

AMENDED IN SENATE JULY 1, 2005

AMENDED IN SENATE JUNE 20, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

**ASSEMBLY BILL**

**No. 303**

**Introduced by Assembly Member Calderon**

February 9, 2005

---

---

An act to ~~amend Section 9880.1 of~~ *add Section 9884.95 to the* Business and Professions Code, relating to automotive repairs.

LEGISLATIVE COUNSEL'S DIGEST

AB 303, as amended, Calderon. Automotive repair dealers: *insurers.*

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 defines various terms for the purposes of its provisions, including the terms "motor vehicle" and "customer." A violation of the act is a crime. *Existing law also provides for regulation of insurers by the Insurance Commissioner and imposes certain obligations on automobile insurers with regard to repair of damaged vehicles.*

~~This bill would define the term "motor vehicle" to include vehicles used to transport passengers that are powered by electricity, hydrogen, or other alternative energy sources. The bill would also revise the definition of the term "customer" to include an insurer if certain conditions are satisfied~~ *impose certain requirements on automobile insurers that have been authorized by a claimant under a policy to act*

on the claimant's behalf to arrange repairs of a motor vehicle at a repair facility.

~~By expanding the definitions of "motor vehicle" and "customer" Because a violation of the bill's provisions would be a crime under the Automotive Repair Act, the bill would create new crimes and 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 9884.95 is added to the Business and  
 2     Professions Code, to read:  
 3     9884.95. (a) Nothing in subdivision (j) of Section 9880.1  
 4     precludes a person, upon filing a claim subsequent to an incident  
 5     that results in damage to the vehicle, from authorizing an insurer  
 6     to act on his or her behalf to arrange repairs of a motor vehicle  
 7     at a repair facility. An insurer so authorized shall comply with  
 8     all of the following:  
 9     (1) The insurer shall advise the owner of the motor vehicle  
 10    being repaired, at the time of the filing of the claim, of the right  
 11    to choose his or her automotive repair dealer as set forth in  
 12    Section 758.5 of the Insurance Code.  
 13    (2) The insurer shall provide a rental vehicle while the  
 14    corrective repairs are being completed, if coverage in that  
 15    regard is provided under the insurance policy.  
 16    (3) The owner shall be provided an opportunity for inspection  
 17    and approval of the repairs upon completion.  
 18    (4) The insurer shall provide a written warranty that the  
 19    insurer will, at no cost to the owner, arrange for the correction  
 20    of any repair that fails to meet generally accepted industry  
 21    standards as to form, fit, finish, durability, and functionality, as  
 22    commonly recognized in the automobile repair industry at the

1 *time the repairs are made, for as long as the owner owns the*  
2 *repaired vehicle.*

3 *(b) The insured's option to designate his or her insurer to*  
4 *arrange for repairs to an insured motor vehicle shall be made at*  
5 *the time the repairs are needed and shall not be required by the*  
6 *insurer at the inception of the insurance policy. The insured's*  
7 *option to designate the insurer to arrange repairs to an insured*  
8 *motor vehicle does not waive any other rights the insured may*  
9 *have by law.*

10 ~~SECTION 1. Section 9880.1 of the Business and Professions~~  
11 ~~Code is amended to read:~~

12 ~~9880.1. The following definitions apply for the purposes of~~  
13 ~~this chapter:~~

14 ~~(a) "Automotive repair dealer" means a person who, for~~  
15 ~~compensation, engages in the business of repairing or diagnosing~~  
16 ~~malfunctions of motor vehicles.~~

17 ~~(b) "Chief" means the Chief of the Bureau of Automotive~~  
18 ~~Repair.~~

19 ~~(c) "Bureau" means the Bureau of Automotive Repair.~~

20 ~~(d) "Motor vehicle" means a passenger vehicle required to be~~  
21 ~~registered with the Department of Motor Vehicles, all other~~  
22 ~~vehicles used to transport passengers that are powered by~~  
23 ~~electricity, hydrogen, or other alternative energy sources, and all~~  
24 ~~motoreycles whether or not required to be registered by the~~  
25 ~~Department of Motor Vehicles.~~

26 ~~(e) "Repair of motor vehicles" means all maintenance of and~~  
27 ~~repairs to motor vehicles performed by an automotive repair~~  
28 ~~dealer including automotive body repair work, but excluding~~  
29 ~~those repairs made pursuant to a commercial business agreement~~  
30 ~~and also excluding repairing tires, changing tires, lubricating~~  
31 ~~vehicles, installing lightbulbs, batteries, windshield wiper blades,~~  
32 ~~and other minor accessories, cleaning, adjusting, and replacing~~  
33 ~~spark plugs, replacing fan belts, oil and air filters, and other~~  
34 ~~minor services, which the director, by regulation, determines are~~  
35 ~~customarily performed by gasoline service stations.~~

36 ~~No service shall be designated as minor, for purposes of this~~  
37 ~~section, if the director finds that performance of the service~~  
38 ~~requires mechanical expertise, has given rise to a high incidence~~  
39 ~~of fraud or deceptive practices, or involves a part of the vehicle~~  
40 ~~essential to its safe operation.~~

1 (f) ~~“Person” includes firm, partnership, association, limited~~  
2 ~~liability company, or corporation.~~

3 (g) ~~An “automotive technician” is an employee of an~~  
4 ~~automotive repair dealer or is that dealer, if the employer or~~  
5 ~~dealer repairs motor vehicles and who for salary or wage~~  
6 ~~performs maintenance, diagnostics, repair, removal, or~~  
7 ~~installation of any integral component parts of an engine,~~  
8 ~~driveline, chassis or body of any vehicle, but excluding repairing~~  
9 ~~tires, changing tires, lubricating vehicles, installing lightbulbs,~~  
10 ~~batteries, windshield wiper blades, and other minor accessories;~~  
11 ~~cleaning, replacing fan belts, oil and air filters; and other minor~~  
12 ~~services, which the director, by regulation, determines are~~  
13 ~~customarily performed by a gasoline service station.~~

14 (h) ~~“Director” means the Director of Consumer Affairs.~~

15 (i) ~~“Commercial business agreement” means an agreement,~~  
16 ~~whether in writing or oral, entered into between a business or~~  
17 ~~commercial enterprise and an automotive repair dealer, prior to~~  
18 ~~the repair which is requested being made, which agreement~~  
19 ~~contemplates a continuing business arrangement under which the~~  
20 ~~automotive repair dealer is to repair any vehicle covered by the~~  
21 ~~agreement, but does not mean any warranty or extended service~~  
22 ~~agreement normally given by an automotive repair facility to its~~  
23 ~~customers.~~

24 (j) ~~“Customer” means the person presenting a motor vehicle~~  
25 ~~for repair and authorizing the repairs to that motor vehicle.~~  
26 ~~“Customer” shall not mean the automotive repair dealer~~  
27 ~~providing the repair services or an employee, agent, or person~~  
28 ~~acting on behalf of the dealer. “Customer” shall not mean an~~  
29 ~~insurer involved in a claim that includes the motor vehicle being~~  
30 ~~repaired or an employee, agent, or a person acting on behalf of~~  
31 ~~the insurer, unless the owner of the motor vehicle being repaired~~  
32 ~~has, after being advised of the consumer protections set forth in~~  
33 ~~Section 758.5 of the Insurance Code, authorized the insurer to act~~  
34 ~~on behalf of the owner.~~

35 SEC. 2. 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  
40 penalty for a crime or infraction, within the meaning of Section

1 17556 of the Government Code, or changes the definition of a  
2 crime within the meaning of Section 6 of Article XIII B of the  
3 California Constitution.

O