

AMENDED IN SENATE JUNE 1, 2009
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

1 vehicle, including inner and outer panels and exterior lighting; and
2 shall also include the airbag in a motor vehicle's inflatable restraint
3 system.

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

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

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

11 9884.75. (a)–

12 ~~An~~ (a) An automotive repair dealer shall provide a customer
13 copies of invoices for any airbags installed as part of an inflatable
14 restraint system. *The automotive repair dealer may remove from*
15 *these invoices the price paid by the automotive repair dealer for*
16 *the airbags.*

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

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

20 9884.76. Notwithstanding Section 9889.20, an automotive
21 repair dealer who prepares a written estimate for repairs pursuant
22 to Section 9884.9 that includes replacement of a deployed airbag
23 that is part of an inflatable restraint system and who fails to repair
24 and fully restore the airbag to original operating condition is guilty
25 of a misdemeanor punishable by a fine of five thousand dollars
26 (\$5,000) or by imprisonment in the county jail for one year or by
27 both that fine and imprisonment.

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

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

1 parts are original equipment manufacturer crash parts or
2 nonoriginal equipment manufacturer aftermarket crash parts. One
3 copy of the invoice shall be given to the customer and one copy
4 shall be retained by the automotive repair dealer.

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

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

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

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

32
33 “INSTALLING A PART, OTHER THAN A PART
34 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
35 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
36 ~~IF YOU SUSPECT THE ILLEGAL INSTALLATION OF PARTS~~
37 ~~OR~~ ARE CONCERNED ABOUT THE REPAIR OF YOUR
38 VEHICLE BY AN AUTOMOTIVE REPAIR DEALER, CALL
39 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 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)”

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

4 (b) The automotive repair dealer shall include with the written
5 estimated price a statement of any automotive repair service that,
6 if required to be done, will be done by someone other than the
7 dealer or his or her employees. No service shall be done by other
8 than the dealer or his or her employees without the consent of the
9 customer, unless the customer cannot reasonably be notified. The
10 dealer shall be responsible, in any case, for any service in the same
11 manner as if the dealer or his or her employees had done the
12 service.

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

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

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

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

39 9884.9. (a) The automotive repair dealer shall give to the
40 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, 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, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by anyone other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the

1 same manner as if the dealer or his or her employees had done the
2 service.

3 (c) In addition to subdivisions (a) and (b), an automotive repair
4 dealer, when doing auto body or collision repairs, shall provide
5 an itemized written estimate for all parts and labor to the customer.
6 The written estimate shall describe labor and parts separately and
7 shall identify each part, indicating whether the replacement part
8 is new, used, rebuilt, or reconditioned. Each crash part shall be
9 identified on the written estimate and the written estimate shall
10 indicate whether the crash part is an original equipment
11 manufacturer crash part or a nonoriginal equipment manufacturer
12 aftermarket crash part. In all instances, the first page of the written
13 estimate shall contain a notice with the following information in
14 12-point boldface type or larger enclosed in a box:

15
16 “INSTALLING A PART, OTHER THAN A PART
17 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
18 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
19

20 ~~IF YOU SUSPECT THE ILLEGAL INSTALLATION OF~~
21 ~~PARTS OR ARE CONCERNED ABOUT THE REPAIR OF~~
22 ~~YOUR VEHICLE BY AN AUTOMOTIVE REPAIR DEALER,~~
23 ~~CALL THE BUREAU OF AUTOMOTIVE REPAIR IN THE~~
24 ~~CALIFORNIA DEPARTMENT OF CONSUMER AFFAIRS~~
25 ~~TOLL FREE AT (800) 952-5210.”~~
26

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

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

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

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

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