

AMENDED IN ASSEMBLY JUNE 21, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MARCH 22, 2004

**SENATE BILL**

**No. 1542**

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**Introduced by Senator Figueroa**

February 19, 2004

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An act to amend Sections 9882 and 9884.17 of, and to add *and repeal* Section 9882.6 ~~to~~ *of*, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 1542, as amended, Figueroa. Bureau of Automotive Repair.

The Automotive Repair Act creates the Bureau of Automotive Repair in the Department of Consumer Affairs, with certain powers and duties relative to the licensing and regulation of automotive repair dealers and various other licensees. Existing law requires the Joint Committee on Boards, Commissions, and Consumer Protection to hold a public hearing every 4 years to receive testimony from the Director of Consumer Affairs and the bureau, and to evaluate the bureau's effectiveness and efficiency. Existing law requires the bureau to design and approve a required sign at all automotive repair dealer locations advising the public of the bureau's telephone number and other related matters. A violation of the Automotive Repair Act is a crime.

This bill would also require the sign to include the bureau's Internet address. By changing the definition of a crime, the bill would impose a state-mandated local program. The bill would make nonsubstantive changes to the provisions governing the committee's review of the bureau.

This bill would require the ~~director~~ *Secretary of the State and Consumer Affairs Agency* to appoint a Bureau of Automotive Repair Enforcement Monitor by January 4 3, 2005. The bill would require the monitor to ~~review and~~ evaluate the bureau and research and analyze specified issues. The bill would require the monitor to submit a report to the ~~director~~ *secretary*, bureau, and Legislature by June 1, 2005, *and every 6 months thereafter; and to issue a final report by December 31, 2006.*

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 9882 of the Business and Professions  
2 Code is amended to read:  
3 9882. (a) There is in the Department of Consumer Affairs a  
4 Bureau of Automotive Repair under the supervision and control of  
5 the director. The duty of enforcing and administering this chapter  
6 is vested in the chief who is responsible to the director. The director  
7 may adopt and enforce those rules and regulations that he or she  
8 determines are reasonably necessary to carry out the purposes of  
9 this chapter and declaring the policy of the bureau, including a  
10 system for the issuance of citations for violations of this chapter  
11 as specified in Section 125.9. These rules and regulations shall be  
12 adopted pursuant to Chapter 4.5 (commencing with Section  
13 11371) of Part 1 of Division 3 of Title 2 of the Government Code.  
14 (b) In 2003 and every four years thereafter, the Joint  
15 Legislative Sunset Review Committee shall hold a public hearing  
16 to receive testimony from the Director of Consumer Affairs and  
17 the bureau. In those hearings, the bureau shall have the burden of  
18 demonstrating a compelling public need for the continued  
19 existence of the bureau and its regulatory program, and that its  
20 function is the least restrictive regulation consistent with the public  
21 health, safety, and welfare. The committee shall evaluate and



1 review the effectiveness and efficiency of the bureau based on  
2 factors and minimum standards of performance that are specified  
3 in Section 473.4. The committee shall report its findings and  
4 recommendations as specified in Section 473.5. The bureau shall  
5 prepare an analysis and submit a report to the committee as  
6 specified in Section 473.2.

7 SEC. 2. Section 9882.6 is added to the Business and  
8 Professions Code, to read:

9 ~~9882.6. (a) (1) The Director of Consumer Affairs shall~~  
10 ~~appoint a Bureau of Automotive Repair Enforcement Monitor no~~  
11 ~~later than January 1, 2005. The director may retain a person for this~~  
12 ~~position by a personal services contract. In this connection, the~~  
13 ~~Legislature finds, pursuant to Section 19130 of the Government~~  
14 ~~Code, that this is a new state function.~~

15 ~~(2) The director shall supervise the enforcement monitor and~~  
16 ~~may terminate or dismiss him or her from this position.~~

17 ~~(b) The director shall advertise the availability of this position.~~  
18 ~~The requirements for this position shall include experience in~~  
19 ~~performing audits of operating state administrative regulatory~~  
20 ~~agencies, familiarity with state laws, rules, and procedures~~  
21 ~~pertaining to the bureau, and familiarity with relevant~~  
22 ~~administrative procedures.~~

23 ~~(c) (1) The enforcement monitor shall review and evaluate the~~  
24 ~~bureau and perform other duties designated by the director.~~

25 ~~(2) This monitoring duty shall be on a continuing basis for a~~  
26 ~~period of no more than two years from the date of the enforcement~~  
27 ~~monitor's appointment and shall include, but not be limited to,~~  
28 ~~researching and analyzing the following:~~

29 ~~(A) Creating a statutory definition of the term "fraud."~~

30 ~~(B) The establishment in regulation of formalized diagnostic~~  
31 ~~and repair standards.~~

32 ~~(C) The licensing or registration of technicians working within~~  
33 ~~the various fields of automotive repair.~~

34 ~~(D) The establishment in regulation of a formal code of~~  
35 ~~conduct for automotive repair dealers and technicians.~~

36 ~~(3) The enforcement monitor shall exercise no authority over~~  
37 ~~the bureau's management or staff; however, the bureau and its staff~~  
38 ~~shall cooperate with him or her, and shall provide data,~~  
39 ~~information, and files as requested by the monitor to perform all~~  
40 ~~of his or her duties.~~



1 ~~(4) The director shall assist the enforcement monitor in the~~  
2 ~~performance of his or her duties, and the enforcement monitor~~  
3 ~~shall have the same investigative authority as the director.~~

4 ~~(d) The enforcement monitor shall submit an initial written~~  
5 ~~report of his or her findings and conclusions to the director, the~~  
6 ~~bureau, and the Legislature no later than June 1, 2005, and every~~  
7 ~~six months thereafter, and shall be available to make oral reports~~  
8 ~~to each if requested to do so. The enforcement monitor may also~~  
9 ~~provide additional information to either the department or the~~  
10 ~~Legislature at his or her discretion or at the request of either the~~  
11 ~~department or the Legislature. The enforcement monitor shall~~  
12 ~~make his or her reports available to the public and the media. The~~  
13 ~~enforcement monitor shall make every effort to provide the~~  
14 ~~department and the bureau with an opportunity to reply to any~~  
15 ~~facts, finding, issues, or conclusions in his or her reports with~~  
16 ~~which the department or the bureau may disagree.~~

17 ~~(e) The costs associated with the employment of an operations~~  
18 ~~manager shall be funded from the bureau's special fund.~~

19 ~~(f) This section shall remain in effect only until April 1, 2006,~~  
20 ~~and as of that date is repealed unless a later enacted statute, that is~~  
21 ~~enacted before April 1, 2006, deletes or extends that date.~~

22 *9882.6. (a) (1) The Secretary of the State and Consumer*  
23 *Affairs Agency shall appoint a Bureau of Automotive Repair*  
24 *Administration and Enforcement Monitor no later than January 3,*  
25 *2005. The secretary may retain a person for this position by a*  
26 *personal services contract. The Legislature hereby finds, pursuant*  
27 *to Section 19130 of the Government Code, that this is a new state*  
28 *function.*

29 *(2) The secretary shall supervise the Administration and*  
30 *Enforcement Monitor and may terminate or dismiss him or her*  
31 *from this position.*

32 *(b) The secretary shall advertise the availability of this*  
33 *position. The requirements for this position shall include*  
34 *experience in the performing of audits of or operating state*  
35 *administrative regulatory agencies, familiarity with state laws,*  
36 *rules, and procedures pertaining to the bureau, and familiarity*  
37 *with the relevant administrative procedures.*

38 *(c) (1) The Administration and Enforcement Monitor shall*  
39 *evaluate the bureau's disciplinary system and procedures, with*  
40 *specific concentration on improving the overall efficiency and*



1 *assuring the fairness of the enforcement program, and the need for*  
2 *administrative structural changes. The secretary shall specify*  
3 *further duties of the monitor.*

4 *(2) This monitoring duty shall be on a continuing basis for a*  
5 *period of no more than two years from the date of the*  
6 *Administration and Enforcement Monitor's appointment and shall*  
7 *include, but not be limited to, researching and analyzing the*  
8 *following:*

9 *(A) The appropriate authorization for, accuracy of, and*  
10 *consistency in, the application of sanctions or discipline imposed*  
11 *on licensees or registrants.*

12 *(B) The viability and fairness of procedures available to*  
13 *licensees and registrants to respond to allegations of violations*  
14 *prior and subsequent to formal and/or other disciplinary actions*  
15 *being taken.*

16 *(C) The accessibility, fairness, and independence of the*  
17 *appeals process for licensees and registrants at all levels of the*  
18 *disciplinary process, including procedures to respond to*  
19 *allegations before and after formal and/or other disciplinary*  
20 *actions are taken.*

21 *(D) The prioritization of investigatory and prosecutory*  
22 *resources, particularly with respect to cases involving significant*  
23 *consumer harm.*

24 *(E) The adequacy of expertise of bureau staff in accepted*  
25 *industry standards, practices, and the applicable state and federal*  
26 *laws.*

27 *(F) The effectiveness of the Bureau's Industry Ombudsman and*  
28 *Advisory Committee, particularly in relation to their*  
29 *communication with licensees, registrants and the public.*

30 *(G) The effectiveness of the bureau's cooperation with other*  
31 *governmental entities charged with enforcing related laws and*  
32 *regulations regarding automotive repair dealers and Smog Check*  
33 *stations and technicians.*

34 *(H) The creation of a statutory definition of the term "fraud."*

35 *(I) The establishment of formal diagnostic and repair*  
36 *standards.*

37 *(J) The licensing or registration of technicians working within*  
38 *the various fields of automotive repair.*

39 *(K) The establishment in regulation of a formal code of conduct*  
40 *for automotive repair dealers and technicians.*



1     (L) *The quality, consistency, and speed of complaint processing*  
2 *and investigation, and recommendations for improvement.*

3     *In performing his or her monitoring duties, the Administration*  
4 *and Enforcement Monitor shall confer with, and seek input from,*  
5 *bureau staff, registered or licensed professionals, the Office of the*  
6 *Attorney General, members of the public, and other interested or*  
7 *relevant parties regarding their concerns and views on the bureau*  
8 *and its operations.*

9     (3) *The Administration and Enforcement Monitor shall*  
10 *exercise no authority over the bureau's discipline operations or*  
11 *staff. However, the board and its staff shall cooperate with him or*  
12 *her, and the board shall provide data, information, and case files*  
13 *as requested by the Administration and Enforcement Monitor to*  
14 *perform all of his or her duties.*

15     (4) *The Director of Consumer Affairs shall assist the*  
16 *enforcement program monitor in the performance of his or her*  
17 *duties, and the enforcement program monitor shall have the same*  
18 *investigative authority as the director.*

19     (d) *The Administration and Enforcement Monitor shall submit*  
20 *an initial written report of his or her findings and conclusions to*  
21 *the bureau, the Director of Consumer Affairs, the secretary, and*  
22 *the Legislature no later than July 1, 2005, and every six months*  
23 *thereafter, and be available to make oral reports if requested to do*  
24 *so. The Administration and Enforcement Monitor may also*  
25 *provide additional information to either the secretary or the*  
26 *Legislature at his or her discretion or at the request of either the*  
27 *secretary or the Legislature. The Administration and Enforcement*  
28 *Monitor shall make his or her reports available to the public or the*  
29 *media. The Administration and Enforcement Monitor shall make*  
30 *every effort to provide the bureau with an opportunity to reply to*  
31 *any facts, findings, issues, or conclusions in his or her reports with*  
32 *which the bureau may disagree.*

33     (e) *The bureau shall reimburse the department for all of the*  
34 *costs associated with the employment of an Administration and*  
35 *Enforcement Monitor.*

36     (f) *The Administration and Enforcement Monitor shall issue a*  
37 *final report prior to December 31, 2006. The final report shall*  
38 *include final findings and conclusions on the topics addressed in*  
39 *the initial report submitted by the monitor pursuant to subdivision*  
40 *(d).*



1 (g) *This section shall become inoperative on April 1, 2007, and*  
2 *as of April 1, 2007, shall be repealed, unless a later enacted*  
3 *statute, which is enacted before April 1, 2007, deletes or extends*  
4 *the dates on which it becomes inoperative and is repealed.*

5 SEC. 3. Section 9884.17 of the Business and Professions  
6 Code is amended to read:

7 9884.17. The bureau shall design and approve of a sign which  
8 shall be placed in all automotive repair dealer locations in a place  
9 and manner conspicuous to the public. That sign shall give notice  
10 that inquiries concerning service may be made to the bureau and  
11 shall contain the telephone number and Internet Web site address  
12 of the bureau. The sign shall also give notice that the customer is  
13 entitled to a return of replaced parts upon his or her request therefor  
14 at the time the work order is taken.

15 SEC. 4. No reimbursement is required by this act pursuant to  
16 Section 6 of Article XIII B of the California Constitution because  
17 the only costs that may be incurred by a local agency or school  
18 district will be incurred because this act creates a new crime or  
19 infraction, eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section 17556 of  
21 the Government Code, or changes the definition of a crime within  
22 the meaning of Section 6 of Article XIII B of the California  
23 Constitution.

