

AMENDED IN ASSEMBLY JULY 23, 2004

AMENDED IN ASSEMBLY JUNE 21, 2004

AMENDED IN ASSEMBLY JUNE 14, 2004

AMENDED IN SENATE MARCH 22, 2004

SENATE BILL

No. 1542

Introduced by Senator Figueroa

(Coauthors: Senators Aanestad and Vincent)

(Coauthors: Assembly Members Correa, Nation, and Runner)

February 19, 2004

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

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. *The act creates the Vehicle and Inspection Repair Fund and directs that all fees and revenues collected pursuant to the act and pursuant to the motor vehicle inspection program be deposited into the fund.* 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 ~~Secretary of the State and Consumer Affairs Agency~~ *Director of Consumer Affairs* to appoint a Bureau of Automotive Repair *Administration and Enforcement Monitor* by January 3, 2005, and would appropriate \$184,000 from the *Vehicle and Inspection Repair Fund* for the 2004–05, 2005–06, and 2006–07 fiscal years to the department to contract for this position. The bill would require the monitor to evaluate the bureau and research and analyze specified issues. The bill would require the monitor to submit a report to the ~~secretary~~, *director*, the *Secretary of State and Consumer Services Agency*, the bureau, and the 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~~ ^{2/3}. Appropriation: ~~no~~ ^{yes}. 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



1 adopted pursuant to Chapter 4.5 (commencing with Section
2 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

3 (b) In 2003 and every four years thereafter, the Joint
4 Legislative Sunset Review Committee shall hold a public hearing
5 to receive testimony from the Director of Consumer Affairs and
6 the bureau. In those hearings, the bureau shall have the burden of
7 demonstrating a compelling public need for the continued
8 existence of the bureau and its regulatory program, and that its
9 function is the least restrictive regulation consistent with the public
10 health, safety, and welfare. The committee shall evaluate and
11 review the effectiveness and efficiency of the bureau based on
12 factors and minimum standards of performance that are specified
13 in Section 473.4. The committee shall report its findings and
14 recommendations as specified in Section 473.5. The bureau shall
15 prepare an analysis and submit a report to the committee as
16 specified in Section 473.2.

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

19 9882.6. (a) (1) ~~The Secretary of the State and Consumer~~
20 ~~Affairs Agency~~ *Director of Consumer Affairs* shall appoint a
21 Bureau of Automotive Repair Administration and Enforcement
22 Monitor no later than January 3, 2005. ~~The secretary~~ *director* may
23 retain a person for this position by a personal services contract. The
24 Legislature hereby finds, pursuant to Section 19130 of the
25 Government Code, that this is a new state function.

26 (2) ~~The secretary~~ *director* shall supervise the administration
27 and enforcement monitor and may terminate or dismiss him or her
28 from this position.

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

35 (c) (1) The administration and enforcement monitor shall
36 evaluate the bureau's disciplinary system and procedures, with
37 specific concentration on improving the overall efficiency and
38 assuring the fairness of the enforcement program, and the need for
39 administrative structural changes. ~~The secretary~~ *director* shall
40 specify further duties of the monitor.

- 1 (2) This monitoring duty shall be on a continuing basis for a
2 period of no more than two years from the date of the
3 administration and enforcement monitor’s appointment and shall
4 include, but not be limited to, researching and analyzing the
5 following:
 - 6 (A) The appropriate authorization for, accuracy of, and
7 consistency in, the application of sanctions or discipline imposed
8 on licensees or registrants.
 - 9 (B) The viability and fairness of procedures available to
10 licensees and registrants to respond to allegations of violations
11 prior and subsequent to formal and/or other disciplinary actions
12 being taken.
 - 13 (C) The accessibility, fairness, and independence of the appeals
14 process for licensees and registrants at all levels of the disciplinary
15 process, including procedures to respond to allegations before and
16 after formal and/or other disciplinary actions are taken.
 - 17 (D) The prioritization of investigatory and prosecutory
18 resources, particularly with respect to cases involving significant
19 consumer harm.
 - 20 (E) The adequacy of expertise of bureau staff in accepted
21 industry standards, practices, and the applicable state and federal
22 laws.
 - 23 (F) The effectiveness of the Bureau’s Industry Ombudsman
24 and Advisory Committee, particularly in relation to their
25 communication with licensees, registrants, and the public.
 - 26 (G) The effectiveness of the bureau’s cooperation with other
27 governmental entities charged with enforcing related laws and
28 regulations regarding automotive repair dealers and smog check
29 stations and technicians.
 - 30 (H) The creation of a statutory definition of the term “fraud.”
 - 31 (I) The establishment of formal diagnostic and repair
32 standards.
 - 33 (J) The licensing or registration of technicians working within
34 the various fields of automotive repair.
 - 35 (K) The establishment in regulation of a formal code of
36 conduct for automotive repair dealers and technicians.
 - 37 (L) The quality, consistency, and speed of complaint
38 processing and investigation, and recommendations for
39 improvement.



1 In performing his or her monitoring duties, the administration
2 and enforcement monitor shall confer with, and seek input from,
3 bureau staff, registered or licensed professionals, the Office of the
4 Attorney General, members of the public, and other interested or
5 relevant parties regarding their concerns and views on the bureau
6 and its operations.

7 (3) The administration and enforcement monitor shall exercise
8 no authority over the bureau's discipline operations or staff.
9 However, the ~~board~~ bureau and its staff shall cooperate with him
10 or her, and the ~~board~~ bureau shall provide data, information, and
11 case files as requested by the administration and enforcement
12 monitor to perform all of his or her duties.

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

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

37 (e) The administration and enforcement monitor shall issue a
38 final report prior to December 31, 2006. The final report shall
39 include final findings and conclusions on the topics addressed in



1 the initial report submitted by the monitor pursuant to subdivision
2 (d).

3 ~~(g)~~

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

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

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

18 SEC. 4. *The sum of one hundred eighty-four thousand dollars*
19 *(\$184,000) is hereby appropriated from the Vehicle Inspection and*
20 *Repair Fund to the Department of Consumer Affairs for the*
21 *2004-05, 2005-06, and 2006-07 fiscal years for the purpose of*
22 *contracting for the employment of a Bureau of Automotive Repair*
23 *Administration and Enforcement Monitor pursuant to Section*
24 *9882.6 of the Business and Professions Code.*

25 SEC. 5. No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.

