ASSEMBLY BILL NO. 173—ASSEMBLYMEN CARRILLO;
DURAN, FLORES AND MARTINEZ (BY REQUEST)

FEBRUARY 18, 2019

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions relating to the repair of motor vehicles. (BDR 57-835)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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EXPLANATION – Matter in bolded italics is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to the repair of motor vehicles; prohibiting the use of aftermarket parts to repair certain damaged motor vehicles; requiring body shops and garages to provide written disclosures about and obtain written consent for the use of aftermarket parts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires insurers to make certain disclosures to the insured owner concerning damage repairs to his or her motor vehicle. Existing law further makes it an unfair practice for an insurer to fail to provide the required disclosures or refuse to authorize repairs in accordance with manufacturer specifications or repair industry standards. In addition to rights and remedies available to the Commissioner of Insurance, an insurer is liable to its insured for any damages sustained by the insured as a result of the commission of an unfair practice. (NRS 686A.310) Section 2 of this bill prohibits an insurer from requiring the use of aftermarket parts for the repair of physical damage to a motor vehicle that is less than 60 months old unless the insurer has written consent from the owner of the motor vehicle. Section 2 also requires the insurer to provide a written notice to the owner of a motor vehicle that is 60 or more months old of the insurer’s intent to require the use of aftermarket parts to repair the motor vehicle. Section 1 of this bill makes the failure to comply with section 2 an unfair practice in settling claims, which may be punished by administrative fines and suspension or revocation of a person’s applicable license. (NRS 686A.187) Section 3 of this bill requires that body shops and garages provide a written statement to an owner of a motor vehicle providing certain information about each aftermarket part used in a repair, and obtain the written consent of the owner to use the aftermarket part.
THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. NRS 686A.310 is hereby amended to read as
follows:

686A.310 1. Engaging in any of the following activities is
considered to be an unfair practice:

(a) Misrepresenting to insureds or claimants pertinent facts or
insurance policy provisions relating to any coverage at issue.
(b) Failing to acknowledge and act reasonably promptly upon
communications with respect to claims arising under insurance
policies.
(c) Failing to adopt and implement reasonable standards for the
prompt investigation and processing of claims arising under
insurance policies.
(d) Failing to affirm or deny coverage of claims within a
reasonable time after proof of loss requirements have been
completed and submitted by the insured.
(e) Failing to effectuate prompt, fair and equitable settlements of
claims in which liability of the insurer has become reasonably clear.
(f) Compelling insureds to institute litigation to recover amounts
due under an insurance policy by offering substantially less than the
amounts ultimately recovered in actions brought by such insureds,
when the insureds have made claims for amounts reasonably similar
to the amounts ultimately recovered.
(g) Attempting to settle a claim by an insured for less than the
amount to which a reasonable person would have believed he or she
was entitled by reference to written or printed advertising material
accompanying or made part of an application.
(h) Attempting to settle claims on the basis of an application
which was altered without notice to, or knowledge or consent of, the
insured, or the representative, agent or broker of the insured.
(i) Failing, upon payment of a claim, to inform insureds or
beneficiaries of the coverage under which payment is made.
(j) Making known to insureds or claimants a practice of the
insurer of appealing from arbitration awards in favor of insureds or
claimants for the purpose of compelling them to accept settlements
or compromises less than the amount awarded in arbitration.
(k) Delaying the investigation or payment of claims by requiring
an insured or a claimant, or the physician of either, to submit a
preliminary claim report, and then requiring the subsequent
submission of formal proof of loss forms, both of which
submissions contain substantially the same information.
(l) Failing to settle claims promptly, where liability has become
reasonably clear, under one portion of the insurance policy coverage
in order to influence settlements under other portions of the
insurance policy coverage.

(m) Failing to comply with the provisions of NRS 687B.310 to
687B.390, inclusive, or 687B.410 or section 2 of this act.

(n) Failing to provide promptly to an insured a reasonable
explanation of the basis in the insurance policy, with respect to the
facts of the insured’s claim and the applicable law, for the denial of
the claim or for an offer to settle or compromise the claim.

(o) Advising an insured or claimant not to seek legal counsel.

(p) Misleading an insured or claimant concerning any applicable
statute of limitations.

2. In addition to any rights or remedies available to the
Commissioner, an insurer is liable to its insured for any damages
sustained by the insured as a result of the commission of any act set
forth in subsection 1 as an unfair practice.

 Sec. 2. Chapter 690B of NRS is hereby amended by adding
there to a new section to read as follows:

1. An insurer shall not require a body shop or garage to use
aftermarket parts to repair physical damage to a motor vehicle that
was manufactured less than 60 months before the date of the
damage unless the insurer has obtained written consent from the
owner of the motor vehicle to install aftermarket parts.

2. If an insurer intends to require the use of aftermarket parts
to repair physical damage to a motor vehicle that is not described
in subsection 1, the insurer shall notify the owner of the motor
vehicle in writing.

3. If a motor vehicle was manufactured less than 60 months
before the date of the damage, the insurer shall provide written
notice to the owner of the motor vehicle of the appraisal of the
physical damage written on behalf of the insurer and the estimate
prepared by the body shop or garage. The written notice must
indicate that, with regard to damage which is the subject of the
claim, the owner may require the insurer to provide for the repair
of each damaged part of the motor vehicle with either:

(a) An original equipment manufacturer part; or

(b) An aftermarket part.

4. An insurer shall not require any body shop or garage to
repair a motor vehicle in a manner which is contrary to the
recommendations of the manufacturer of the motor vehicle.

5. As used in this section:

(a) “Aftermarket part” means a replacement part for a motor
vehicle that is not an original equipment manufacturer part.

(b) “Body shop” has the meaning ascribed to it in
NRS 487.532.

(c) “Garage” has the meaning ascribed to it in NRS 487.540.
(d) “Original equipment manufacturer part” means a replacement part for a motor vehicle that is manufactured by or for the manufacturer of the motor vehicle to be repaired.

Sec. 3. NRS 487.688 is hereby amended to read as follows:

487.688 1. If a body shop or garage performs repairs on a motor vehicle, the body shop or garage shall perform the repairs in accordance with any specifications of the manufacturer of the motor vehicle and the written estimate or statement of the cost of the repairs that is most recently agreed upon by the body shop or garage and the person authorizing repairs.

2. A body shop or garage shall provide a written statement to the owner of the motor vehicle identifying each aftermarket part intended to be used in a repair and its origin, informing the owner in writing that any warranties applicable to the aftermarket part are provided by the manufacturer of the part and not the manufacturer of the motor vehicle, and obtain the written consent of the owner to use the aftermarket part.

3. As used in this section, “aftermarket part” has the meaning ascribed to it in section 2 of this act.

Sec. 4. This act becomes effective upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act, and on January 1, 2020 for all other purposes.