

1990

Recent Legislative Activity

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Automobile Repair Parts

Several states have enacted laws to regulate the use of nonoriginal equipment manufacturers' aftermarket automobile crash parts. An aftermarket crash part is a nonmechanical sheet metal or plastic replacement part, which generally includes inner and outer panels. A nonoriginal equipment manufacturer ("non-OEM") aftermarket crash part is a replacement part not made for or by the motor vehicle manufacturer.

Idaho's new law requires that an auto repair facility disclose in writing to the car owner whenever it uses a nonoriginal equipment manufacturer's aftermarket crash part. The repair facility's written estimate must clearly identify each non-OEM part by logo or manufacturer's name, and the facility must install the part so that, whenever practicable, the logo or manufacturer's name is visible. **1990 Idaho Sess. Laws 156.**

South Dakota's Crash Part Labeling Act requires that each non-OEM aftermarket crash part have the logo or name of the manufacturer on the part. No insurer may require that a non-OEM aftermarket crash part be used in making a repair. In addition, no installer may use a non-OEM part unless the consumer approves after written notification. The notification must clearly identify the part to be used and explain that the cost estimate is based on using crash parts supplied by a source other than the manufacturer of the vehicle. **1990 S.D. Laws 142.**

Iowa's Motor Vehicle Service Trade Practices Act requires a repair facility to disclose to the consumer if the facility is using a non-OEM aftermarket crash part. After January 1, 1991, an aftermarket crash part must display the logo or name of the manufacturer and, whenever possible, be installed so

that the logo or name of the manufacturer is visible.

The new law also requires that all authorization forms conspicuously notify consumers that they have the right to a written or oral estimate if the expected cost of the repairs or service exceeds fifty dollars. The forms also must notify the consumer that the bill will not exceed the estimate by more than ten per cent, unless the consumer authorizes the greater amount before the repairs are finished. **1990 Iowa Legis. Serv. 81 (West).**

Automobile Repairs

New York enacted a law requiring new car dealers to disclose certain repairs made to a new car after the dealer receives the car from the manufacturer. The dealer must notify the buyer in writing of any repairs with a retail value in excess of five percent of the manufacturer's or distributor's suggested retail price, whichever is less. The valuation of the repairs must include the retail cost of the parts and labor. The disclosure is not required, however, if stolen or damaged parts are replaced with the identical part. Upon receiving the notice, the consumer is entitled to cancel the purchase and receive a full refund. **1990 N.Y. Laws 12.**

Organic Food Labeling

Idaho enacted a new law regulating the use of the word "organic" in marketing and labeling foods. The law sets up a procedure for certifying organically grown foods. An organically grown food is any food product that is produced without the use of synthetically compounded fertilizers, pesticides, or growth regulators, for a period exceeding thirty-six months prior to harvest. The law does not cover

livestock, poultry, dairy and aquaculture products. Violators may be penalized up to \$3,000 for each time a product is misrepresented as organically grown. In addition, the Idaho Department of Agriculture may require that persons or producers of certified "organic" food pay a fee to reimburse the Department for the costs of the certification program. **1990 Idaho Sess. Laws 145.**

New Mexico's Organic Commodity Act establishes an organic commodity commission to administer an organic food certification program. The commission may establish standards for labeling food as organically produced. The commission may publish an organic certification handbook to provide to consumers reliable information about organic products. The handbook would set forth the certification standards for producing, handling, processing, labeling, and distributing organically produced food. **1990 N.M. Laws 122.**

Virginia enacted the Organic Food Act. The law allows for the terms "organic" or "organically grown" to be used only in labeling or representing a food or agricultural product under the following conditions: (1) raw agricultural products sold in their unpeeled natural form; and (2) produce not containing non-organic additives. **1990 Va. Acts. 347.**

Automated Telephone Solicitors

Maine enacted a law to protect consumer privacy by regulating automated telephone solicitors. An automated telephone solicitor selects, dials, and/or calls telephone numbers and plays a recorded message. Automated telephone solicitors only may be used between 9:00 a.m. and 5:00 p.m., and the device must disconnect within five sec-

onds after the recipient hangs up. Within the first minute of the call, the solicitor must identify the name, address, and telephone number of the organization for which the call is being placed.

A person may not use an automated telephone solicitors to call any emergency telephone number in the state, any paging or cellular phone within the state, or any unlisted, unpublished, toll-free long distance or direct inward dial telephone number within the state. A person intending to do business using an automated telephone solicitor in Maine must register with the Maine Secretary of State. **1990 Me. Laws 775.**

Telefacsimile Messages

Washington enacted a new Telefacsimile Messages law that prohibits sending unsolicited telefacsimile messages that promote goods or services for purchase by the message recipient. The receiver may sue the person who sends him or her such an unsolicited facsimile and recover up to \$500 or actual damages, whichever is greater. **1990 Wash. Legis. Serv. 221.**

Credit Service

Indiana enacted the Credit Services Organizations Act to govern credit services organizations. A credit service organization sells, provides, performs, or represents that it can or will sell, provide, or perform any of the following services: (1) improving a buyer's credit record, credit history or credit rating; (2) obtaining an extension of credit for a buyer or providing credit advice; or (3) assisting a buyer to obtain credit or improve his or her credit rating.

The law requires that credit service organizations provide to buyers a written statement that contains a complete and detailed description of the services to be performed by the credit organization and the total cost of the services. The notice must inform the

consumer of his or her right to cancel the contract within three business days after the contract is signed.

The credit service organization must obtain a \$10,000 surety bond or an irrevocable letter of credit before doing business in Indiana. If a person is injured by a credit service organization, the person may (1) recover the greater of two times the amount of actual damage or \$1,000 and attorney's fees; and (2) recover an amount equal to the actual damages from the bond or irrevocable letter of credit holder. **1990 Ind. Acts 142.**

Seafood Inspections

The Agricultural Committees of both the Senate and House of Representatives have approved a bill that would mandate inspection of seafood and seafood products. Unlike beef and poultry, seafood inspections are mostly unregulated and voluntary. Because seafood processing frequently occurs at sea on the fishing boats, any procedures for seafood inspection would be more complicated and cumbersome than other food inspections.

Under the **Federal Inspection for Seafood Healthfulness Act of 1989** (H.R. 3508; S. 1245), the United States Department of Agriculture ("USDA") would be empowered to oversee seafood inspections. Seafood processors would be required to have the USDA pre-approve any labels or packaging to avoid false or misleading statements. The processors also would be required to keep records of where they caught the seafood, where the seafood is to be sent, and any other relevant information that the USDA would require. The USDA would be empowered to inspect processing locations, whether on land or at sea, at any time, and sample, contain, and begin condemnation proceedings if contaminated seafood is found. The bill also would require random testing of imported seafood. **H.R. 3508, 101st Cong. 1st Sess. (1989); S. 1245 101st Cong. 1st Sess. (1989).**

Uniform Nutritional Labeling

The House of Representatives has approved the **Nutritional Labeling and Education Act of 1989**, which would require nutritional labeling on almost all processed food (H.R. 3562). Currently, the Food and Drug Administration ("FDA") requires labeling only for foods that contain added nutrients or about which a nutritional claim is made.

The bill would require that all food intended for human consumption have a label that indicates the amount of saturated and unsaturated fat, cholesterol, sodium, calories, fiber, carbohydrates, sugar, and protein the food contains. The bill provides an exemption for raw food, food prepared at a restaurant, and food processed at a grocery store, but only if the same information is provided in another manner approved by the FDA.

The bill also would regulate health and nutrition claims on packages of processed foods. The FDA would be empowered to define such packaging terms as "light," "lean," and "low." A packager would be allowed to make a health claim about a product's ingredients only if the FDA first finds that the claim is valid.

The Senate currently is considering a similar bill (S. 1425). **H.R. 3562, 101st Cong. 1st Sess. (1989); S. 1425, 101st Cong. 1st Sess. (1989).**

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