**South Carolina General Assembly**

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**S. 417**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Thomas

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Companion/Similar bill(s): 70

Introduced in the Senate on January 25, 2011

Currently residing in the Senate Committee on **Banking and Insurance**

Summary: Automotive repair facilities and insurers

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

1/25/2011 Senate Introduced and read first time ([Senate Journal‑page 8](file:///h:\sj%20archive\2011\01-25-11.docx))

1/25/2011 Senate Referred to Committee on **Banking and Insurance** ([Senate Journal‑page 8](file:///h:\sj%20archive\2011\01-25-11.docx))

**VERSIONS OF THIS BILL**

[1/25/2011](file:///p:\pprever\2011-12\417_20110125.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 13 TO CHAPTER 77, TITLE 38 SO AS TO REQUIRE AUTOMOTIVE REPAIR FACILITIES AND INSURERS TO PROVIDE CERTAIN DISCLOSURES REGARDING THE USE OF AFTERMARKET CRASH PARTS, AND TO PROVIDE DEFINITIONS, EXEMPTIONS AND PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 77, Title 38 of the 1976 Code is amended by adding:

“Article 13

Aftermarket Crash Parts and Repair

Section 38‑77‑1310. As used in this chapter:

(1) ‘Aftermarket crash part’ means a replacement crash part manufactured by an entity other than the original equipment manufacturer (OEM).

(2) ‘Certified aftermarket crash part’ means a replacement crash part that has been certified by an American National Standards Institute (ANSI) accredited standards developer and maintains a consensus of quality standards for competitive crash parts. A certified aftermarket crash part is identified by a serial number unique to each part and contains a removable tag with that serial number that can be used to record and trace the use of that part. Notwithstanding another provision of law, there may be only one certification standard established for each individual crash part.

(3) ‘Crash part’ means a replacementpart made of sheet metal, plastic, fiberglass, or a similar material that generally constitutes the exterior of a motor vehicle. This includes outer panels, hoods, fenders, doors, grilles, trunk lids, exterior lighting, reflective devices, and exterior coverings of bumpers, but does not include windows or hubcaps.

(4) ‘Insurer’ means an insurance company or a person authorized to represent the insurer with respect to a claim and who is acting within the scope of the person’s authority.

(5) ‘Original equipment manufacturer (OEM) crash part’ means a replacement crash part manufactured by a car company, under its own name, for motor vehicles that the car company manufactures or distributes under its own name.

(6) ‘Recycled crash part’ means a part removed from a vehicle and placed for resale.

(7) ‘Remanufactured crash part’ means a recycled part that has been reconditioned, refurbished, or restored to its original condition or appearance for use on another vehicle.

(8) ‘Repair facility’ means a motor vehicle dealer, garage, body shop, or other commercial entity that undertakes the repair or replacement of those parts that generally constitute the exterior of a motor vehicle.

Section 38‑77‑1320. (A) An automotive repair facility shall provide a customer with an itemized written estimate for all parts and labor necessary for a specific job. The estimate shall indicate whether a replacement crash part will be OEM, aftermarket, certified, recycled, or remanufactured.

(B) The estimate must:

(1) identify the manufacturer or distributor of each crash part;

(2) disclose whether the part has a warranty; and

(3) include the following notice in at least twelve‑point type:

‘Installing a part, other than a part described on the written estimate, without prior approval from the customer is unlawful. If you suspect an illegal installation of parts by your auto repair facility, call the State Department of Insurance, Consumer Assistance Office at (800) 768‑3467.’

(C) The repair facility must be responsible for any service provided by outside parties with whom they contract.

(D) Work must not be done and charges must not accrue before authorization to proceed is obtained from the customer.

(E) If it is determined, once a repair facility has begun work on the motor vehicle, that the estimated price is insufficient to complete the job, then a charge must not be made for work done on the job or for parts supplied that are in excess of the estimated price until the customer gives oral or written consent to the additional work and parts. A customer may designate another person to authorize work or parts supplied in excess of the estimated price, if the designation is made in writing at the time the customer signs the initial authorization to proceed.

(F) Upon completion of the work, the repair facility shall provide the customer with a final written document that describes separately all labor and parts used. The document must indicate whether a replacement crash part was OEM, aftermarket, certified, recycled, or remanufactured. If a crash part is used, the document must identify the manufacturer or distributor of the part and any identifying number, if available.

(G) In addition, the final written documentmust include:

(1) the disclosure language set forth in subsection (B)(3);

(2) the name of the company replacing parts on the vehicle;

(3) a complete list of all parts replaced;

(4) a complete list of OEM crash parts installed, if any;

(5) a complete list of certified aftermarket crash parts installed, if any;

(6) a complete list of noncertified crash parts installed, if any, and;

(7) the customer’s name, signature, and acknowledgment stating, ‘I understand that all parts used have been listed and I agree that it has been disclosed to me what parts are original, certified, or noncertified parts’.

(H) Upon customer request after completion of the work, the repair facility shall show the customer a copy of each invoice for parts used. Any discount or pricing information could be deleted from the invoice.

(I) A person who knowingly fails to comply with provisions of this section within thirty days of a complaint being filed with the State Department of Insurance is guilty of a misdemeanor and must be subject to the penalties as provided in Section 38‑2‑20.

Section 38‑77‑1330. (A) An insurer may not mandate the use of aftermarket crash parts in the repair of an insured’s motor vehicle unless the insurer:

(1) discloses in writing, in the issuance or renewal of a comprehensive or collision insurancepolicy, that the insurer may specify the use of aftermarket, certified, recycled, or remanufactured crash parts;

(2) ensures that the specified aftermarket crash parts are warranted by the manufacturer or distributor to equal or exceed the car company’s warranty for the corresponding crash part. Certified aftermarket crash parts are presumed capable of restoring a vehicle to its preloss condition;

(3) pays the cost of any modifications to parts that may become necessary to effect the repair; and

(4) identifies to the consumer, in a written estimate prior to the repair:

(a) the aftermarketcrash part to be used; and

(b) the aftermarket crash part is warranted by its manufacturer or distributor rather than the original car company.

(B) A person who knowingly fails to comply with provisions of this section is guilty of a misdemeanor and must be subject to the penalties as provided in Section 38‑2‑20.

(C) Antique motor vehicles and customized collectible motor vehicles are exempt from the provisions of this section. For purposes of this section:

(1) ‘Antique motor vehicle’ means a motor vehicle that the Department of Motor Vehicles has classified as an antique under Section 56‑3‑2210.

(2) ‘Customized collectible motor vehicle’ means a motor vehicle that is less than twenty‑five years old, which contains customized or nonoriginal parts and is owned solely as a collector’s item and used for participation in club activities, exhibits, tours, parades, and similar uses, but in no event used for general transportation.

Section 38‑77‑1340. All aftermarket and OEM crash parts manufactured nine months after the effective date of this act when supplied by a repair facility shall carry sufficient permanent, nonremovable identification so as to identify the manufacturer. The identification must be accessible to the greatest extent possible after installation. A unique serial number, if available, must be transferred to the repair order to allow for identification of the manufacturer.

Section 38‑77‑1350. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.”

SECTION 3. This act takes effect upon approval by the Governor and applies to personal lines motor vehicle insurance policies written or renewed nine months from the effective date of this act.

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