S T A T E O F N E W Y O R K

3978

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. CROUCH, KOLB -- Multi-Sponsored by -- M. of A. BURLING, FINCH -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to automotive glass replacement standards

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new article 25-BB to read as follows:

ARTICLE 25-BB

AUTOMOTIVE GLASS REPLACEMENT

SECTION 389-S. DEFINITIONS.
389-T. VEHICLE ASSESSMENT BEFORE REPLACEMENT.
389-U. SELECTION OF GLASS AND RETENTION SYSTEMS.
389-V. INSTALLATION STANDARDS.
389-W. PENALTY.
389-X. LOCAL ORDINANCES.

S 389-S. DEFINITIONS. 1. "ADHESIVE BONDING SYSTEM" SHALL MEAN AN ENGINEERED SYSTEM USING CHEMICAL PRODUCTS, USED TOGETHER AS A TECHNIQUE OR PROCESS, TO BOND SUBSTRATES.

2. "AGR" SHALL MEAN AUTOMOTIVE GLASS REPLACEMENT.

3. "ARG" SHALL MEAN AUTOMOTIVE REPLACEMENT GLASS.

4. "BUTYL SEALANT" SHALL MEAN A COPOLYMER OF ISOBUTYLENE AND ISOPRENE.

5. "EQUIVALENT RETENTION SYSTEM" SHALL MEAN A SYSTEM THAT MEETS OR EXCEEDS THE VEHICLE MANUFACTURER'S PERFORMANCE STRENGTH SPECIFICATIONS, OR HAS BEEN CERTIFIED BY THE RETENTION SYSTEM MANUFACTURER OR PRIVATE LABELER AS APPROPRIATE FOR THE SPECIFIC APPLICATION.

6. "FINAL EXAM" SHALL MEAN A COMPREHENSIVE EXAM THAT EVALUATES THE INDIVIDUAL'S KNOWLEDGE AND SKILLS INCLUDING BUT NOT LIMITED TO RETENTION SYSTEM SPECIFIC REPLACEMENT PROCEDURES, A VARIETY OF AUTOMOTIVE SAFETY ISSUES, MINIMUM DRIVE-AWAY TIME, ENVIRONMENTAL CONDITIONS AS THEY AFFECT

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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RETENTION SYSTEM PERFORMANCE, FEDERAL SAFETY REQUIREMENTS, AND THE BASICS OF SAFE AND EFFECTIVE AUTOMOTIVE GLASS REPLACEMENT.

7. "FULL CUT" SHALL MEAN REMOVING EXISTING BEAD OF URETHANE TO A HEIGHT OF APPROXIMATELY 1 TO 2MM WHEREVER THE RESIDUAL BEAD IS STRUCTURALLY SOUND AND THE SUBSTRATE CONDITION IS NOT DEFECTIVE.

8. "MINIMUM DRIVE-AWAY STRENGTH" SHALL MEAN THE MINIMUM PROPERTIES AS DEFINED AND SPECIFIED BY THE RETENTION SYSTEMS MANUFACTURER OR PRIVATE LABELER TO MEET THE REQUIREMENTS OF FEDERAL MOTOR VEHICLE SAFETY STANDARDS 208 AND 212.

9. "MINIMUM DRIVE-AWAY TIME" SHALL MEAN THE TIME NECESSARY FOR A GIVEN ADHESIVE SYSTEM TO ATTAIN MINIMUM DRIVE-AWAY STRENGTH AFTER AN ADHESIVE BONDED GLASS PART IS SET IN PLACE.

10. "OE" SHALL MEAN ORIGINAL EQUIPMENT.

11. "OEM" SHALL MEAN ORIGINAL EQUIPMENT MANUFACTURER.

12. "POLYSULFIDE ADHESIVE" SHALL MEAN AN ADHESIVE CONTAINING SULFUR THAT CURES TO A CROSS-LINKED RUBBER COMPOUND.

13. "POLYURETHANE ADHESIVE" SHALL MEAN A THERMOPLASTIC POLYMER ADHESIVE PRODUCED BY THE CONDENSATION REACTION OF POLYISOCYANATE AND A HYDROXYL CONTAINING MATERIAL.

14. "PRIMER" SHALL MEAN AN AGENT THAT IS DESIGNED SPECIFICALLY BY THE ADHESIVE MANUFACTURER TO EITHER PROMOTE ADHESION BETWEEN THE SUBSTRATE AND THE ADHESIVE OR PROVIDE SHIELDING FROM ENVIRONMENTAL FACTORS.

15. "PRIVATE LABELER" SHALL MEAN ANY INDIVIDUAL, CORPORATION OR THE ENTITY ENGAGED IN SALE OR DISTRIBUTION OF A PRODUCT LABELED AS THEIR OWN, BUT MANUFACTURED BY ANY DIFFERENT ENTITY.

16. "RETENTION SYSTEM" SHALL MEAN ANY ORIGINAL EQUIPMENT OR EQUIVALENT METHOD OF GLAZING ATTACHMENT.

17. "THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT" SHALL MEAN ANY INDIVIDUAL, BUSINESS, OR ORGANIZATION THAT REPLACES AUTOMOTIVE GLASS; EXAMPLES INCLUDE BUT ARE NOT LIMITED TO INDIVIDUAL TECHNICIANS, AUTOMOTIVE GLASS REPLACEMENT BUSINESSES, AUTOMOTIVE BODY SHOPS, AND DEALERSHIPS.

18. "SAFETY STANDARDS" AS USED IN THIS ARTICLE, THE GOVERNING STANDARDS SHALL BE AS ESTABLISHED BY THE AUTO GLASS REPLACEMENT SAFETY STANDARDS COUNCIL, AND AS SET FORTH BY THE AMERICAN NATIONAL STANDARDS INSTITUTE STANDARD ANSI Z26.1 VERSION CURRENTLY INCORPORATED IN FEDERAL MOTOR VEHICLE SAFETY STANDARD 205, SAFETY GLAZING MATERIALS FOR GLAZING MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT OPERATING ON LAND HIGHWAYS-SAFETY STANDARDS, AS SUCH STANDARDS MAY BE AMENDED FROM TIME TO TIME.

S 389-T. VEHICLE ASSESSMENT BEFORE REPLACEMENT. THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL NOT UNDERTAKE OR COMPLETE SUCH INSTALLATION WHEN ANY RELATED CONDITION WOULD COMPROMISE THE RETENTION SYSTEM AND THE OWNER/OPERATOR SHALL BE SO NOTIFIED.

S 389-U. SELECTION OF GLASS AND RETENTION SYSTEMS. THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL: 1. USE RETENTION SYSTEMS THAT ARE PRODUCED UNDER DOCUMENTED QUALITY ASSURANCE STANDARDS.

2. USE GLASS PRODUCTS MEETING THE REQUIREMENTS OF ANSI Z26.1 AS REQUIRED BY FEDERAL MOTOR VEHICLE SAFETY STANDARD 205.

3. USE EITHER AN OEM APPROVED RETENTION SYSTEM OR EQUIVALENT RETENTION SYSTEM AS CERTIFIED IN WRITING BY THE EQUIVALENT RETENTION SYSTEM MANUFACTURER DIRECTLY OR THROUGH A PRIVATE LABELER.

4. OBTAIN AND FOLLOW WRITTEN COMPREHENSIVE AND CURRENT APPLICATION INSTRUCTIONS FROM THE RETENTION SYSTEMS MANUFACTURER OR PRIVATE LABELER. SUCH INSTRUCTIONS SHALL INCLUDE AT LEAST THE PROPER USE OF THE RETENTION SYSTEM STORAGE SPECIFICATIONS, MINIMUM DRIVE-AWAY TIME CHARTS CONTAINING

TEMPERATURE AND HUMIDITY VARIABLES IF APPLICABLE, AND ANY SPECIAL PROCEDURES REQUIRED FOR ADVERSE WEATHER CONDITIONS.

5. REQUIRE THAT LOT NUMBERS AND EXPIRATION DATES BE PRINTED ON APPROPRIATE PRODUCTS.

S 389-V. INSTALLATION STANDARDS. 1. ADHESIVE BONDED. THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL FOLLOW THE ADHESIVE MANUFACTURER'S APPLICATION INSTRUCTIONS AS PROVIDED BY THE MANUFACTURER DIRECTLY, OR THROUGH THE PRIVATE LABELER. ALL IN-SHOP OR MOBILE INSTALLATIONS SHALL BE PERFORMED UNDER ENVIRONMENTAL AND OTHER CONDITIONS THAT ARE COMPATIBLE WITH THE APPLICATION INSTRUCTIONS AS FOLLOWS:

(A) PRODUCTS SHALL BE STORED AND CONTROLLED ACCORDING TO MANUFACTURERS' REQUIREMENTS AS PROVIDED DIRECTLY OR THROUGH A PRIVATE LABELER.

(B) NO AUTOMOTIVE GLASS REPLACEMENT SHALL BE UNDERTAKEN USING AN ADHESIVE GLASS RETENTION BONDING SYSTEM THAT WOULD NOT ACHIEVE MINIMUM DRIVE-AWAY STRENGTH BY THE TIME THE VEHICLE MAY BE REASONABLY EXPECTED TO BE OPERATED.

(C) THE VEHICLE OWNER/OPERATOR SHALL BE ADVISED OF THE MINIMUM DRIVE-AWAY TIME UNDER THE CIRCUMSTANCES OF THE REPLACEMENT.

(D) ADHESIVE SHALL BE APPLIED SO THAT THE FINISHED BEAD CROSS SECTION PROFILE AND DIMENSIONS MEET OR EXCEED ORIGINAL EQUIPMENT CONFIGURATION.

(E) IF THE OEM INSTALLATION WAS POLYURETHANE, THEN THE GLASS SHALL BE REPLACED WITH POLYURETHANE OR AN EQUIVALENT ADHESIVE BONDING SYSTEM. IF THE OEM INSTALLATION WAS BUTYL, POLYSULFIDE, OR OTHER NON-POLYURETHANE, AND THE VEHICLE IS LICENSED FOR HIGHWAY USE, ADHESIVE BONDED STATIONARY GLASS INSTALLATIONS SHALL BE PERFORMED USING POLYURETHANE OR AN EQUIVALENT RETENTION SYSTEM UNLESS IN CONFLICT WITH CURRENT OEM SPECIFICATIONS.

(F) ALL ADHESIVE SYSTEM COMPONENT LOT NUMBERS SHALL BE TRACEABLE TO EACH JOB.

(G) ALL GLASS PARTS SHALL BE TRACEABLE TO THE INSTALLATION BY A DOT NUMBER AND PART NUMBER.

(H) NO PRODUCT THAT HAS EXCEEDED ITS EXPIRATION DATE, OPEN SHELF LIFE, OR ACTIVE SHELF LIFE SHALL BE USED.

(I) ALL SUPPLEMENTAL MECHANICAL GLASS RETENTION DEVICES SHALL BE REPLACED TO ORIGINAL EQUIPMENT SPECIFICATIONS.

(J) WHEN INAPPROPRIATE REPLACEMENT MATERIALS OR METHODS ARE DETECTED, THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL REPORT THEIR FINDINGS TO THE VEHICLE OWNER/OPERATOR.

(K) WHEN THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT CORRECT INAPPROPRIATE GLASS INSTALLATIONS, THEY SHALL REMOVE ANY INAPPROPRIATE MATERIALS THAT WOULD COMPROMISE THE RETENTION SYSTEM.

(L) THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL FULLY CORRECT ANY ADVERSE GLASS INSTALLATION RELATED CONDITION OR CONDITIONS CAUSED BY THE USE OF INAPPROPRIATE MATERIALS OR METHODS, AND THEY SHALL USE APPROPRIATE METHODS SET FORTH IN THIS SECTION.

(M) WHEN SEALING AIR OR WATER LEAKS WITHIN A POLYURETHANE RETENTION SYSTEM, ONLY COMPATIBLE POLYURETHANE ADHESIVE SHALL BE USED. (NO SILICONE OR BUTYL MAY BE USED).

(N) ONLY THE FULL CUT METHOD SHOULD BE USED FOR POLYURETHANE RETENTION SYSTEMS.

2. RUBBER GASKET. (A) IF THE OEM UTILIZES THE COMBINATION OF A RUBBER GASKET AND POLYURETHANE AS A RETENTION SYSTEM, AN EQUIVALENT ADHESIVE BONDING SYSTEM SHALL BE USED IN THE INSTALLATION. IN CASES WHEN THE OEM DID NOT INCLUDE POLYURETHANE OR AN EQUIVALENT ADHESIVE SYSTEM, SUCH SYSTEMS SHALL BE USED IF LATER PRODUCTION MODELS INCLUDED THE ADDITION OF ADHESIVE SYSTEMS WITHOUT BODY STYLE MODIFICATION.

(B) IF THE OEM GASKET INSTALLATION DID NOT INCLUDE ADHESIVE AND THE VEHICLE IS LICENSED FOR HIGHWAY USE, THE INSTALLATION SHALL INCLUDE POLYURETHANE OR AN EQUIVALENT ADHESIVE BONDING SYSTEM. THE FOLLOWING ARE PERMISSIBLE EXCEPTIONS: EGRESS APPLICATIONS, ANTIQUE RESTORATIONS, THE CUSTOMER'S REQUIREMENTS DIFFER EVEN AFTER BEING INFORMED ABOUT THE SAFETY IMPLICATION, OR IN CASES IN WHICH THIS PRACTICE CONFLICTS WITH CURRENT VEHICLE MANUFACTURER SPECIFICATIONS.

(C) WHEN SEALING AIR OR WATER LEAKS WITHIN A RUBBER GASKET/POLYURETHANE ADHESIVE SYSTEM ONLY COMPATIBLE POLYURETHANE SHALL BE USED. (NO SILICONE OR BUTYL MAY BE USED).

(D) WHEN SEALING AIR OR WATER LEAKS WITHIN A RUBBER GASKET/SEALANT SYSTEM ONLY OE COMPATIBLE SEALANT SHALL BE USED.

3. ADDITIONAL REQUIREMENTS. (A) ALL MECHANICALLY FASTENED AUTOMOTIVE GLASS PARTS SHALL BE REPLACED ACCORDING TO ORIGINAL EQUIPMENT SPECIFICATIONS.

(B) GLASS PARTS, INCLUDING CUSTOM CUT PARTS, SHALL BE MARKED IN COMPLIANCE WITH THE CERTIFICATION REQUIREMENTS SPECIFIED IN FMVSS 205 AND THE MARKING REQUIREMENTS OF ANSI Z26.1 INCORPORATED BY REFERENCE THEREIN FOR THOSE VEHICLES LICENSED FOR HIGHWAY USE.

(C) THOSE ENGAGED IN AUTOMOTIVE MIRROR REPLACEMENT SHALL INSTALL EXTERNAL AND INTERNAL REPLACEMENT MIRRORS THAT MEET OR EXCEED ORIGINAL EQUIPMENT SPECIFICATIONS AND THE REQUIREMENTS OF FEDERAL MOTOR VEHICLE SAFETY STANDARD 111.

(D) WHENEVER OEM RETENTION SYSTEMS ARE MODIFIED ON LATER REDUCTION MODELS WITHOUT BODY STYLE MODIFICATION, THE MOST CURRENT RETENTION SYSTEM SHALL BE USED IN THE REPLACEMENT UNLESS OTHERWISE SPECIFIED BY THE OEM.

(E) THE FAILURE OF ANY PRODUCT USED IN THE GLASS INSTALLATION PROCESS THAT THE INSTALLER BELIEVES COULD JEOPARDIZE CUSTOMER SAFETY SHALL BE REPORTED PROMPTLY TO THE MANUFACTURER OR SUPPLIER OF THE PRODUCT.

(F) THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL NOT INTRODUCE ANY CHEMICAL AGENTS, SUCH AS CLEANERS, SOLVENTS, LUBRICANTS, RELEASE AGENTS, OR UTILIZE ANY INSTALLATION PRACTICE, WHICH WILL ADVERSELY AFFECT THE GLASS RETENTION SYSTEM.

(G) THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL MAINTAIN DOCUMENTATION TO DEMONSTRATE COMPLIANCE WITH THIS STANDARD.

S 389-W. PENALTY. VIOLATIONS OF OR NONCOMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE SHALL BE A MISDEMEANOR PUNISHABLE BY A FINE OF NOT LESS THAN ONE THOUSAND DOLLARS OR BY IMPRISONMENT FOR ONE YEAR OR BY BOTH.

S 389-X. LOCAL ORDINANCES. THIS ARTICLE AND THE PROVISIONS CONTAINED THEREIN SHALL SUPERSEDE ANY SPECIAL LAWS, LOCAL LAWS OR ORDINANCES INCONSISTENT THEREWITH.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.