

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **Senate Bill 544**

BY SENATORS MAYNARD, STOLLINGS, SMITH, CLINE,

PREZIOSO, FACEMIRE, BOSO AND PALUMBO

[Introduced March 8, 2017; Referred  
to the Committee on the Judiciary]

1 A BILL to amend and reenact §46A-6B-3 and §46A-6B-4 of the Code of West Virginia, 1931, as  
 2 amended, all relating to the use of aftermarket crash parts by a motor vehicle repair shop;  
 3 requiring a warranty equal to or better than the remainder of the original manufacturer's  
 4 warranty; requiring specification of genuine crash parts be made by the insurer; requiring  
 5 documentation of aftermarket crash parts be made available to consumer by a repair shop;  
 6 permitting a right of recovery by the insurer from the aftermarket crash parts distributor;  
 7 and changing the notice statement to consumer required to be provided by motor vehicle  
 8 repair shop using aftermarket crash parts by stating that the parts are warranted by the  
 9 manufacturer or distributor of the parts instead of the vehicle manufacturer.

*Be it enacted by the Legislature of West Virginia:*

1 That §46A-6B-3 and §46A-6B-4 of the Code of West Virginia, 1931, as amended, be  
 2 amended and reenacted, all to read as follows:

**ARTICLE 6B. CONSUMER PROTECTION--AUTOMOTIVE CRASH PARTS.**

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

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

10 (a) Aftermarket crash parts have a warranty equal to or greater than the remainder of the  
 11 original manufacture's part warranty. If the manufacturer or distributor of those parts fails to honor  
 12 its warranty, the insurer shall specify the use of genuine crash parts at no additional cost.

13 (b) If the aftermarket part specified by the insurer does not result in the vehicle being  
 14 repaired to its condition prior to the loss, the insurer shall specify the use of a genuine crash part.

15 (c) The motor vehicle body shop shall provide documentation of aftermarket parts that do  
 16 not meet the requirements of this section as reasonably requested by the insurer. The insurer is  
 17 permitted to exercise all available rights of recovery against the aftermarket parts distributor.

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

1 (a) Effective July 1, 1995, before beginning repair work on crash parts, a motor vehicle  
 2 body shop shall:

3 (1) Provide a list to the vehicle owner of the replacement crash parts that the body shop  
 4 intends to use in making repairs;

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

6 (3) Identify the manufacturer of the parts if the replacements parts are aftermarket crash  
 7 parts.

8 (b) If the replacement crash parts to be used by the body shop in the repair work are  
 9 aftermarket crash parts, the body shop shall include with its estimate the following written  
 10 statement: ~~"THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF~~  
 11 ~~AFTERMARKET CRASH PARTS THAT ARE NOT MANUFACTURED BY THE ORIGINAL~~  
 12 ~~MANUFACTURER OF THE VEHICLE OR BY A MANUFACTURER AUTHORIZED BY THE~~  
 13 ~~ORIGINAL MANUFACTURER TO USE ITS NAME OR TRADEMARK. THE USE OF AN~~  
 14 ~~AFTERMARKET CRASH PART MAY INVALIDATE ANY REMAINING WARRANTIES OF THE~~  
 15 ~~ORIGINAL MANUFACTURER ON THAT CRASH PART."~~ "THIS ESTIMATE HAS BEEN  
 16 PREPARED BASED ON THE USE OF AFTERMARKET CRASH PARTS SUPPLIED BY A  
 17 SOURCE OTHER THAN THE MANUFACTURER OF YOUR MOTOR VEHICLE. THE  
 18 AFTERMARKET CRASH PARTS USED IN THE PREPARATION OF THIS ESTIMATE ARE  
 19 WARRANTED BY THE MANUFACTURER OR DISTRIBUTOR OF THESE PARTS INSTEAD OF  
 20 THE MANUFACTURER OF YOUR VEHICLE."

21 (c) The notices and statements required under this section shall be made in writing in a  
22 clear and conspicuous manner on a separate piece of paper in ten-point capital type.

23 (d) This section may not be construed to replace or alter any provision under article six or  
24 any other provision of this chapter.

NOTE: This purpose of this bill is to require a warranty equal to or better than the remainder of the original manufacturer's warranty. The bill requires specification of genuine crash parts be made by the insurer. The bill requires documentation of aftermarket crash parts be made available to consumer by a repair shop. The bill permits a right of recovery by the insurer from the aftermarket crash parts distributor. The bill changes the notice statement to consumer required to be provided by motor vehicle repair shop using aftermarket crash parts by stating that the parts are warranted by the manufacturer or distributor of the parts instead of the vehicle manufacturer.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.