

AMENDED IN ASSEMBLY AUGUST 9, 2010

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, 9884.8, 9884.9, and 9889.20 of, ~~to amend, repeal, and add Section 9884.8 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 an automotive repair dealer to provide on the 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 more information. The bill would make these provisions operative on January 1, 2012.~~

The bill would specify that an automotive repair dealer who prepares a written estimate that includes replacement of a 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
10 shall also include the airbag in a motor vehicle’s inflatable restraint
11 system.

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

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

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

8 9884.76. Notwithstanding Section 9889.20, an automotive
9 repair dealer who prepares a written estimate for repairs pursuant
10 to Section 9884.9 that includes replacement of a deployed airbag
11 that is part of an inflatable restraint system and who fails to repair
12 and fully restore the airbag to original operating condition is guilty
13 of a misdemeanor punishable by a fine of five thousand dollars
14 (\$5,000) or by imprisonment in the county jail for one year or by
15 both that fine and imprisonment.

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

18 9884.8. ~~(a)~~ All work done by an automotive repair dealer,
19 including all warranty work, shall be recorded on an invoice and
20 shall describe all service work done ~~and parts supplied, parts~~
21 *supplied, and crash parts installed*. Service work and parts shall
22 be listed separately on the *repair* invoice, which shall also state
23 separately the subtotal prices for service work and for parts, not
24 including sales tax, and shall state separately the sales tax, if any,
25 applicable to each. If any used, rebuilt, or reconditioned parts are
26 ~~supplied~~ *installed*, the invoice shall clearly state that fact. If a part
27 of a component system is composed of new and used, rebuilt or
28 reconditioned parts, that invoice shall clearly state that fact. The
29 invoice shall include a statement indicating whether any crash
30 parts are original equipment manufacturer crash parts or
31 nonoriginal equipment manufacturer aftermarket crash parts. One
32 copy of the invoice shall be given to the customer and one copy
33 shall be retained by the automotive repair dealer.

34 ~~(b) This section shall remain in effect only until January 1, 2012,~~
35 ~~and as of that date is repealed, unless a later enacted statute, that~~
36 ~~is enacted before January 1, 2012, deletes or extends that date.~~

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

39 9884.8. ~~(a) All work done by an automotive repair dealer,~~
40 ~~including all warranty work, shall be recorded on a final repair~~

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

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

18 —
 19 “INSTALLING A PART, OTHER THAN THE TYPE OF PART
 20 DESCRIBED ON THE WRITTEN ESTIMATE, WITHOUT
 21 PRIOR APPROVAL FROM THE CUSTOMER, IS UNLAWFUL.
 22 FOR ADDITIONAL INFORMATION, CONTACT THE
 23 BUREAU OF AUTOMOTIVE REPAIR AT
 24 www.autorepair.ca.gov OR CALL (800) 952-5200.”

25 —
 26 (e) This section shall become operative on January 1, 2012.
 27 ~~SEC. 5.~~

28 *SEC. 4.* Section 9884.9 of the Business and Professions Code
 29 is amended 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.

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

15 ~~SEC. 6.~~

16 *SEC. 5.* Section 9889.20 of the Business and Professions Code
17 is amended to read:

18 9889.20. Except as otherwise provided in Sections 9884.76
19 and 9889.21, any person who fails to comply in any respect with
20 the provisions of this chapter is guilty of a misdemeanor and
21 punishable by a fine not exceeding one thousand dollars (\$1,000),
22 or by imprisonment not exceeding six months, or by both that fine
23 and imprisonment.

24 ~~SEC. 7~~

25 *SEC. 6.* No reimbursement is required by this act pursuant to
26 Section 6 of Article XIII B of the California Constitution because
27 the only costs that may be incurred by a local agency or school
28 district will be incurred because this act creates a new crime or
29 infraction, eliminates a crime or infraction, or changes the penalty
30 for a crime or infraction, within the meaning of Section 17556 of
31 the Government Code, or changes the definition of a crime within
32 the meaning of Section 6 of Article XIII B of the California
33 Constitution.