

SB 0402

4 pm 3/20/95
MH

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995



ENROLLED

Committee Substitute For
SENATE BILL NO. 402

(By Senator MAUCHIN, ET AL)



PASSED MARCH 9, 1995
In Effect 90 days FROM Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 402

(SENATORS MANCHIN, WIEDEBUSCH, WAGNER, BAILEY, ANDERSON, SCHOONOVER, WOOTON, HELMICK, DEEM, ROSS, KIMBLE AND WHITLOW, *original sponsors*)

[Passed March 9, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact article six-b, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to the standards for use of replacement parts in crashed car repairs generally; legislative declaration; definitions; prohibiting the use or requirement of aftermarket crash parts on new cars without written consent; notice to the vehicle owner of the intended use of aftermarket parts; not precluding other remedies; violating article is an unfair method of competition or deceptive act or practice; and penalty.

Be it enacted by the Legislature of West Virginia:

That article six-b, chapter forty-six-a of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6B. CONSUMER PROTECTION—AUTOMOTIVE CRASH PARTS.

§46A-6B-1. Legislative declaration.

1 The Legislature hereby finds and declares as a matter
2 of public policy that the purposes of this article are to
3 require disclosure to motor vehicle owners of informa-
4 tion on certain replacement crash parts for repairs to
5 their motor vehicles and to prevent both motor vehicle
6 body shops and insurance companies from requiring the
7 use of aftermarket crash parts for repair unless the
8 motor vehicle owner consents in writing at the time of
9 the repair.

§46A-6B-2. Definitions.

1 As used in this article, the following terms shall have
2 the meaning defined:

3 (a) "Aftermarket crash parts" means crash parts:

4 (1) Manufactured by a person other than the original
5 manufacturer of the motor vehicle to be repaired; and

6 (2) For which the original manufacturer of the motor
7 vehicle has not authorized the use of its name or trade-
8 mark by the manufacturer of the crash parts;

9 (b) "Code" means the code of West Virginia, one
10 thousand nine hundred thirty-one, as amended;

11 (c) "Crash parts" means exterior or interior sheet metal
12 or fiberglass panels and parts that form the superstruc-
13 ture or body of a motor vehicle, including, but not
14 limited to, fenders, bumpers, quarter panels, door panels,
15 hoods, grills, fire walls, permanent roofs, wheel wells
16 and front and rear lamp display panels;

17 (d) "Genuine crash parts" means crash parts:

18 (1) Manufactured by or for the original manufacturer
19 of the motor vehicle to be repaired; and

20 (2) That are authorized to carry the name or trademark
21 of the original manufacturer of the motor vehicle;

22 (e) "Motor vehicle" has the meaning stated in section

23 one, article one, chapter seventeen-a of this code; and

24 (f) "Motor vehicle body shop" means any person or
25 business establishment that removes, replaces, recondi-
26 tions or repairs sheet metal or fiberglass motor vehicle
27 crash parts.

§46A-6B-3. Genuine and aftermarket crash parts.

1 For all motor vehicles requiring repair by motor
2 vehicle body shops in the year of their manufacture or in
3 the two succeeding years thereafter, motor vehicle body
4 shops must use genuine crash parts sufficient to main-
5 tain the manufacturer's warranty for fit, finish, struc-
6 tural integrity, corrosion resistance, dent resistance and
7 crash performance unless the motor vehicle owner
8 consents in writing at the time of the repair to the use of
9 aftermarket crash parts. No insurance company may
10 require the use of aftermarket crash parts when negoti-
11 ating repairs of the motor vehicle with any repairer for
12 a period of three years, the year the motor vehicle was
13 manufactured and the two succeeding years thereafter,
14 unless the motor vehicle owner consents in writing at the
15 time of the repair to the use of aftermarket crash parts.

**§46A-6B-4. Notices and written statements to be provided to
vehicle owner.**

1 (a) Effective the first day of July, one thousand nine
2 hundred ninety-five, before beginning repair work on
3 crash parts, a motor vehicle body shop shall:

4 (1) Provide a list to the vehicle owner of the replace-
5 ment crash parts that the body shop intends to use in
6 making repairs;

7 (2) Specify whether the replacement parts are genuine
8 crash parts; and

9 (3) Identify the manufacturer of the parts if the re-
10 placement parts are aftermarket crash parts.

11 (b) If the replacement crash parts to be used by the

12 body shop in the repair work are aftermarket crash
13 parts, the body shop shall include with its estimate the
14 following written statement: "THIS ESTIMATE HAS
15 BEEN PREPARED BASED ON THE USE OF AFTER-
16 MARKET CRASH PARTS THAT ARE NOT MANUFAC-
17 TURED BY THE ORIGINAL MANUFACTURER OF
18 THE VEHICLE OR BY A MANUFACTURER AUTHO-
19 RIZED BY THE ORIGINAL MANUFACTURER TO USE
20 ITS NAME OR TRADEMARK. THE USE OF AN
21 AFTERMARKET CRASH PART MAY INVALIDATE
22 ANY REMAINING WARRANTIES OF THE ORIGINAL
23 MANUFACTURER ON THAT CRASH PART."

24 (c) The notices and statements required under this
25 section shall be made in writing in a clear and conspicu-
26 ous manner on a separate piece of paper in ten-point
27 capital type.

28 (d) This section may not be construed to replace or
29 alter any provision under article six or any other provi-
30 sion of this chapter.

§46A-6B-5. Other remedies available.

1 This article does not:

2 (a) Prohibit a person from filing an action for damages
3 against a body shop; or

4 (b) Require a person first to exhaust any administrative
5 remedy he may have.

**§46A-6B-6. Violation of article an unfair method of competi-
tion or deceptive act or practice; penalty.**

1 A violation of any provision of this article is an unfair
2 or deceptive act or practice within the meaning of
3 section one hundred two, article six of this chapter and
4 is subject to the enforcement and penalty provisions
5 contained in this chapter.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Randy Schoonover
.....
Chairman Senate Committee

Ernest E. Moore
.....
Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Carroll Adams
.....
Clerk of the Senate

Donald L. Kepp
.....
Clerk of the House of Delegates

Earl Ray Tomblin
.....
President of the Senate

Earl K. Clemen
.....
Speaker House of Delegates

The within *is approved* this the *17th*.....

day of *March*....., 1995.

Gaston Caperton
.....
Governor

PRESENTED TO THE

GOVERNOR

Date 3/16/45

Time 10:38am