

AMENDED IN ASSEMBLY JANUARY 12, 2010

AMENDED IN SENATE MARCH 31, 2009

SENATE BILL

No. 350

Introduced by Senator Yee

February 25, 2009

An act to ~~amend Section 9875.1 of the Business and Professions Code, to repeal Chapter 20.1 (commencing with Section 9875) of Division 3 of the Business and Professions Code, and to add Section 790.20 to the Insurance Code, relating to motor vehicle insurance.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 350, as amended, Yee. Aftermarket crash parts.

Existing law prohibits an insurer from requiring the use of nonoriginal equipment manufacturer aftermarket crash parts in the repair of an insured's motor vehicle unless the consumer is advised in a written estimate before repairs are made that nonoriginal equipment manufacturer aftermarket crash parts will be used.

This bill would, ~~in addition,~~ *instead* prohibit the use of nonoriginal equipment manufacturer aftermarket crash parts unless ~~the insurer warrants that those specified requirements are met, including parts are at least equal to the original equipment manufacturer parts in terms of kind, quality, safety, fit, and performance and shall pay; the insurer so warrants; the insurer pays the cost of any modifications to those parts necessary to effect the repair. The bill would also require; and all original and nonoriginal equipment manufacturer aftermarket crash parts, manufactured on or after January 1, 2010, 2011, when supplied by auto body repair shops, to contain specified identification.~~

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

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

1 *SECTION 1. Chapter 20.1 (commencing with Section 9875)*
2 *of Division 3 of the Business and Professions Code is repealed.*

3 *SEC. 2. Section 790.20 is added to the Insurance Code, to*
4 *read:*

5 *790.20. (a) An insurer shall not require the use of nonoriginal*
6 *equipment manufacturer aftermarket crash parts in the repair of*
7 *an insured's motor vehicle, unless all of the following requirements*
8 *are met:*

9 *(1) The parts are at least equal to the original equipment*
10 *manufacturer parts in terms of kind, quality, safety, fit, and*
11 *performance.*

12 *(2) The insurer specifying the use of nonoriginal equipment*
13 *manufacturer aftermarket crash parts shall pay the cost of any*
14 *modifications to the parts that may become necessary to effect the*
15 *repair.*

16 *(3) The insurer specifying the use of nonoriginal equipment*
17 *manufacturer aftermarket crash parts shall warrant that those*
18 *parts are of like kind, quality, safety, fit, and performance as*
19 *original equipment manufacturer aftermarket crash parts.*

20 *(4) All original and nonoriginal equipment manufacturer*
21 *aftermarket crash parts, manufactured on or after January 1, 2011,*
22 *when supplied by auto body repair shops, as defined in Section*
23 *9889.51 of the Business and Professions Code, shall carry*
24 *sufficient permanent, nonremovable identification so as to identify*
25 *the manufacturer. This identification shall be accessible to the*
26 *greatest extent possible after installation.*

27 *(b) For purposes of this section, the following definitions shall*
28 *apply:*

29 *(1) "Aftermarket crash part" means a replacement for any of*
30 *the nonmechanical sheet metal or plastic parts that generally*
31 *constitute the exterior of a motor vehicle, including inner and outer*
32 *panels.*

33 *(2) "Insurer" includes an insurance company and any person*
34 *authorized to represent the insurer with respect to a claim.*

35 *(3) "Nonoriginal equipment manufacturer aftermarket crash*
36 *part" means aftermarket crash parts not made for or by the*
37 *manufacturer of the motor vehicle.*

1 (c) Any violation of this section shall be enforced pursuant to
2 Section 790.06.

3 ~~SECTION 1. Section 9875.1 of the Business and Professions~~
4 ~~Code is amended to read:~~

5 ~~9875.1. (a) No insurer shall require the use of nonoriginal~~
6 ~~equipment manufacturer aftermarket crash parts in the repair of~~
7 ~~an insured's motor vehicle, unless all of the following requirements~~
8 ~~are met:~~

9 ~~(1) The insurer warrants that the nonoriginal equipment~~
10 ~~manufacturer aftermarket crash parts are at least equal to the~~
11 ~~original equipment manufacturer parts in terms of kind, quality,~~
12 ~~safety, fit, and performance.~~

13 ~~(2) The insurer shall pay the cost of any modifications to the~~
14 ~~parts that may become necessary to effect the repair.~~

15 ~~(3) The insurer shall advise the consumer in a written estimate~~
16 ~~of the use of nonoriginal equipment manufacturer aftermarket~~
17 ~~crash parts before repairs are made. In all instances where~~
18 ~~nonoriginal equipment manufacturer aftermarket crash parts are~~
19 ~~intended for use by an insurer:~~

20 ~~(A) The written estimate shall clearly identify each such part~~
21 ~~with the name of its nonoriginal equipment manufacturer or~~
22 ~~distributor.~~

23 ~~(B) A disclosure document containing the following information~~
24 ~~in 10-point type or larger type shall be attached to the insured's~~
25 ~~copy of the estimate: "This estimate has been prepared based on~~
26 ~~the use of crash parts supplied by a source other than the~~
27 ~~manufacturer of your motor vehicle. Any warranties applicable to~~
28 ~~these replacement parts are provided by the manufacturer or~~
29 ~~distributor of the parts, rather than by the original manufacturer~~
30 ~~of your vehicle."~~

31 ~~(b) All original and nonoriginal equipment manufacturer~~
32 ~~aftermarket crash parts, manufactured on or after January 1, 2010,~~
33 ~~when supplied by auto body repair shops, as defined in Section~~
34 ~~9889.51, shall carry sufficient permanent, nonremovable~~
35 ~~identification so as to identify the manufacturer, and this~~
36 ~~identification shall be accessible to the greatest extent possible~~
37 ~~after installation.~~

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