatory Affairs

Michael Gunning
Senior Legislative Advocate

Jerry Davies
Director of Communications

Date: April 30, 2003

To: The Honorable Jackie Speier, Chair
Members, Senate Insurance Committee

From: Dan C. Dunmoyer, President
G. Diane Colborn, Vice President of Legislative and Regulatory Affairs
Michael Gunning, Senior Legislative Advocate

Re: SB 551 (Ortiz): Automotive Repair Dealers
Senate Insurance Committee Hearing: May 7, 2003
PIFC Position: **Oppose**

The Personal Insurance Federation of California, representing insurers who write nearly 35% of all personal lines insurance sold in the state, including State Farm, Farmers Insurance, 21st Century, SAFECO, and Progressive Insurance Companies, **opposes SB 551** by Senator Speier.

SB 551 would prohibit an insurer from recommending that an automobile be repaired, or not be repaired, at a specific automotive repair dealer unless the claimant specifically requests a referral. It would allow an insured or other claimant, or a repair dealer, damaged by a violation of this provision to recover damages.

Existing law makes it explicitly clear that companies cannot "steer" its insureds to repair facilities. The findings and declarations of the bill are egregious and false. There is no evidence, despite strict regulatory and legislative scrutiny, that insurers are steering consumers to auto repair shops chosen by them and not the insured. Such declarations are simply not true.

Proposed Insurance Code Section 758.5 (b) creates a strict liability standard. As a result, there is no finding of fault required.

The legislation allows insurers to be sued by, and requires they be held strictly to, policyholders, claimants or auto repair shops for any damages that could potentially be related back to an auto repair, even if the injury was a direct result of a defective part or repair. It also permits plaintiffs to sue, again at a strict liability standard, for non-economic injuries, such as emotional distress, as well as economic injuries and recover "special" and "exemplary" as well as actual damages. While the legislative intent language suggests the bill is targeted at damages that arise from shoddy workmanship at the auto repair shop but the actual language is much broader than that.

Senate Bill 551 a back door attempt around the Supreme Court's decision, Moradi Shalal, which limits third party bad faith. The bill does not limit damages to the party with whom the insured has a contractual relationship. It would expand liability to third parties. Finally, the bill's allowances for a new private cause of action, including punitive damages, would drive up the cost of auto insurance by unnecessarily expanding litigation.

For all these reasons, PIFC opposes SB 551 and urges a no vote on the bill. Thank you for your consideration of our views. If you have any questions regarding this position, please do not hesitate to contact Michael A. Gunning at (916) 442-6646.

cc: Senator Speier, Author
Ann Richardson, Deputy Legislative Secretary, Governor's Office
Brian Perkins, Senate Insurance Committee
Dan Chick, Senate Republican Caucus
Senate Floor Analyses

4.SB551-SIns.doc