

2016 Regular Session

HOUSE BILL NO. 559

BY REPRESENTATIVE PIERRE

INSURERS: Prohibits the use of certain non-OEM aftermarket parts at the direction of an insurer under certain circumstances

1 AN ACT

2 To amend and reenact Chapter 41 of Title 51 of the Louisiana Revised Statutes of 1950, to
3 be comprised of R.S. 51:2421 through 2425, relative to the use of aftermarket,
4 nonoriginal equipment manufacturer's parts; to provide for definitions; to prohibit
5 the use of such parts under certain circumstances; to require disclosure; to provide
6 for enforcement; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 41 of Title 51 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 51:2421 through 2425, is hereby amended and reenacted to read as
10 follows:

11 CHAPTER 41. AFTERMARKET ~~CRASH~~ PARTS

12 §2421. Purpose

13 The purpose of this Chapter is to regulate the use of aftermarket ~~crash~~ motor
14 vehicle parts by requiring disclosure when any use is proposed of ~~an~~ a nonoriginal
15 equipment manufacturer aftermarket, ~~nonoriginal equipment manufacturer's~~ crash
16 part, ~~and~~ by requiring that the manufacturers of such aftermarket crash parts be
17 identified, and by requiring the use of original equipment manufacturer aftermarket
18 safety parts in limited circumstances.

1 §2422. Definitions

2 A. "Aftermarket crash part" means a replacement for any of the
3 nonmechanical sheet metal or plastic parts ~~which~~ that generally constitute the
4 exterior of a motor vehicle, including inner and outer panels.

5 B. "Aftermarket safety part" means a replacement for all or any portion of
6 the following components or parts of a motor vehicle:

7 (1) Anti-lock braking system which is comprised of the controller, speed
8 sensors, modulator/valves, and pump.

9 (2) Airbag restraint system.

10 C. "Installer" means an individual who actually does the work of replacing
11 or repairing parts of a motor vehicle.

12 ~~€~~ D. "Insurer" means an insurance company and any person authorized to
13 represent the insurer with respect to a claim.

14 ~~Đ~~ E. "Nonoriginal equipment manufacturer (non-OEM) aftermarket crash
15 part" means aftermarket crash parts not made for or by the manufacturer of the motor
16 vehicle.

17 F. "Original equipment manufacturer (OEM) aftermarket safety part" means
18 aftermarket safety parts made for or by the manufacturer of the motor vehicle.

19 E G. "Repair facility" means any motor vehicle dealer, garage, body shop,
20 or other commercial entity which undertakes the repair or replacement of ~~those~~
21 motor vehicle parts that generally constitute the exterior of a motor vehicle.

22 §2423. Identification

23 Any aftermarket crash part supplied by a nonoriginal equipment
24 manufacturer for use in this state after the effective date of this Chapter shall have
25 affixed thereto or inscribed thereon the logo or name of its manufacturer. Such
26 manufacturer's logo or name shall be visible after installation whenever practicable.

27 §2424. Disclosure; prohibition

28 A. No insurer shall ~~specify~~ require or authorize the use of non-OEM
29 aftermarket crash parts in the repair of ~~an insured's~~ a claimant's motor vehicle, nor

1 shall a repair facility or installer use non-OEM aftermarket crash parts to repair a
2 vehicle, unless the ~~insured~~ claimant is so advised in writing and in advance of the
3 repairs being undertaken.

4 B. In all instances where non-OEM aftermarket crash parts are intended for
5 use by an insurer the following shall apply:

6 (1) The written estimate shall clearly identify each such part.

7 (2) A disclosure document containing the following information in ten point
8 type or larger type shall appear on or be attached to the ~~insured's~~ claimant's copy of
9 the estimate: "This estimate has been prepared based on the use of crash parts
10 supplied by a source other than the manufacturer of your motor vehicle. Warranties
11 applicable to these replacement parts are provided by the manufacturer or distributor
12 of these parts rather than the manufacturer of your vehicle."

13 C. No insurer shall require or authorize the use of anything other than OEM
14 aftermarket safety parts in the repair of a claimant's motor vehicle.

15 D. No repair facility or installer shall use anything other than OEM
16 aftermarket safety parts to repair a vehicle, unless OEM aftermarket safety parts are
17 not commercially available to the repair facility or installer.

18 E. In all instances where OEM aftermarket safety parts are not commercially
19 available in substantial quantities in the commercial marketplace the repair facility
20 or installer shall provide the following information to the claimant in writing and in
21 advance of undertaking the repairs:

22 (1) An estimate that clearly identifies each such part that is not commercially
23 available.

24 (2) A disclosure document containing the following information in ten point
25 or larger type shall appear on or be attached to the claimant's copy of the estimate:
26 "This estimate has been prepared based on the use of safety parts supplied by a
27 source other than the manufacturer of your motor vehicle. Warranties applicable to
28 these replacement parts are provided by the manufacturer or distributor of these parts
29 rather than the manufacturer of your vehicle."

1 §2425. Enforcement

2 Any violation of the provisions of this Chapter shall be enforced through the
3 unfair trade practices provisions of the Louisiana Insurance Code, R.S. 22:1961 et
4 seq., and shall be enforced by the penalties provided for in said provisions other laws
5 applicable to the installers and repair facilities.

6 Section 2. This Act shall become effective on January 1, 2017.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 559 Engrossed

2016 Regular Session

Pierre

Abstract: Provides for the prohibition of the use of non-OEM aftermarket parts at the direction of an insurer when the parts affect the operation of anti-lock brakes or airbags.

Present law defines "aftermarket crash part" as a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

Proposed law changes present law by defining "aftermarket safety part" as a replacement for all or any portion of the anti-lock braking system or airbag restraint system. Proposed law prohibits the use of nonoriginal equipment manufacturer (non-OEM) aftermarket safety parts unless non-OEM parts are the only parts commercially available.

Present law requires that no insurer specify the use of non-OEM aftermarket crash parts in the repair of an insured's motor vehicle, nor shall a repair facility or installer use non-OEM aftermarket parts, unless the insured is so advised.

Proposed law changes present law by changing "insured" to "claimant" and applying the prohibition to any claimant.

Proposed law requires, when OEM aftermarket safety parts are not commercially available, before beginning repairs, the repair facility or installer must disclose in writing to the claimant each part that is unavailable and the fact that the estimate was prepared based on the use of safety parts supplied by a source other than the manufacturer of the claimant's vehicle.

Present law provides that violations of present law are enforced through the unfair trade practices provisions of present law (Insurance Code).

Proposed law retains present law and adds laws applicable to installers and repair facilities as enforcement provisions.

Effective January 1, 2017.

(Amends R.S. 51:2421-2425)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.
2. Clarify the term "anti-lock braking system".
3. Establish that a repair facility or installer is prohibited from using anything other than OEM aftermarket safety parts to repair unless those parts are not commercially available.
4. Provide that if OEM aftermarket safety parts are not commercially available, the repair facility or installer, not the insurer, must provide certain information to the claimant in writing before repairs begin including an estimate that clearly identifies each such part that is not commercially available.