

1991 Assembly Bill 760

Date of enactment: **April 14, 1992**
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1991 WISCONSIN ACT 176

AN ACT *to create* 100.44 and 632.38 of the statutes, **relating to:** notice of replacement parts used in the repair of motor vehicles, labeling of certain motor vehicle replacement parts and providing a penalty.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 100.44 of the statutes is created to read:

100.44 Identification and notice of replacement part manufacturer. (1) DEFINITIONS. In this section:

(a) "Motor vehicle" means any motor-driven vehicle required to be registered under ch. 341 or exempt from registration under s. 341.05 (2), including a demonstrator or executive vehicle not titled or titled by a manufacturer or a motor vehicle dealer. "Motor vehicle" does not mean a moped, semitrailer or trailer designed for use in combination with a truck or truck tractor.

(b) "Replacement part" means a replacement for any of the nonmechanical sheet metal or plastic parts that generally constitute the exterior of a motor vehicle, including inner and outer panels.

(2) IDENTIFICATION ON REPLACEMENT PART. A replacement part that is not made by or for a person who manufactures motor vehicles shall have the logo or name of the manufacturer of the replacement part affixed to or inscribed on the replacement part. The logo or name shall be placed on the replacement part so that to the extent practicable it is visible after installation.

(3) SALE OF UNLABELED REPLACEMENT PARTS. On or after the effective date of this subsection [revisor inserts date], no person may sell in this state or deliver for sale in this state a replacement part that is not made by or for a person who manufactures motor vehicles unless the replacement part identifies its manufacturer as required under sub. (2).

(4) PENALTY. Any person who violates sub. (3) may be required to forfeit not more than \$500 for each violation. Each day of violation constitutes a separate offense.

(5) ENFORCEMENT. For any violation of sub. (3), the department may, on behalf of the state, bring an action in any court of competent jurisdiction for the recovery of forfeitures authorized under sub. (4), for temporary or permanent injunctive relief and for any other appropriate relief. The court may make any order or judgment that is necessary to restore to any person any pecuniary loss suffered because of a violation of sub. (3) if proof of the loss is shown to the satisfaction of the court.

SECTION 2. 632.38 of the statutes is created to read:

632.38 Nonoriginal manufacturer replacement parts. (1) DEFINITIONS. In this section:

(a) "Insured" means the person who owns the motor vehicle that is subject to repair or the person seeking the repair on behalf of the owner.

(b) "Insurer's representative" means a person, excluding the person repairing the motor vehicle, who has agreed in writing to represent an insurer with respect to a claim.

(c) "Motor vehicle" means any motor-driven vehicle required to be registered under ch. 341 or exempt from registration under s. 341.05 (2), including a demonstrator or executive vehicle not titled or titled by a manufacturer or a motor vehicle dealer. "Motor vehicle" does not mean a moped, semitrailer or trailer designed for use in combination with a truck or truck tractor.

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(d) “Nonoriginal manufacturer replacement part” means a replacement part that is not made by or for the manufacturer of an insured’s motor vehicle.

(e) “Replacement part” means a replacement for any of the nonmechanical sheet metal or plastic parts that generally constitute the exterior of a motor vehicle, including inner and outer panels.

(2) NOTICE OF INTENDED USE. An insurer or the insurer’s representative may not require directly or indirectly the use of a nonoriginal manufacturer replacement part in the repair of an insured’s motor vehicle, unless the insurer or the insurer’s representative provides to the insured the notice described in this subsection in the manner required in sub. (3) or (4). The notice shall be in writing and shall include all of the following information:

(a) A clear identification of each nonoriginal manufacturer replacement part that is intended for use in the repair of the insured’s motor vehicle.

(b) The following statement in not smaller than 10–point type: “This estimate has been prepared based on the use of one or more replacement parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of the replacement parts rather than by the manufacturer of your motor vehicle.”

(3) DELIVERY OF NOTICE. (a) The notice described in sub. (2) shall appear on or be attached to the estimate of the cost of repairing the insured’s motor vehicle if the estimate is based on the use of one or more nonoriginal manufacturer replacement parts and is prepared by the insurer or the insurer’s representative. The insurer or the insurer’s representative shall deliver the estimate and notice to the insured before the motor vehicle is repaired.

(b) If the insurer or the insurer’s representative directs the insured to obtain one or more estimates of the

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cost of repairing the insured’s motor vehicle and the estimate approved by the insurer or the insurer’s representative clearly identifies one or more nonoriginal manufacturer replacement parts to be used in the repair, the insurer or the insurer’s representative shall assure delivery of the notice described in sub. (2) to the insured before the motor vehicle is repaired.

(c) The insurer or the insurer’s representative may not require the person repairing the motor vehicle to give the notice described in sub. (2).

(d) Notwithstanding par. (b), if an insured authorizes repairs to begin prior to the approval by the insurer or the insurer’s representative of an estimate that clearly identifies one or more nonoriginal manufacturer replacement parts to be used in the repair, the insurer or the insurer’s representative shall send the written notice described in sub. (2) by mail to the insured’s last–known address no later than 3 working days after the insurer or the insurer’s representative receives the estimate.

(4) NOTICE BY TELEPHONE. Notwithstanding sub. (3), notice of the intention to use nonoriginal manufacturer replacement parts in the repair of the insured’s motor vehicle may be given by the insurer or the insurer’s representative by telephone. If such notice is given, the insurer or insurer’s representative shall send the written notice described in sub. (2) by mail to the insured’s last–known address no later than 3 working days after the telephone contact.

SECTION 3. Initial applicability. (1) MOTOR VEHICLE INSURANCE POLICIES. The treatment of section 632.38 of the statutes first applies to claims under motor vehicle insurance policies issued or renewed on the effective date of this subsection.

SECTION 4. Effective date. This act takes effect on the first day of the 9th month beginning after publication.