

2015 Regular Session

HOUSE BILL NO. 337

BY REPRESENTATIVE CROMER

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/AUTOMOBILE: Provides for the prohibition of the use of nonoriginal equipment manufacturer aftermarket parts at the direction of an insurer when such parts affect the safe operation of the vehicle or otherwise endanger the health, safety and welfare of the public

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 insurance unfair trade
4 practices in the use of nonoriginal equipment manufacturer (non-OEM) aftermarket
5 parts to prohibit the use of non-OEM aftermarket parts that affect the safe operation
6 of a motor vehicle; to provide that an insurer may not specify the use of non-OEM
7 aftermarket parts in the repair of a claimant's vehicle unless the claimant is notified
8 in writing prior to the repair; to require that an insurer notify a claimant under certain
9 circumstances; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

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

14 CHAPTER 41. INSURER DIRECTED USE OF AFTERMARKET ~~CRASH~~ PARTS

15 §2421. Purpose

16 The purpose of this Chapter is to regulate the use of aftermarket ~~crash~~ parts
17 by requiring disclosure when any use is proposed of an aftermarket, nonoriginal
18 equipment manufacturer's ~~crash~~ part, ~~and~~ by requiring that the manufacturers of such

1 aftermarket ~~crash~~ parts be identified, and by prohibiting the use of such aftermarket
2 parts when they affect the safe operation of the vehicle or otherwise endanger the
3 health, safety, and welfare of the occupants or the public.

4 §2422. Definitions

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

8 B. "Installer" means an individual who actually does the work of replacing
9 or repairing parts of a motor vehicle.

10 C. "Insurer" means an insurance company and any person authorized to
11 represent the insurer with respect to a claim.

12 D. "Nonoriginal equipment manufacturer (non-OEM) aftermarket ~~crash~~ part"
13 means aftermarket ~~crash~~ parts not made for or by the manufacturer of the motor
14 vehicle.

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

18 §2423. Identification

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

23 §2424. Disclosure; prohibition

24 A. No insurer shall specify the use of non-OEM aftermarket ~~crash~~ parts in
25 the repair of ~~an insured's~~ a claimant's motor vehicle, nor shall a repair facility or
26 installer use non-OEM aftermarket parts to repair a vehicle, unless the ~~insured~~
27 claimant is so advised in writing in advance of the repairs being undertaken.

28 B. In all instances where non-OEM aftermarket ~~crash~~ parts are intended for
29 use by an insurer:

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

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

8 C. Subsections A and B of this Section notwithstanding, no insurer shall
9 specify the use of non-OEM aftermarket parts in the repair of a claimant's motor
10 vehicle nor shall a repair facility or installer use non-OEM aftermarket parts to repair
11 a vehicle where the part to be repaired or replaced affects the safe operation of the
12 vehicle or otherwise endangers the health, safety, and welfare of the public.

13 D. In the event that non-OEM aftermarket parts are the only parts
14 commercially available, the insurer shall provide the claimant the disclosure in
15 Subsection B of this Section to which shall be added or attached in the same size
16 type: "The parts necessary for the repair of your vehicle relate to its safe operation
17 and the protection of the occupants or public. The parts are not commercially
18 available from the original manufacturer."

19 §2425. Enforcement

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

24 Section 2. This Act shall become effective on January 1, 2016.

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 337 Original

2015 Regular Session

Cromer

Abstract: Provides for the prohibition of the use of non-OEM aftermarket parts at the direction of an insurer when such parts affect the safe operation of the vehicle or otherwise endanger the health, safety, and welfare of the public.

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 part" as a replacement for any part which generally constitutes a motor vehicle.

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 in writing.

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

Proposed law prohibits the use of non-OEM aftermarket parts in the repair of a claimant's motor vehicle and prohibits a repair facility or installer from using non-OEM aftermarket parts to repair a vehicle when the part to be repaired or replaced affects the safe operation of the vehicle or otherwise endangers the health, safety, and welfare of the public, unless non-OEM parts are the only parts commercially available.

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