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AB-3141 Bureau of Automotive Repair: automotive repair dealers: maintenance and services. (2017-2018)

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Assembly Bill No. 3141

CHAPTER 503

An act to amend Sections 9880.1, 9882, and 9884.9 of the Business and Professions Code, and to amend Section 1808.51 of the Vehicle Code, relating to the Bureau of Automotive Repair.

[Approved by Governor September 18, 2018. Filed with Secretary of State September 18, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3141, Low. Bureau of Automotive Repair: automotive repair dealers: maintenance and services.

(1) Existing law, the Automotive Repair Act, provides for the licensure and regulation of automotive repair dealers. Under existing law, there is a Bureau of Automotive Repair, which is under the supervision of the Director of Consumer Affairs. Existing law vests the duty of enforcing and administering that act in the Chief of the Bureau of Automotive Repair and makes the chief responsible to the director. Existing law requires that the powers and duties of the bureau be subject to review by the appropriate policy committees of the Legislature as if the act was scheduled to be repealed on January 1, 2019.

This bill would instead provide that the powers and duties of the bureau be subject to review by the appropriate policy committees of the Legislature as if the act was scheduled to be repealed on January 1, 2023.

Existing law requires automotive repair dealers to give the customer a written estimated price for labor and parts necessary for a specific job. Existing law defines "automotive repair dealer" to mean a person who, for compensation, engages in the business of diagnosing and repairing motor vehicles. Existing law defines repair to include all maintenance, except specified functions including minor services. Existing law makes a violation of the Automotive Repair Act, except as specified, punishable as a misdemeanor.

This bill would delete the exceptions and would, instead, exclude roadside services, as defined. The bill would define the term "preventative maintenance services" to mean checking tire pressure, rotating tires, changing transmission fluid and filters, and other related services. The bill would specify that a written estimate is not required for an automotive repair dealer to perform preventative maintenance services, if the customer authorizes the service and either the service is performed free of charge or the total price for labor and parts necessary to perform the service is displayed conspicuously or is made available to and acknowledged by the customer at the automotive repair facility where the service is performed. The bill would reorganize the definition of terms for purposes of the act, and would make conforming changes. By expanding the scope of a crime to apply to additional automotive repair activities, the bill would impose a state-mandated local program.

(2) Existing law authorizes the Bureau of Real Estate to obtain copies of fullface engraved pictures or photographs of individuals directly from the Department of Motor Vehicles for purposes of enforcing specified laws. Existing law also authorizes the city attorney of a city and county and his or her investigators to obtain copies of these records directly from the department for purposes of performing functions related to city and county operations.

This bill would authorize the Bureau of Automotive Repair to obtain copies of the records described above directly from the department for purposes of enforcing the Automotive Repair Act and the Motor Vehicle Inspection Program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 9880.1 of the Business and Professions Code is amended to read:

9880.1. The following definitions apply for the purposes of this chapter:

(a) "Automotive repair dealer" means a person who, for compensation, engages in the business of repairing or diagnosing malfunctions of motor vehicles.

(b) "Automotive technician" means an employee of an automotive repair dealer or that dealer, if the employer or dealer repairs motor vehicles and who, for salary or wage, performs repairs of motor vehicles as set forth in subdivision (k).

(c) "Bureau" means the Bureau of Automotive Repair.

(d) "Chief" means the Chief of the Bureau of Automotive Repair.

(e) "Commercial business agreement" means an agreement, whether in writing or oral, entered into between a business or commercial enterprise and an automotive repair dealer, prior to the repair that is requested to be made, that contemplates a continuing business arrangement under which the automotive repair dealer is to repair any motor vehicle covered by the agreement, but does not mean any warranty or extended service agreement normally given by an automotive repair facility to its customers.

(f) "Customer" means the person presenting a motor vehicle for repair and authorizing the repairs to that motor vehicle. "Customer" shall not mean the automotive repair dealer providing the repair services or an insurer involved in a claim that includes the motor vehicle being repaired or an employee or agent or a person acting on behalf of the dealer or insurer.

(g) "Director" means the Director of Consumer Affairs.

(h) "Motor vehicle" means a passenger vehicle required to be registered with the Department of Motor Vehicles and all motorcycles whether or not required to be registered by the Department of Motor Vehicles.

(i) "Person" includes a firm, partnership, association, limited liability company, or corporation.

(j) "Preventative maintenance services" means the following maintenance services: checking tire pressure and adding or relieving pressure, as necessary; rotating tires; changing transmission fluid, transmission filter, engine oil and filter, differential fluid, power steering fluid, and transfer case fluid; changing engine or cabin air filters, and external fuel filters; changing engine coolant; performing a fuel system induction service; replacing belts and windshield wiper blades; replacing light bulbs and restoring headlamps; adding oil or fuel treatments through the designated fill points; and topping off fluids; and all of the listed services include the removal, reinstallation, and replacement of any components necessary to perform each service, and the tapping of damaged threads without removal of any fluid pan.

(k) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles performed by an automotive repair dealer, including automotive body repair work, but excluding those repairs made pursuant to a commercial business agreement and roadside services.

(l) "Roadside services" means the services performed upon a motor vehicle for the purpose of transporting the vehicle or to permit it to be operated under its own power, by, or on behalf of, a motor club holding a certificate of authority pursuant to Chapter 2 (commencing with Section 12160) of Part 5 of Division 2 of the Insurance Code, or by an operator of a tow truck, as defined in Section 615 of the Vehicle Code, that is owned or operated by a person or entity who possesses a valid motor carrier permit, as described in Section 34620 of the Vehicle Code, and is enrolled in the Basic Inspection of Terminals program, as described in Section 34501.12 of the Vehicle Code.

SEC. 2. Section 9882 of the Business and Professions Code is amended to read:

9882. (a) There is in the Department of Consumer Affairs a Bureau of Automotive Repair under the supervision and control of the director. The duty of enforcing and administering this chapter is vested in the chief who is responsible to the director. The director may adopt and enforce those rules and regulations that he or she determines are reasonably necessary to carry out the purposes of this chapter and declaring the policy of the bureau, including a system for the issuance of citations for violations of this chapter as specified in Section 125.9. These rules and regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) Notwithstanding any other law, the powers and duties of the bureau, as set forth in this article and under the Automotive Repair Act, shall be subject to review by the appropriate policy committees of the Legislature. In that review, the bureau shall have the burden of demonstrating a compelling public need for the continued existence of the bureau and its regulatory program, and that its function is the least restrictive regulation consistent with the public health, safety, and welfare.

(c) The review shall be performed as if this chapter were scheduled to be repealed as of January 1, 2023.

SEC. 3. Section 9884.9 of the Business and Professions Code is amended to read:

9884.9. (a) The automotive repair dealer shall give to the customer a written estimated price for labor and parts necessary for a specific job, except as provided in subdivision (e). No work shall be done and no charges shall accrue before authorization to proceed is obtained from the customer. No charge shall be made for work done or parts supplied in excess of the estimated price, or the posted price specified in subdivision (e), without the oral or written consent of the customer that shall be obtained at some time after it is determined that the estimated or posted price is insufficient and before the work not estimated or posted is done or the parts not estimated or posted are supplied. Written consent or authorization for an increase in the original estimated or posted price may be provided by electronic mail or facsimile transmission from the customer. The bureau may specify in regulation the procedures to be followed by an automotive repair dealer if an authorization or consent for an increase in the original estimated price is provided by electronic mail or facsimile transmission. If that consent is oral, the dealer shall make a notation on the work order of the date, time, name of person authorizing the additional repairs, and telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost, and shall do either of the following:

(1) Make a notation on the invoice of the same facts set forth in the notation on the work order.

(2) Upon completion of the repairs, obtain the customer's signature or initials to an acknowledgment of notice and consent, if there is an oral consent of the customer to additional repairs, in the following language:

"I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)"

Nothing in this section shall be construed as requiring an automotive repair dealer to give a written estimated price if the dealer does not agree to perform the requested repair.

(b) The automotive repair dealer shall include with the written estimated price a statement of any automotive repair service that, if required to be done, will be done by someone other than the dealer or his or her employees. No service shall be done by other than the dealer or his or her employees without the consent of the customer, unless the customer cannot reasonably be notified. The dealer shall be responsible, in any case, for any service in the same manner as if the dealer or his or her employees had done the service.

(c) In addition to subdivisions (a) and (b), an automotive repair dealer, when doing auto body or collision repairs, shall provide an itemized written estimate for all parts and labor to the customer. The estimate shall describe labor and parts separately and shall identify each part, indicating whether the replacement part is new, used, rebuilt, or reconditioned. Each crash part shall be identified on the written estimate and the written estimate shall indicate whether the crash part is an original equipment manufacturer crash part or a nonoriginal equipment manufacturer aftermarket crash part.

(d) 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 that the initial authorization to proceed is signed by the customer. The bureau may specify in regulation the form and content of a designation and the procedures to be followed by the automotive repair dealer in recording the designation. For the purposes of this section, a designee shall not be the automotive repair dealer providing repair services or an insurer involved in a claim that includes the motor vehicle being repaired, or an employee or agent or a person acting on behalf of the dealer or insurer.

(e) A written estimate is not required for an automotive repair dealer to perform any of the preventative maintenance services defined in Section 9880.1 if the customer authorizes the service and either of the following occurs:

(1) The service is performed free of charge.

(2) The total price for labor and parts necessary to perform the service is displayed in a place and manner conspicuous to the customer or is made available to and acknowledged by the customer at the automotive repair facility where the service is performed.

SEC. 4. Section 1808.51 of the Vehicle Code is amended to read:

1808.51. Notwithstanding Sections 1808.5 and 12800.5, any of the following may obtain copies of fullface engraved pictures or photographs of individuals directly from the department:

(a) The Bureau of Real Estate, as a department, individually, or through its staff, for purposes of enforcing the Real Estate Law (Part 1 (commencing with Section 10000) of Division 4 of the Business and Professions Code) or the Subdivided Lands Law (Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code).

(b) The city attorney of a city and county and his or her investigators for purposes of performing functions related to city and county operations.

(c) The Bureau of Automotive Repair, as a department, individually, or through its staff, for purposes of enforcing the Automotive Repair Act (Chapter 20.3 (commencing with Section 9880) of Division 3 of the Business and Professions Code) or the Motor Vehicle Inspection Program (Chapter 5 (commencing with Section 44000) of Part 5 of Division 26 of the Health and Safety Code).

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.