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

6817

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I N A S S E M B L Y

March 31, 2011

Introduced by M. of A. COOK, PERRY, CAHILL, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. COLTON, CYMBROWITZ, FARRELL, HOOPER, MARKEY, McENENY, ORTIZ, PHEFFER, TOWNS -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, the vehicle and traffic law and the general business law, in relation to enacting the crash repair disclosure act

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

Section 1. Short title. This act shall be known and may be cited as the "crash repair disclosure act".

S 2. Subsection (b) of section 2402 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(b) "Defined violation" means the commission by a person of an act prohibited by: section one thousand two hundred fourteen, one thousand two hundred seventeen, one thousand two hundred twenty, one thousand three hundred thirteen, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-two, subparagraph (B) of paragraph two of subsection (i) of section one thousand three hundred twenty-four, two thousand one hundred twenty-two, two thousand one hundred twenty-three, subsection (p) of section two thousand three hundred thirteen, section two thousand three hundred twenty-four, two thousand five hundred two, two thousand five hundred three, two thousand five hundred four, two thousand six hundred one, two thousand six hundred two, two thousand six hundred three, two thousand six hundred four, two thousand six hundred six, two thousand seven hundred three, three thousand one hundred nine, three thousand two hundred twenty-four-a, THREE THOUSAND FOUR HUNDRED ELEVEN-A, three thousand four hundred twenty-nine, three thousand four hundred thirty-three, paragraph seven of subsection (e) of section three thousand four hundred twenty-six, four thousand two hundred twenty-four, four thousand two hundred

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

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twenty-five, four thousand two hundred twenty-six, seven thousand eight hundred nine, seven thousand eight hundred ten, seven thousand eight hundred eleven, seven thousand eight hundred thirteen, seven thousand eight hundred fourteen and seven thousand eight hundred fifteen of this chapter; or section 135.60, 135.65, 175.05, 175.45, or 190.20, or article one hundred five of the penal law.

S 3. The insurance law is amended by adding a new section 3411-a to read as follows:

S 3411-A. CRASH REPAIR DISCLOSURE; REQUIREMENTS. (A) AS USED IN THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(1) "CRASH PART" MEANS A REPLACEMENT FOR ANY OF THE NON-MECHANICAL PARTS MADE OF SHEET METAL, PLASTIC, FIBERGLASS OR OF SIMILAR MATERIAL WHICH GENERALLY CONSTITUTE THE EXTERIOR OF A MOTOR VEHICLE, INCLUDING THE FOLLOWING PARTS: OUTER PANELS, HOODS, FENDERS, DOORS, TRUNK LIDS, EXTERIOR COVERINGS OF BUMPERS BUT NOT INCLUDING WINDOWS OR HUBCAPS.

(2) "NON-ORIGINAL EQUIPMENT MANUFACTURER (NON-OEM) CRASH PART" MEANS CRASH PARTS NOT MADE FOR OR BY THE MANUFACTURER OF THE MOTOR VEHICLE.

(3) "ORIGINAL EQUIPMENT MANUFACTURER (OEM) CRASH PART" MEANS CRASH PARTS MADE FOR OR BY THE MANUFACTURER OF THE MOTOR VEHICLE.

(4) "RECYCLED CRASH PARTS" MEANS CRASH PARTS WHICH HAVE BEEN REMOVED FROM A SALVAGE VEHICLE.

(5) "REMANUFACTURED CRASH PART" MEANS CRASH PARTS WHICH HAVE BEEN RETURNED TO LIKE-NEW CONDITION BY REPAIRING, REMACHINING OR REBUILDING.

(B) NO INSURER SHALL OFFER AUTOMOBILE PHYSICAL DAMAGE INSURANCE POLICIES COVERING PRIVATE PASSENGER AUTOMOBILES FOR DELIVERY IN THIS STATE UNLESS SUCH POLICY SHALL INCLUDE A DISCLOSURE DOCUMENT THAT INCLUDES, BUT IS NOT LIMITED TO, THE FOLLOWING IN TEN POINT TYPE OR LARGER:

"IN THE COLLISION REPAIR INDUSTRY THERE ARE FOUR TYPES OF CRASH PARTS:

* NON-ORIGINAL EQUIPMENT MANUFACTURER (NON-OEM) CRASH PARTS ARE NOT MADE FOR OR BY THE MANUFACTURER OF THE MOTOR VEHICLE.

*ORIGINAL EQUIPMENT MANUFACTURER (OEM) CRASH PARTS ARE MADE FOR OR BY THE MANUFACTURER OF THE MOTOR VEHICLE.

*RECYCLED CRASH PARTS ARE PARTS WHICH HAVE BEEN REMOVED FROM A SALVAGE OR WRECKED VEHICLE FOR REUSE.

*REMANUFACTURED CRASH PARTS ARE PARTS WHICH HAVE BEEN RETURNED TO LIKE-NEW CONDITION BY REPAIRING, REMACHINING OR REBUILDING."

FOLLOWING THESE DEFINITIONS, THE POLICY SHALL DISCLOSE THE TYPES OF CRASH PARTS THAT WOULD BE PROVIDED FOR IN THE REPAIR OF COLLISION DAMAGE. SUCH DISCLOSURE SHALL INCLUDE CONDITIONS AND CIRCUMSTANCES GOVERNING WHEN THE RESPECTIVE TYPES OF CRASH PARTS WILL BE USED.

(C) AT THE EARLIER OF THE TIME OF THE INSURER OFFER ON THE CLAIM OR THE INSPECTION OF THE DAMAGED VEHICLE, AN INSURER SHALL PROVIDE A COPY OF THE DISCLOSURE DOCUMENT AS SET FORTH IN SUBSECTION (B) OF THIS SECTION.

S 4. Section 398-d of the vehicle and traffic law is amended by adding a new subdivision 2-a to read as follows:

2-A. IN ADDITION TO THE REQUIREMENTS OF SUBDIVISIONS ONE AND TWO OF THIS SECTION, ON OR ATTACHED TO THE INVOICE AND, ON OR ATTACHED TO AN ESTIMATE PROVIDED AT THE REQUEST OF ANY CUSTOMER BEFORE THE REPAIR IS BEGUN, A MOTOR VEHICLE REPAIR SHOP SHALL:

(A) PROVIDE A WRITTEN STATEMENT CLEARLY IDENTIFYING THE MANUFACTURER AND/OR DISTRIBUTOR OF EACH CRASH PART. IF THE CRASH PART IS RECYCLED OR REMANUFACTURED THE SOURCE OF THE PART SHALL BE IDENTIFIED;

(B) DISCLOSE ANY APPLICABLE WARRANTIES FOR CRASH PARTS TO BE USED IN THE REPAIR; AND

(C) INCLUDE ON OR ATTACHED TO THE ESTIMATE OR INVOICE A DISCLOSURE DOCUMENT CONTAINING THE FOLLOWING INFORMATION IN TEN-POINT OR LARGER TYPE: "THIS ESTIMATE/INVOICE HAS BEEN PREPARED BASED ON THE REPLACEMENT OF PARTS WHICH MAY HAVE BEEN WARRANTED BY THE MANUFACTURER OF YOUR VEHICLE. YOUR VEHICLE WARRANTY WILL NOT COVER ANY PARTS BEING REPLACED IN THIS REPAIR. WARRANTIES APPLICABLE TO THESE REPLACEMENT PARTS ARE PROVIDED BY THE PART'S MANUFACTURER OR DISTRIBUTOR. THE USE OF NON-ORIGINAL EQUIPMENT MANUFACTURER PARTS WILL NOT AFFECT THE VEHICLE MANUFACTURER'S WARRANTY FOR PARTS NOT AFFECTED BY THIS REPAIR."

THE DISCLOSURES REQUIRED BY THIS SUBDIVISION SHALL BE MADE BY THE MOTOR VEHICLE REPAIR SHOP WHICH ACCEPTS PAYMENT FROM THE INSURED OR THEIR INSURER FOR THE AUTHORIZED REPAIR. MOTOR VEHICLE REPAIR SHOPS WHICH SUBCONTRACT COLLISION REPAIRS SHALL CONTINUE TO BE LIABLE FOR ALL DISCLOSURES TO THE INSURED.

S 5. The general business law is amended by adding a new section 399-j to read as follows:

S 399-J. REQUIRED IDENTIFICATION OF CRASH PARTS. ANY MOTOR VEHICLE CRASH PART SUPPLIED BY AN ORIGINAL EQUIPMENT MANUFACTURER OR A NON-ORIGINAL EQUIPMENT MANUFACTURER FOR INSTALLATION BY A MOTOR VEHICLE REPAIR SHOP OR AUTOBODY SHOP IN THIS STATE SHALL HAVE AFFIXED THERETO OR INSCRIBED THEREON THE NAME OR LOGO OF ITS MANUFACTURER.

S 6. 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 any rules or regulations necessary for the timely implementation of this act on its effective date are authorized and directed to be made on or before such date.