

AMENDED IN ASSEMBLY MAY 20, 2010

AMENDED IN ASSEMBLY JUNE 22, 2009

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, 9884.9, and 9889.20 of, to amend, repeal, and add ~~Sections~~ *Section* 9884.8 ~~and 9884.9~~ of, and to add Section 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 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 is unlawful and informing the customer of the toll-free telephone number of the bureau for a free car repair inspection. The bill would additionally require an automotive repair dealer to provide on the first signature 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 Internet Web site and toll-free telephone number of the bureau for a free car repair inspection more information.~~ The bill would make these provisions operative on January 1, ~~2011~~ 2012.

The bill would specify that an automotive repair dealer who prepares ~~an a written estimate, including that includes~~ 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.

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

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

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

SEC. 2. Section 9884.76 is added to the Business and Professions Code, to read:

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

SEC. 3. Section 9884.8 of the Business and Professions Code is amended to read:

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

(b) This section shall remain in effect only until January 1, ~~2011~~ 2012, and as of that date is repealed, unless a later enacted statute,

1 that is enacted before January 1, ~~2011~~ 2012, deletes or extends
2 that date.

3 SEC. 4. Section 9884.8 is added to the Business and Professions
4 Code, to read:

5 9884.8. (a) All work done by an automotive repair dealer,
6 including all warranty work, shall be recorded on a final repair
7 invoice and shall describe all service work done and parts installed.
8 Service work and parts shall be listed separately on the repair
9 invoice, which shall also state separately the subtotal prices for
10 service work and for parts, not including sales tax, and shall state
11 separately the sales tax, if any, applicable to each. If any used,
12 rebuilt, or reconditioned parts are installed, the invoice shall clearly
13 state that fact. If a part of a component system is composed of new
14 and used, rebuilt, or reconditioned parts, that invoice shall clearly
15 state that fact. The invoice shall include a statement indicating
16 whether any crash parts are original equipment manufacturer crash
17 parts or nonoriginal equipment manufacturer aftermarket crash
18 parts. One copy of the final repair invoice shall be given to the
19 customer and one copy shall be retained by the automotive repair
20 dealer.

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

24
25 “INSTALLING A PART, OTHER THAN ~~A THE TYPE OF~~
26 ~~PART DESCRIBED ON THE WRITTEN ESTIMATE, IS~~
27 ~~UNLAWFUL. IF YOU WOULD LIKE A FREE CAR REPAIR~~
28 ~~INSPECTION, PLEASE CALL THE BUREAU OF~~
29 ~~AUTOMOTIVE REPAIR AT (800) 952-5210.” ON THE~~
30 ~~WRITTEN ESTIMATE, WITHOUT PRIOR APPROVAL FROM~~
31 ~~THE CUSTOMER, IS UNLAWFUL. FOR ADDITIONAL~~
32 ~~INFORMATION, CONTACT THE BUREAU OF AUTOMOTIVE~~
33 ~~REPAIR AT www.autorepair.ca.gov OR CALL (800) 952-5200.”~~
34

35 (c) This section shall become operative on January 1, ~~2011~~
36 2012.

37 SEC. 5. Section 9884.9 of the Business and Professions Code
38 is amended 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

1 for a specific job. No work shall be done and no charges shall
2 accrue before authorization to proceed is obtained from the
3 customer. No charge shall be made for work done or parts ~~supplied~~
4 *installed* in excess of the estimated price without the oral or written
5 consent of the customer that shall be obtained at some time after
6 it is determined that the estimated price is insufficient and before
7 the work not estimated is done or the parts not estimated are
8 ~~supplied~~ *installed*. Written consent or authorization for an increase
9 in the original estimated price may be provided by electronic mail
10 or facsimile transmission from the customer. The bureau may
11 specify in regulation the procedures to be followed by an
12 automotive repair dealer if an authorization or consent for an
13 increase in the original estimated price is provided by electronic
14 mail or facsimile transmission. If that consent is oral, the dealer
15 shall make a notation on the work order of the date, time, name of
16 person authorizing the additional repairs, and telephone number
17 called, if any, together with a specification of the additional parts
18 and labor and the total additional cost, and shall do either of the
19 following:

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

22 (2) Upon completion of the repairs, obtain the customer's
23 signature or initials to an acknowledgment of notice and consent,
24 if there is an oral consent of the customer to additional repairs, in
25 the following language:

26
27 "I acknowledge notice and oral approval of an increase in the
28 original estimated price.

29 _____
30 (signature or initials)"
31

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

35 (b) The automotive repair dealer shall include with the written
36 estimated price a statement of any automotive repair service that,
37 if required to be done, will be done by someone other than the
38 dealer or his or her employees. No service shall be done by *anyone*
39 other than the dealer or his or her employees without the consent
40 of the customer, unless the customer cannot reasonably be notified.

1 The dealer shall be responsible, in any case, for any service in the
2 same manner as if the dealer or his or her employees had done the
3 service.

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

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

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

28 SEC. 6. ~~Section 9884.9 is added to the Business and Professions~~
29 ~~Code, to read:~~

30 ~~9884.9. (a) The automotive repair dealer shall give to the~~
31 ~~customer a written estimated price for labor and parts necessary~~
32 ~~for a specific job. No work shall be done and no charges shall~~
33 ~~accrue before authorization to proceed is obtained from the~~
34 ~~customer. No charge shall be made for work done or parts installed~~
35 ~~in excess of the estimated price without the oral or written consent~~
36 ~~of the customer that shall be obtained at some time after it is~~
37 ~~determined that the estimated price is insufficient and before the~~
38 ~~work not estimated is done or the parts not estimated are installed.~~
39 ~~Written consent or authorization for an increase in the original~~
40 ~~estimated price may be provided by electronic mail or facsimile~~

1 transmission from the customer. The bureau may specify in
2 regulation the procedures to be followed by an automotive repair
3 dealer if an authorization or consent for an increase in the original
4 estimated price is provided by electronic mail or facsimile
5 transmission. If that consent is oral, the dealer shall make a notation
6 on the work order of the date, time, name of person authorizing
7 the additional repairs, and telephone number called, if any, together
8 with a specification of the additional parts and labor and the total
9 additional cost, and shall do either of the following:

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

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

16
17 "I acknowledge notice and oral approval of an increase in the
18 original estimated price.

19 _____
20 _____
21 (signature or initials)"

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

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

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

1 indicate whether the crash part is an original equipment
2 manufacturer crash part or a nonoriginal equipment manufacturer
3 aftermarket crash part. In all instances, the first page of the written
4 estimate shall contain a notice with the following information in
5 12-point boldface type or larger enclosed in a box:

6 —
7 “INSTALLING A PART, OTHER THAN A PART
8 DESCRIBED ON THE WRITTEN ESTIMATE, IS UNLAWFUL.
9 IF YOU WOULD LIKE A FREE CAR REPAIR INSPECTION,
10 PLEASE CALL THE BUREAU OF AUTOMOTIVE REPAIR
11 AT (800) 952-5210.”

12 —
13 (d) A customer may designate another person to authorize work
14 or parts supplied in excess of the estimated price, if the designation
15 is made in writing at the time that the initial authorization to
16 proceed is signed by the customer. The bureau may specify in
17 regulation the form and content of a designation and the procedures
18 to be followed by the automotive repair dealer in recording the
19 designation. For the purposes of this section, a designee shall not
20 be the automotive repair dealer providing repair services or an
21 insurer involved in a claim that includes the motor vehicle being
22 repaired, or an employee or agent or a person acting on behalf of
23 the dealer or insurer.

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

25 SEC. 7.

26 SEC. 6. Section 9889.20 of the Business and Professions Code
27 is amended to read:

28 9889.20. Except as otherwise provided in Sections 9884.76
29 and 9889.21, any person who fails to comply in any respect with
30 the provisions of this chapter is guilty of a misdemeanor and
31 punishable by a fine not exceeding one thousand dollars (\$1,000),
32 or by imprisonment not exceeding six months, or by both such
33 that fine and imprisonment.

34 SEC. 8.

35 SEC. 7. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 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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