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

6570

2009-2010 Regular Sessions

I N  A S S E M B L Y

March 6, 2009

Introduced by M. of A. BURLING, REILICH, FINCH, ERRIGO, KOLB, McKEVITT, WALKER -- Multi-Sponsored by -- M. of A. McDONOUGH, OAKS -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring that no insurer or motor vehicle repair facility recommend or require the use of Non-OEM crash parts

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

Section 1. Section 3411 of the insurance law is amended by adding a new subsection (o) to read as follows:

(O)(1) NO INSURER OR MOTOR VEHICLE REPAIR FACILITY SHALL RECOMMEND OR REQUIRE THE USE OF NON-OEM CRASH PARTS UNLESS SUCH PART SHALL EQUAL OR EXCEED THE COMPARABLE OEM CRASH PART IN TERMS OF FIT, FORM, FINISH, QUALITY AND PERFORMANCE.

(2) AN INSURER OR MOTOR VEHICLE REPAIR FACILITY WHICH RECOMMENDS OR REQUIRES THE USE OF NON-OEM CRASH PARTS SHALL BE LIABLE IF ANY SUCH PART FAILS TO EQUAL OR EXCEED THE COMPARABLE OEM CRASH PART IN TERMS OF FIT, FORM, FINISH, QUALITY AND PERFORMANCE, INCLUDING REPLACEMENT COST AND DAMAGES FOR INJURY TO PROPERTY OR PERSON PROVIDED THAT THE INSURER SHALL BE EXCUSED FROM LIABILITY IF THE DAMAGES ARE CAUSED BY THE GROSS NEGLIGENCE OF THE MOTOR VEHICLE REPAIR FACILITY.

(3) A MOTOR VEHICLE REPAIR FACILITY THAT NEITHER RECOMMENDS NOR REQUIRES THE USE OF NON-OEM CRASH PARTS AND INSTALLS SUCH PARTS SHALL BE LIABLE ONLY FOR SUCH DAMAGES THAT ARE CAUSED BY THE FACILITY'S GROSS NEGLIGENCE.

(4) FOR THE PURPOSES OF THIS SUBSECTION, TO "RECOMMEND" OR "REQUIRE" SHALL MEAN (A) ALLOWING COMPENSATION UNDER AN INSURANCE POLICY THAT EQUALS THE RETAIL PRICE OF AN AFTERMARKET CRASH PART OR (B) LISTING A GENERIC CRASH PART IN AN ITEMIZED SETTLEMENT OFFER OR ESTIMATE.

(5) "NON-OEM CRASH PARTS" ARE PARTS OTHER THAN ORIGINAL MANUFACTURER EQUIPMENT PARTS (OEM).

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

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(6) "ORIGINAL MANUFACTURER EQUIPMENT PARTS (OEM)" ARE PARTS WHICH ARE MADE BY THE VEHICLE MANUFACTURER OR ONE OF ITS LICENSEES AND DISTRIBUTED THROUGH ITS NORMAL CHANNELS. SUCH PARTS MAINTAIN THE OEM VEHICLE FACTORY WARRANTY FOR THE REPLACED PARTS AND ANY OTHER ADJOINING OR ASSOCIATED OEM PART OR SYSTEMS.

S 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed by the commissioner of motor vehicles and the superintendent of insurance on or before such effective date.