

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:

1 Section 1. The general business law is amended by adding a new article
2 25-BB to read as follows:

3 ARTICLE 25-BB

4 AUTOMOTIVE GLASS REPLACEMENT

5 SECTION 389-S. DEFINITIONS.

6 389-T. VEHICLE ASSESSMENT BEFORE REPLACEMENT.

7 389-U. SELECTION OF GLASS AND RETENTION SYSTEMS.

8 389-V. INSTALLATION STANDARDS.

9 389-W. PENALTY.

10 389-X. LOCAL ORDINANCES.

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

14 2. "AGR" SHALL MEAN AUTOMOTIVE GLASS REPLACEMENT.

15 3. "ARG" SHALL MEAN AUTOMOTIVE REPLACEMENT GLASS.

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

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

21 6. "FINAL EXAM" SHALL MEAN A COMPREHENSIVE EXAM THAT EVALUATES THE
22 INDIVIDUAL'S KNOWLEDGE AND SKILLS INCLUDING BUT NOT LIMITED TO RETENTION
23 SYSTEM SPECIFIC REPLACEMENT PROCEDURES, A VARIETY OF AUTOMOTIVE SAFETY
24 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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1 RETENTION SYSTEM PERFORMANCE, FEDERAL SAFETY REQUIREMENTS, AND THE
2 BASICS OF SAFE AND EFFECTIVE AUTOMOTIVE GLASS REPLACEMENT.

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

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

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

13 10. "OE" SHALL MEAN ORIGINAL EQUIPMENT.

14 11. "OEM" SHALL MEAN ORIGINAL EQUIPMENT MANUFACTURER.

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

17 13. "POLYURETHANE ADHESIVE" SHALL MEAN A THERMOPLASTIC POLYMER ADHE-
18 SIVE PRODUCED BY THE CONDENSATION REACTION OF POLYISOCYANATE AND A
19 HYDROXYL CONTAINING MATERIAL.

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

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

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

28 17. "THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT" SHALL MEAN ANY
29 INDIVIDUAL, BUSINESS, OR ORGANIZATION THAT REPLACES AUTOMOTIVE GLASS;
30 EXAMPLES INCLUDE BUT ARE NOT LIMITED TO INDIVIDUAL TECHNICIANS, AUTOMO-
31 TIVE GLASS REPLACEMENT BUSINESSES, AUTOMOTIVE BODY SHOPS, AND DEALER-
32 SHIPS.

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

40 S 389-T. VEHICLE ASSESSMENT BEFORE REPLACEMENT. THOSE ENGAGED IN AUTO-
41 MOTIVE GLASS REPLACEMENT SHALL NOT UNDERTAKE OR COMPLETE SUCH INSTALLA-
42 TION WHEN ANY RELATED CONDITION WOULD COMPROMISE THE RETENTION SYSTEM
43 AND THE OWNER/OPERATOR SHALL BE SO NOTIFIED.

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

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

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

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

1 TEMPERATURE AND HUMIDITY VARIABLES IF APPLICABLE, AND ANY SPECIAL PROCE-
2 DURES REQUIRED FOR ADVERSE WEATHER CONDITIONS.

3 5. REQUIRE THAT LOT NUMBERS AND EXPIRATION DATES BE PRINTED ON APPRO-
4 PRIATE PRODUCTS.

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

11 (A) PRODUCTS SHALL BE STORED AND CONTROLLED ACCORDING TO MANUFACTUR-
12 ERS' REQUIREMENTS AS PROVIDED DIRECTLY OR THROUGH A PRIVATE LABELER.

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

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

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

21 (E) IF THE OEM INSTALLATION WAS POLYURETHANE, THEN THE GLASS SHALL BE
22 REPLACED WITH POLYURETHANE OR AN EQUIVALENT ADHESIVE BONDING SYSTEM. IF
23 THE OEM INSTALLATION WAS BUTYL, POLYSULFIDE, OR OTHER NON-POLYURETHANE,
24 AND THE VEHICLE IS LICENSED FOR HIGHWAY USE, ADHESIVE BONDED STATIONARY
25 GLASS INSTALLATIONS SHALL BE PERFORMED USING POLYURETHANE OR AN EQUIV-
26 ALENT RETENTION SYSTEM UNLESS IN CONFLICT WITH CURRENT OEM SPECIFICA-
27 TIONS.

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

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

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

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

36 (J) WHEN INAPPROPRIATE REPLACEMENT MATERIALS OR METHODS ARE DETECTED,
37 THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT SHALL REPORT THEIR FIND-
38 INGS TO THE VEHICLE OWNER/OPERATOR.

39 (K) WHEN THOSE ENGAGED IN AUTOMOTIVE GLASS REPLACEMENT CORRECT INAP-
40 PROPRIATE GLASS INSTALLATIONS, THEY SHALL REMOVE ANY INAPPROPRIATE MATE-
41 RIALS THAT WOULD COMPROMISE THE RETENTION SYSTEM.

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

46 (M) WHEN SEALING AIR OR WATER LEAKS WITHIN A POLYURETHANE RETENTION
47 SYSTEM, ONLY COMPATIBLE POLYURETHANE ADHESIVE SHALL BE USED. (NO SILI-
48 CONE OR BUTYL MAY BE USED).

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

51 2. RUBBER GASKET. (A) IF THE OEM UTILIZES THE COMBINATION OF A RUBBER
52 GASKET AND POLYURETHANE AS A RETENTION SYSTEM, AN EQUIVALENT ADHESIVE
53 BONDING SYSTEM SHALL BE USED IN THE INSTALLATION. IN CASES WHEN THE OEM
54 DID NOT INCLUDE POLYURETHANE OR AN EQUIVALENT ADHESIVE SYSTEM, SUCH
55 SYSTEMS SHALL BE USED IF LATER PRODUCTION MODELS INCLUDED THE ADDITION
56 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.