

AMENDED IN ASSEMBLY MARCH 8, 2010
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 *repeal Sections 9875.1 and 9875.2 of, to repeal and add Section 9875 of, and 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~~ aftermarket crash parts.*

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 ~~instead~~ *in addition* prohibit the use of nonoriginal equipment manufacturer aftermarket crash parts unless specified requirements are met, including *that those* parts are at least equal to the original equipment manufacturer parts in terms of kind, quality, safety, fit, and performance; the insurer so warrants; the insurer pays the cost of any modifications to those parts necessary to effect the repair; and all original and nonoriginal equipment manufacturer aftermarket crash parts, manufactured on or after January 1, 2011, when supplied by auto body repair shops 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 2 ~~of Division 3 of the Business and Professions Code is repealed.~~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 ~~SECTION 1. Section 9875 of the Business and Professions~~
 4 ~~Code is repealed.~~
 5 ~~9875. As used in this chapter, the following definitions shall~~
 6 ~~apply:~~
 7 ~~(a) “Insurer” includes an insurance company and any person~~
 8 ~~authorized to represent the insurer with respect to a claim.~~
 9 ~~(b) “Aftermarket crash part” means a replacement for any of~~
 10 ~~the nonmechanical sheet metal or plastic parts which generally~~
 11 ~~constitute the exterior of a motor vehicle, including inner and outer~~
 12 ~~panels.~~
 13 ~~(c) “Nonoriginal equipment manufacturer (Non-OEM)~~
 14 ~~aftermarket crash part” means aftermarket crash parts not made~~
 15 ~~for or by the manufacturer of the motor vehicle.~~
 16 ~~SEC. 2. Section 9875 is added to the Business and Professions~~
 17 ~~Code, to read:~~
 18 ~~9875. (a) Provisions regulating the use of nonoriginal~~
 19 ~~equipment manufacturer aftermarket crash parts in insured repair~~
 20 ~~work are codified in Section 790.20 of the Insurance Code.~~
 21 ~~(b) This chapter shall remain in effect only until January 1,~~
 22 ~~2013, and as of that date is repealed, unless a later enacted statute,~~
 23 ~~that is enacted before January 1, 2013, deletes or extends that~~
 24 ~~date.~~
 25 ~~SEC. 3. Section 9875.1 of the Business and Professions Code~~
 26 ~~is repealed.~~
 27 ~~9875.1. No insurer shall require the use of nonoriginal~~
 28 ~~equipment manufacturer aftermarket crash parts in the repair of~~
 29 ~~an insured’s motor vehicle, unless the consumer is advised in a~~
 30 ~~written estimate of the use of nonoriginal equipment manufacturer~~
 31 ~~aftermarket crash parts before repairs are made. In all instances~~
 32 ~~where nonoriginal equipment manufacturer aftermarket crash parts~~
 33 ~~are intended for use by an insurer:~~

1 ~~(a) The written estimate shall clearly identify each such part~~
2 ~~with the name of its nonoriginal equipment manufacturer or~~
3 ~~distributor.~~

4 (b) A disclosure document containing the following information
5 in 10-point type or larger type shall be attached to the insured's
6 copy of the estimate: ~~"This estimate has been prepared based on~~
7 ~~the use of crash parts supplied by a source other than the~~
8 ~~manufacturer of your motor vehicle. Any warranties applicable to~~
9 ~~these replacement parts are provided by the manufacturer or~~
10 ~~distributor of the parts, rather than by the original manufacturer~~
11 ~~of your vehicle."~~

12 *SEC. 4. Section 9875.2 of the Business and Professions Code*
13 *is repealed.*

14 ~~9875.2. Any violation of this chapter shall be enforced by the~~
15 ~~penalties provided in Section 790.06 of the Insurance Code.~~

16 ~~SEC. 2.~~

17 *SEC. 5. Section 790.20 is added to the Insurance Code, to read:*

18 790.20. (a) An insurer shall not require the use of nonoriginal
19 equipment manufacturer aftermarket crash parts in the repair of
20 an insured's motor vehicle, unless all of the following requirements
21 are met:

22 (1) The parts are at least equal to the original equipment
23 manufacturer parts in terms of kind, quality, safety, fit, and
24 performance.

25 (2) The insurer specifying the use of nonoriginal equipment
26 manufacturer aftermarket crash parts shall pay the cost of any
27 modifications to the parts that may become necessary to effect the
28 repair.

29 (3) The insurer specifying the use of nonoriginal equipment
30 manufacturer aftermarket crash parts shall warrant that those parts
31 are of like kind, quality, safety, fit, and performance as original
32 equipment manufacturer aftermarket crash parts.

33 (4) All original and nonoriginal equipment manufacturer
34 aftermarket crash parts, manufactured on or after January 1, 2011,
35 when supplied by auto body repair shops, as defined in Section
36 9889.51 of the Business and Professions Code, shall carry sufficient
37 permanent, nonremovable identification so as to identify the
38 manufacturer. This identification shall be accessible to the greatest
39 extent possible after installation.

1 (b) An insurer shall not require the use of nonoriginal equipment
2 manufacturer aftermarket crash parts in the repair of an insured's
3 motor vehicle, unless the consumer is advised in a written estimate
4 of the use of nonoriginal equipment manufacturer aftermarket
5 crash parts before repairs are made. In all instances where
6 nonoriginal equipment manufacturer aftermarket crash parts are
7 intended for use by an insurer:

8 (1) The written estimate shall clearly identify each part with
9 the name of its nonoriginal equipment manufacturer or distributor.

10 (2) A disclosure document containing the following information
11 in 10-point type or larger type shall be attached to the insured's
12 copy of the estimate: "This estimate has been prepared based on
13 the use of crash parts supplied by a source other than the
14 manufacturer of your motor vehicle. Any warranties applicable
15 to these replacement parts are provided by the manufacturer or
16 distributor of the parts, rather than by the original manufacturer
17 of your vehicle."

18 ~~(b)~~

19 (c) For purposes of this section, the following definitions shall
20 apply:

21 (1) "Aftermarket crash part" means a replacement for any of
22 the nonmechanical sheet metal or plastic parts that generally
23 constitute the exterior of a motor vehicle, including inner and outer
24 panels.

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

27 (3) "Nonoriginal equipment manufacturer aftermarket crash
28 part" means aftermarket crash parts not made for or by the
29 manufacturer of the motor vehicle.

30 ~~(e)~~

31 (d) Any violation of this section shall be enforced pursuant to
32 Section 790.06.