

Senate Bill No. 1542

Passed the Senate August 25, 2004

Secretary of the Senate

Passed the Assembly August 23, 2004

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2004, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

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, 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 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 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 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.

Appropriation: yes.

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

SECTION 1. Section 9882 of the Business and Professions Code is amended to read:

9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code.

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



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

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

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

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

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

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

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

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

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



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

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

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

(G) The effectiveness of the bureau's cooperation with other governmental entities charged with enforcing related laws and regulations regarding automotive repair dealers and smog check stations and technicians.

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

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

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

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

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

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

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

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



(d) The administration and enforcement monitor shall submit an initial written report of his or her findings and conclusions to the bureau, the director, the Secretary of State and Consumer Services Agency, and the Legislature no later than July 1, 2005, and every six months thereafter, and be available to make oral reports if requested to do so. The administration and enforcement monitor may also provide additional information to either the director or the Legislature at his or her discretion or at the request of either the director or the Legislature. The administration and enforcement monitor shall make his or her reports available to the public or the media. The administration and enforcement monitor shall make every effort to provide the bureau with an opportunity to reply to any facts, findings, issues, or conclusions in his or her reports with which the bureau may disagree.

(e) The administration and enforcement monitor shall issue a final report prior to December 31, 2006. The final report shall include final findings and conclusions on the topics addressed in the initial report submitted by the monitor pursuant to subdivision (d).

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

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

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

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



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



Approved _____, 2004

Governor

