

AMENDED IN SENATE APRIL 23, 2009

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, 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 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 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, *and* 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 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:
- 3 9875. As used in this chapter, the following definitions shall
- 4 apply:
- 5 (a) “Insurer” includes an insurance company and any person
- 6 authorized to represent the insurer with respect to a claim.
- 7 (b) “Crash part” means any of the nonmechanical sheet metal
- 8 or plastic parts which generally constitute the exterior of a motor
- 9 vehicle, including inner and outer panels and exterior lighting; and

1 shall also include the airbag in a motor vehicle's inflatable restraint
2 system.

3 (c) "Aftermarket crash part" means a replacement for any crash
4 part.

5 (d) "Nonoriginal equipment manufacturer aftermarket crash
6 part" means aftermarket crash parts not made for or by the
7 manufacturer of the motor vehicle.

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

10 9884.75. (a)

11 An automotive repair dealer shall provide a customer copies of
12 invoices for any airbags installed as part of an inflatable restraint
13 system.

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

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

17 9884.76. Notwithstanding Section 9889.20, an automotive
18 repair dealer who prepares a written estimate for repairs pursuant
19 to Section 9884.9 that includes replacement of a deployed airbag
20 that is part of an inflatable restraint system and who fails to repair
21 and fully restore the airbag to original operating condition is guilty
22 of a misdemeanor punishable by a fine of five thousand dollars
23 (\$5,000) or by imprisonment in the county jail for one year or by
24 both that fine and imprisonment.

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

27 9884.8. (a) All work done by an automotive repair dealer,
28 including all warranty work, shall be recorded on an invoice and
29 shall describe all service work done and parts supplied. Service
30 work and parts shall be listed separately on the invoice, which
31 shall also state separately the subtotal prices for service work and
32 for parts, not including sales tax, and shall state separately the sales
33 tax, if any, applicable to each. If any used, rebuilt, or reconditioned
34 parts are supplied, the invoice shall clearly state that fact. If a part
35 of a component system is composed of new and used, rebuilt or
36 reconditioned parts, that invoice shall clearly state that fact. The
37 invoice shall include a statement indicating whether any crash
38 parts are original equipment manufacturer crash parts or
39 nonoriginal equipment manufacturer aftermarket crash parts. One

1 copy of the invoice shall be given to the customer and one copy
2 shall be retained by the automotive repair dealer.

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

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

8 9884.8. (a) All work done by an automotive repair dealer,
9 including all warranty work, shall be recorded on a final repair
10 invoice and shall describe all service work done and parts installed.
11 Service work and parts shall be listed separately on the repair
12 invoice, which shall also state separately the subtotal prices for
13 service work and for parts, not including sales tax, and shall state
14 separately the sales tax, if any, applicable to each. If any used,
15 rebuilt, or reconditioned parts are installed, the invoice shall clearly
16 state that fact. If a part of a component system is composed of new
17 and used, rebuilt, or reconditioned parts, that invoice shall clearly
18 state that fact. The invoice shall include a statement indicating
19 whether any crash parts are original equipment manufacturer crash
20 parts or nonoriginal equipment manufacturer aftermarket crash
21 parts. If an airbag was installed, the airbag invoice required in
22 Section 9884.75 shall be attached to the final invoice required
23 under this subdivision. One copy of the final repair invoice along
24 with any airbag invoices, if applicable, shall be given to the
25 customer and one copy shall be retained by the automotive repair
26 dealer.

27 (b) The first page of the final repair invoice shall contain the
28 following statement in 12-point boldface type or larger enclosed
29 in a box:
30

31 “INSTALLING A PART, OTHER THAN A PART
32 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
33 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
34 IF YOU SUSPECT—PARTS—FRAUD *THE ILLEGAL*
35 *INSTALLATION OF PARTS* OR ARE CONCERNED ABOUT
36 THE REPAIR OF YOUR VEHICLE BY AN AUTOMOTIVE
37 REPAIR DEALER, CALL THE BUREAU OF AUTOMOTIVE
38 REPAIR IN THE CALIFORNIA DEPARTMENT OF
39 CONSUMER AFFAIRS TOLL FREE AT (800) 952-5210.”
40

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

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

(signature or initials)"

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

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that,

1 if required to be done, will be done by someone other than the
2 dealer or his or her employees. No service shall be done by other
3 than the dealer or his or her employees without the consent of the
4 customer, unless the customer cannot reasonably be notified. The
5 dealer shall be responsible, in any case, for any service in the same
6 manner as if the dealer or his or her employees had done the
7 service.

8 (c) In addition to subdivisions (a) and (b), an automotive repair
9 dealer, when doing auto body or collision repairs, shall provide
10 an itemized written estimate for all parts and labor to the customer.
11 The estimate shall describe labor and parts separately and shall
12 identify each part, indicating whether the replacement part is new,
13 used, rebuilt, or reconditioned. Each crash part shall be identified
14 on the written estimate and the written estimate shall indicate
15 whether the crash part is an original equipment manufacturer crash
16 part or a nonoriginal equipment manufacturer aftermarket crash
17 part.

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

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

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

34 9884.9. (a) The automotive repair dealer shall give to the
35 customer a written estimated price for labor and parts necessary
36 for a specific job. No work shall be done and no charges shall
37 accrue before authorization to proceed is obtained from the
38 customer. No charge shall be made for work done or parts installed
39 in excess of the estimated price without the oral or written consent
40 of the customer that shall be obtained at some time after it is

1 determined that the estimated price is insufficient and before the
2 work not estimated is done or the parts not estimated are installed.
3 Written consent or authorization for an increase in the original
4 estimated price may be provided by electronic mail or facsimile
5 transmission from the customer. The bureau may specify in
6 regulation the procedures to be followed by an automotive repair
7 dealer if an authorization or consent for an increase in the original
8 estimated price is provided by electronic mail or facsimile
9 transmission. If that consent is oral, the dealer shall make a notation
10 on the work order of the date, time, name of person authorizing
11 the additional repairs, and telephone number called, if any, together
12 with a specification of the additional parts and labor and the total
13 additional cost, and shall do either of the following:

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

16 (2) Upon completion of the repairs, obtain the customer's
17 signature or initials to an acknowledgment of notice and consent,
18 if there is an oral consent of the customer to additional repairs, in
19 the following language:

20
21 "I acknowledge notice and oral approval of an increase in the
22 original estimated price.

23
24 _____
25 (signature or initials)"

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

29 (b) The automotive repair dealer shall include with the written
30 estimated price a statement of any automotive repair service that,
31 if required to be done, will be done by someone other than the
32 dealer or his or her employees. No service shall be done by anyone
33 other than the dealer or his or her employees without the consent
34 of the customer, unless the customer cannot reasonably be notified.
35 The dealer shall be responsible, in any case, for any service in the
36 same manner as if the dealer or his or her employees had done the
37 service.

38 (c) In addition to subdivisions (a) and (b), an automotive repair
39 dealer, when doing auto body or collision repairs, shall provide
40 an itemized written estimate for all parts and labor to the customer.

1 The written estimate shall describe labor and parts separately and
2 shall identify each part, indicating whether the replacement part
3 is new, used, rebuilt, or reconditioned. Each crash part shall be
4 identified on the written estimate and the written estimate shall
5 indicate whether the crash part is an original equipment
6 manufacturer crash part or a nonoriginal equipment manufacturer
7 aftermarket crash part. In all instances, the first page of the written
8 estimate shall contain a notice with the following information in
9 12-point boldface type or larger enclosed in a box:

10
11 “INSTALLING A PART, OTHER THAN A PART
12 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
13 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
14

15 IF YOU SUSPECT ~~PARTS FRAUD~~ *THE ILLEGAL*
16 *INSTALLATION OF PARTS* OR ARE CONCERNED ABOUT
17 THE REPAIR OF YOUR VEHICLE BY AN AUTOMOTIVE
18 REPAIR DEALER, CALL THE BUREAU OF AUTOMOTIVE
19 REPAIR IN THE CALIFORNIA DEPARTMENT OF
20 CONSUMER AFFAIRS TOLL FREE AT (800) 952-5210.”
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22 (d) A customer may designate another person to authorize work
23 or parts supplied in excess of the estimated price, if the designation
24 is made in writing at the time that the initial authorization to
25 proceed is signed by the customer. The bureau may specify in
26 regulation the form and content of a designation and the procedures
27 to be followed by the automotive repair dealer in recording the
28 designation. For the purposes of this section, a designee shall not
29 be the automotive repair dealer providing repair services or an
30 insurer involved in a claim that includes the motor vehicle being
31 repaired, or an employee or agent or a person acting on behalf of
32 the dealer or insurer.

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

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

36 9889.20. Except as otherwise provided in Sections 9884.76
37 and 9889.21, any person who fails to comply in any respect with
38 the provisions of this chapter is guilty of a misdemeanor and
39 punishable by a fine not exceeding one thousand dollars (\$1,000),

1 or by imprisonment not exceeding six months, or by both such
2 fine and imprisonment.

3 SEC. 9. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.

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