

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 427

Introduced by Senator Negrete McLeod

February 26, 2009

An act to amend Sections 9875 and 9889.20 of, to amend, repeal, and add Sections 9884.8 and 9884.9 of, and to add Sections 9884.75 and 9884.76 to, the Business and Professions Code, relating to automotive repair.

LEGISLATIVE COUNSEL'S DIGEST

SB 427, as amended, Negrete McLeod. Automotive repair: crash parts.

Existing law, the Automotive Repair Act, establishes the Bureau of Automotive Repair under the supervision and control of the Director of Consumer Affairs. The act provides for the registration and regulation of automotive repair dealers and authorizes the director to adopt regulations to implement its provisions. The act requires all work done by an automotive repair dealer to be recorded on an invoice that describes all service work done and parts supplied. The act requires the invoice to include a statement indicating whether any crash parts are original equipment manufacturer crash parts or nonoriginal equipment manufacturer aftermarket crash parts. The act also requires this information to be provided to a customer in an itemized written estimate when an automotive repair dealer is doing auto body or collision repairs. Existing law requires the automotive repair dealer to obtain authorization from the customer before performing work and imposing charges. A violation of the act is a crime.

This bill would define "crash part" for purposes of the act. The bill would, commencing January 1, 2011, ~~authorize the customer, as~~

~~specified, to receive copies of invoices from the automotive repair dealer for all crash parts, as defined, installed for which the customer is charged in excess of \$50. The bill would require automotive repair dealers, prior to providing these invoices, to remove the price paid for these crash parts and would specify that the failure of an automotive repair dealer to remove the prices does not constitute a violation of the act~~ *require an automotive repair dealer to provide a customer copies of invoices for any airbags installed as part of an inflatable restraint system.*

The bill would require the first page of the itemized written estimate to include a notice, as specified, stating that installing parts other than those described on the estimate without prior approval from the customer is unlawful and ~~that the customer is entitled to receive copies of all invoices for each specified crash part informing the customer of the toll free telephone number of the bureau.~~ The bill would additionally require an automotive repair dealer to provide on the first page of the final invoice, a statement that installing parts other than those described on the estimate without prior approval from the customer is unlawful and ~~that if the customer has requested copies of invoices, those copies are attached~~ *informing the customer of the toll free telephone number of the bureau.* The bill would make these provisions operative on January 1, 2011.

The bill would specify that, an automotive repair dealer who prepares an estimate, including replacement of a specified deployed airbag, who fails to repair and fully restore the airbag, as specified, is guilty of a misdemeanor punishable by a fine, imprisonment, or both.

Because a violation of the bill's provisions, ~~except as specified,~~ would be a crime, the bill would impose a state-mandated local program.

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 9875 of the Business and Professions
- 2 Code is amended to read:

1 9875. As used in this chapter, the following definitions shall
2 apply:

3 (a) “Insurer” includes an insurance company and any person
4 authorized to represent the insurer with respect to a claim.

5 (b) “Crash part” means any of the nonmechanical sheet metal
6 or plastic parts which generally constitute the exterior of a motor
7 vehicle, including inner and outer panels *and exterior lighting*;
8 and shall also include the airbag in a motor vehicle’s inflatable
9 restraint system.

10 (c) “Aftermarket crash part” means a replacement for any crash
11 part.

12 (d) “Nonoriginal equipment manufacturer aftermarket crash
13 part” means aftermarket crash parts not made for or by the
14 manufacturer of the motor vehicle.

15 SEC. 2. Section 9884.75 is added to the Business and
16 Professions Code, to read:

17 9884.75. (a) ~~The customer, pursuant to Section 9884.9, may~~
18 ~~choose to receive copies of invoices from the automotive repair~~
19 ~~dealer for all crash parts installed for which the customer is charged~~
20 ~~in excess of fifty dollars (\$50).~~

21 ~~(b) (1) The automotive repair dealer, upon request by the~~
22 ~~customer as described in Section 9884.9, shall provide copies of~~
23 ~~invoices from the distributor, dealer, or manufacturer for all crash~~
24 ~~parts installed for which the customer is charged in excess of fifty~~
25 ~~dollars (\$50).~~

26 ~~(2) The automotive repair dealer, prior to providing these parts~~
27 ~~invoices, shall remove the price the automotive repair dealer paid~~
28 ~~for the crash parts from the copies of the parts invoices.~~

29 ~~(c) The failure of an automotive repair dealer to remove the~~
30 ~~prices as required by subdivision (b) shall not constitute a violation~~
31 ~~of this chapter as described in Section 9889.20. An automotive~~
32 ~~repair dealer shall provide a customer copies of invoices for any~~
33 ~~airbags installed as part of an inflatable restraint system.~~

34 ~~(d)~~

35 ~~(b)~~ This section shall become operative on January 1, 2011.

36 SEC. 3. Section 9884.76 is added to the Business and
37 Professions Code, to read:

38 9884.76. Notwithstanding Section 9889.20, an automotive
39 repair dealer who prepares a written estimate for repairs pursuant
40 to Section 9884.9 that includes replacement of a deployed airbag

1 that is part of an inflatable restraint system and who fails to repair
2 and fully restore the airbag to original operating condition is guilty
3 of a misdemeanor punishable by a fine of five thousand dollars
4 (\$5,000) or by imprisonment in the county jail for one year or by
5 both that fine and imprisonment.

6 SEC. 4. Section 9884.8 of the Business and Professions Code
7 is amended to read:

8 9884.8. (a) All work done by an automotive repair dealer,
9 including all warranty work, shall be recorded on an invoice and
10 shall describe all service work done and parts supplied. Service
11 work and parts shall be listed separately on the invoice, which
12 shall also state separately the subtotal prices for service work and
13 for parts, not including sales tax, and shall state separately the sales
14 tax, if any, applicable to each. If any used, rebuilt, or reconditioned
15 parts are supplied, the invoice shall clearly state that fact. If a part
16 of a component system is composed of new and used, rebuilt or
17 reconditioned parts, that invoice shall clearly state that fact. The
18 invoice shall include a statement indicating whether any crash
19 parts are original equipment manufacturer crash parts or
20 nonoriginal equipment manufacturer aftermarket crash parts. One
21 copy of the invoice shall be given to the customer and one copy
22 shall be retained by the automotive repair dealer.

23 (b) This section shall remain in effect only until January 1, 2011,
24 and as of that date is repealed, unless a later enacted statute, that
25 is enacted before January 1, 2011, deletes or extends that date.

26 SEC. 5. Section 9884.8 is added to the Business and Professions
27 Code, to read:

28 9884.8. (a) All work done by an automotive repair dealer,
29 including all warranty work, shall be recorded on a *final* repair
30 invoice and shall describe all service work done and parts installed.
31 Service work and parts shall be listed separately on the repair
32 invoice, which shall also state separately the subtotal prices for
33 service work and for parts, not including sales tax, and shall state
34 separately the sales tax, if any, applicable to each. If any used,
35 rebuilt, or reconditioned parts are installed, the invoice shall clearly
36 state that fact. If a part of a component system is composed of new
37 and used, rebuilt, or reconditioned parts, that invoice shall clearly
38 state that fact. The invoice shall include a statement indicating
39 whether any crash parts are original equipment manufacturer crash
40 parts or nonoriginal equipment manufacturer aftermarket crash

parts. ~~One copy of the invoice~~ *If an airbag was installed, the airbag invoice required in Section 9884.75 shall be attached to the final invoice required under this subdivision. One copy of the final repair invoice along with any airbag invoices, if applicable, shall be given to the customer and one copy shall be retained by the automotive repair dealer.*

(b) The first page of the final repair invoice shall contain the following statement in 12-point boldface type or larger enclosed in a box:

“INSTALLING A PART, OTHER THAN A PART DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL. ~~IF, ON THE WRITTEN ESTIMATE, YOU CHOSE TO RECEIVE COPIES OF INVOICES FOR CRASH PARTS, INCLUDING AN AIRBAG, INSTALLED ON YOUR VEHICLE, THESE PARTS INVOICES ARE ATTACHED TO THIS FINAL REPAIR INVOICE.~~” *IF YOU SUSPECT PARTS FRAUD OR ARE CONCERNED ABOUT THE REPAIR OF YOUR VEHICLE BY AN AUTOMOTIVE REPAIR DEALER, CALL THE BUREAU OF AUTOMOTIVE REPAIR IN THE CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS TOLL FREE AT (800) 952-5210.*”

(c) This section shall become operative on January 1, 2011.

SEC. 6. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original

1 estimated price is provided by electronic mail or facsimile
2 transmission. If that consent is oral, the dealer shall make a notation
3 on the work order of the date, time, name of person authorizing
4 the additional repairs, and telephone number called, if any, together
5 with a specification of the additional parts and labor and the total
6 additional cost, and shall do either of the following:

7 (1) Make a notation on the invoice of the same facts set forth
8 in the notation on the work order.

9 (2) Upon completion of the repairs, obtain the customer's
10 signature or initials to an acknowledgment of notice and consent,
11 if there is an oral consent of the customer to additional repairs, in
12 the following language:

13
14 "I acknowledge notice and oral approval of an increase in the
15 original estimated price.

16
17 _____
18 (signature or initials)"

19 Nothing in this section shall be construed as requiring an
20 automotive repair dealer to give a written estimated price if the
21 dealer does not agree to perform the requested repair.

22 (b) The automotive repair dealer shall include with the written
23 estimated price a statement of any automotive repair service that,
24 if required to be done, will be done by someone other than the
25 dealer or his or her employees. No service shall be done by other
26 than the dealer or his or her employees without the consent of the
27 customer, unless the customer cannot reasonably be notified. The
28 dealer shall be responsible, in any case, for any service in the same
29 manner as if the dealer or his or her employees had done the
30 service.

31 (c) In addition to subdivisions (a) and (b), an automotive repair
32 dealer, when doing auto body or collision repairs, shall provide
33 an itemized written estimate for all parts and labor to the customer.
34 The estimate shall describe labor and parts separately and shall
35 identify each part, indicating whether the replacement part is new,
36 used, rebuilt, or reconditioned. Each crash part shall be identified
37 on the written estimate and the written estimate shall indicate
38 whether the crash part is an original equipment manufacturer crash
39 part or a nonoriginal equipment manufacturer aftermarket crash
40 part.

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

(e) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2011, deletes or extends that date.

SEC. 7. Section 9884.9 is added to the Business and Professions Code, to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job. No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts installed in excess of the estimated price without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are installed. Written consent or authorization for an increase in the original estimated price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the repair invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent,

1 if there is an oral consent of the customer to additional repairs, in
2 the following language:

3
4 “I acknowledge notice and oral approval of an increase in the
5 original estimated price.

6
7 _____
8 (signature or initials)”

9 Nothing in this section shall be construed as requiring an
10 automotive repair dealer to give a written estimated price if the
11 dealer does not agree to perform the requested repair.

12 (b) The automotive repair dealer shall include with the written
13 estimated price a statement of any automotive repair service that,
14 if required to be done, will be done by someone other than the
15 dealer or his or her employees. No service shall be done by anyone
16 other than the dealer or his or her employees without the consent
17 of the customer, unless the customer cannot reasonably be notified.
18 The dealer shall be responsible, in any case, for any service in the
19 same manner as if the dealer or his or her employees had done the
20 service.

21 (c) In addition to subdivisions (a) and (b), an automotive repair
22 dealer, when doing auto body or collision repairs, shall provide
23 an itemized written estimate for all parts and labor to the customer.
24 The written estimate shall describe labor and parts separately and
25 shall identify each part, indicating whether the replacement part
26 is new, used, rebuilt, or reconditioned. Each crash part shall be
27 identified on the written estimate and the written estimate shall
28 indicate whether the crash part is an original equipment
29 manufacturer crash part or a nonoriginal equipment manufacturer
30 aftermarket crash part. In all instances, the first page of the written
31 estimate shall contain a notice with the following information in
32 12-point boldface type or larger enclosed in a box:

33
34 “INSTALLING A PART, OTHER THAN A PART
35 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
36 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.

37
38 ~~YOU ARE ENTITLED TO RECEIVE COPIES OF ALL PARTS~~
39 ~~INVOICES FOR EACH CRASH PART INSTALLED ON YOUR~~
40 ~~VEHICLE FOR WHICH YOU ARE CHARGED IN EXCESS~~

~~OF FIFTY DOLLARS (\$50) (BUSINESS AND PROFESSIONS
CODE SECTION 9884.75):~~

~~YOU MUST CIRCLE AND INITIAL ONE OF THE
FOLLOWING:~~

~~YES, I WANT TO RECEIVE COPIES OF THE PARTS
INVOICES.~~

~~NO, I DO NOT WANT TO RECEIVE COPIES OF THE
INVOICES.”~~

~~IF YOU SUSPECT PARTS FRAUD OR ARE CONCERNED
ABOUT THE REPAIR OF YOUR VEHICLE BY AN AUTOMOTIVE
REPAIR DEALER, CALL THE BUREAU OF AUTOMOTIVE
REPAIR IN THE CALIFORNIA DEPARTMENT OF CONSUMER
AFFAIRS TOLL FREE AT (800) 952-5210.”~~

(d) A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

(e) This section shall become operative on January 1, 2011.

SEC. 8. Section 9889.20 of the Business and Professions Code is amended to read:

9889.20. Except as otherwise provided in Sections ~~9884.75, 9884.76, 9884.76~~ and 9889.21, any person who fails to comply in any respect with the provisions of this chapter is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment not exceeding six months, or by both such fine and imprisonment.

SEC. 9. 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

- 1 the Government Code, or changes the definition of a crime within
- 2 the meaning of Section 6 of Article XIII B of the California
- 3 Constitution.

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