

California aftermarket parts bill passes Senate BF&I Committee vote

Bill bans independent parts usage for up to five years

SACRAMENTO--Spurred on by members of the Collision Repair Ass'n of California (CRA), The California State Senate Banking, Finance and Insurance Committee voted 6-3 on Wednesday, April 2, to approve Senate Bill 1059.

It's a CRA-endorsed measure that would ban insurers from requiring the use of aftermarket parts to replace certain vehicle components that are still under factory warranty by stopping insurers from mandating the use of aftermarket parts on newer cars.

Calling it one of the California collision repair industry's "finest political moments," CRA Executive Director Allen Wood, said, "Our members lobbied hard in the morning and their efforts were rewarded in the afternoon as six Senators got our message about how CRA members want to protect consumers."

At one point more than 40 CRA members individually announced their support for the bill to the Senators on the committee.

Meanwhile, the bill's sponsor Senator Carole Migden, recently in the news and fined for misuse of campaign monies, after the hearing said, "It's outrageous that legislation is necessary to protect consumers from their own insurance companies, but that is exactly the problem that this bill addresses.

"SB 1059 removes the catch-22 that some insurers put claimants and repairers in when insurers insist that aftermarket parts be used in repairs, even though doing this can void their clients' vehicle warranties."

SB 1059 would make it unlawful for an insurer to require the installation of an aftermarket part affecting the engine, the heating and cooling system, the air condition system and corrosion protection if the part to be replaced is under a manufacturer's original warranty and the replacement occurs within three years from the date from which the vehicle was first sold as new.

The bill would allow use of aftermarket parts if the claimant's insurance policy required the use of aftermarket parts.

The bill's provisions were amended at the hearing and will not be available for public review for at least another week. The bill will be heard next in the Senate Judiciary Committee on April 16 at 1 p.m. in Room 112 of the State

Capitol. This committee will exam how the measure affects consumer warranty law.

CRA lobbyist Richard Steffen, said, "Suddenly the insurance industry is scrambling for explanations and we will be meeting with the insurers next week to discuss reality. As I see it, there has to be some legal acknowledgement by insurers that they are selling high priced vehicle insurance policies without telling their policyholders that their new vehicles may be fitted with aftermarket parts that affect their new warranties.

He added, "Consumers are smart once they have the facts and I don't think they'll be happy to learn that insurers are forcing repairers to install crucial non-factory parts on new cars."

Steffen noted that key support for the bill came from Rosemary Shahan, executive director of Consumers for Auto Reliability and Safety, law enforcement, the California Autobody Association and the California Motor Car Dealers Association.

Eileen Sottile, vice president of government relations for LKQ-Keystone, and co-chair of the ABPA Legislative & Regulatory Committee, addressed the issue.

She said that a grassroots lobbying effort on behalf of the independent aftermarket was organized for the Senate hearing and expects a more concentrated attack on the legislation when it reaches the California house for hearings. "I'd like to thank everyone for their letters and calls to the Capital."

She disputed the positions taken by the proponents of the bill, stating it was neither in the consumer's interests or the interests of even body shops to throttle competition and mandate a monopoly on parts replacement by the OEs.

Sottile pointed out that the Senator and the backers of the bill might have done better to understand the Magnuson-Moss Warranty Act of 1975.

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Says Eileen, "They're really reaching here, it is such a rare occasion when a part sold from the aftermarket would impact other systems as she suggested, They are really misleading the members of the committee and are looking for a solution to a problem that doesn't exist.

Then, in the rare instance where there might be a problem, the aftermarket addresses the issue and reimburses the shop or consumer. Sure, the dealer usually states that because of the aftermarket parts the warranty is void, without even attempting to determine whether the aftermarket part caused the problem.

"This is illegal. Vehicle manufacturers are not allowed to void the vehicle warranty just because aftermarket parts are on the vehicle."

Sottile adds, "To better understand this problem it is best to know the differences between the two types of new car warranties and the two types of emission warranties.

"When a vehicle is purchased new and the owner is protected against the faults that may occur by an expressed warranty - an offer by the manufacturer to assume the responsibility for problems with predetermined parts during a stated period of time. Beyond the expressed warranty, the vehicle manufacturer is often held responsible for further implied warranties."

"These state that a manufactured product should meet certain standards. However, in both cases, the mere presence of aftermarket parts doesn't void the warranty, said Sottile.

She believes that SB 1059 flies against the tenets of the Magnuson-Moss Act and will be found to be illegal. Its passage may be prematurely celebrated, it isn't over yet, she adds.

Meanwhile ABPA Executive Director Stan Rodman, harking back to an idea he first advanced in June of 1986; that's right 22 years ago. Rodman was a proponent of the insurance industry advancing a two-tier policy in which the policyholder would have a choice of purchasing, at a savings, a program of coverage for the use of alternative parts and salvage, as opposed to new OE replacement parts.

While several companies did look at the proposal, none at the time instituted such a policy so it is somewhat ironic that the California Banking, etc., committee would allude to it as an exception in the bill. □