

BUREAU OF AUTOMOTIVE REPAIR
PROPOSED REGULATION

ELECTRONIC DOCUMENTS AND AUTHORIZATIONS

Legend: Deleted text is indicated by ~~striketrough~~
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Omitted text is indicated by (* * * *)

(1) Amend Section 3303, Article 1, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:

Article 1. General Provisions

§ 3303. Definitions

~~(j) "Authorization" means consent. Authorization shall consist of the customer's signature on the work order, taken before repair work begins. Authorization shall be valid without the customer's signature only when oral or electronic authorization is documented in accordance with applicable sections of these regulations.~~

Note: Authority cited: Sections 9882, 9884.9, 9884.19 and 9887.1, Business and Professions Code. Reference: Sections 9880.1(a), (e) and (f), 9882, 9884.7(a)(2), 9884.9, 9889.50, 9889.51 and 9889.52, Business and Professions Code.

(2) Amend Sections 3352-3359, Article 7, Chapter 1, Division 33, Title 16, California Code of Regulations, as follows:

Article 7. Disclosure Requirements for Automotive Repair Dealers

§ 3352. Definitions.

In this article, unless the context otherwise requires:

(a) ~~"Written eEstimate"~~ means a written or electronic document provided to the customer that contains an written itemized estimated price for labor and parts for a specific job.

(b) "Work order" means a written or electronic document that contains the estimate and memorializes the customer's authorization for a specific job.

(c) "Invoice" means a written or electronic document ~~given~~ provided to the customer that meets the invoice requirements of Business and Professions Code Section 9884.8 and California Code of Regulations Section 3356.

(d) “Tear down” means the act of disassembling a vehicle or vehicle component for the purpose of preparing an estimate.

(e) “Authorization” means consent to proceed with automotive repairs as defined in Business and Professions Code section 9880.1(e). Customer authorization shall occur before repair work begins and before charges accrue. Authorization shall consist of one of the following:

(1) the customer’s signature on the estimate

(2) oral or electronic authorization documented in accordance with applicable sections of these regulations.

(f) “Signature” means an original handwritten signature, either on a written or printed document or captured through electronic means and executed with the intent to represent an original handwritten signature.

(1) Authorization provided in the form of an electronic signature shall only be used for the purpose intended when provided to the automotive repair dealer.

(2) Any electronic signature executed by the customer shall include an unalterable date indicating when the signature was obtained by the automotive repair dealer.

(g) “Written” means the communication of information in handwriting.

(h) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(i) “Oral” means the verbal communication of information either in person or telephonically.

AUTHORITY:

Note: Authority cited: Section 9882, Business and Professions Code.

Reference: Sections 9884.8, 9884.9, 9889.50 and 9889.52, Business and Professions Code.

§ 3353. ~~Written Estimate Required for Repair or Maintenance; Exceeding Estimate; Authorization Required~~ Estimate/Work Order Requirements; Authorization Required.

No work ~~for compensation~~ shall be commenced and no charges shall accrue without specific authorization from the customer of the estimate. ~~in accordance with~~ The estimate shall meet the following requirements:

(a) Estimate for Parts and Labor. Every automotive repair dealer shall give to each customer a ~~written~~ an estimate containing the estimated price for parts and labor for a specific job prior to obtaining authorization. All parts included in the estimate shall be new unless specifically stated otherwise.

(b) Estimate for Auto Body or Collision Repairs. Every automotive repair dealer, when doing auto body or collision repairs, shall give to each customer ~~a written~~ an estimate containing the estimated price for parts and labor for a specific job. Parts and labor shall be described separately and each part shall be identified, ~~indicating and indicate~~ whether the replacement part is new, used, rebuilt, or reconditioned. The estimate shall also describe replacement crash parts as original equipment manufacturer (OEM) crash parts or non-OEM aftermarket crash parts.

~~(e) Additional Authorization. Except as provided in subsection (f), the dealer shall obtain the customer's authorization before any additional work not estimated is done or parts not estimated are supplied. This authorization shall be in written, oral, or electronic form, and shall describe the additional repairs, parts, labor and the total additional cost.~~

~~(1) If the authorization from the customer for additional repairs, parts, or labor in excess of the written estimated price is obtained orally, the dealer shall also make a notation on the work order and on the invoice of the date, time, name of the person authorizing the additional repairs, and the telephone number called, if any, together with the specification of the additional repairs, parts, labor and the total additional cost.~~

~~(2) If the authorization from the customer for additional repairs, parts, or labor in excess of the written estimated price is obtained by facsimile transmission (fax), the dealer shall also attach to the work order and the invoice, a faxed document that is signed and dated by the customer and shows the date and time of transmission and describes the additional repairs, parts, labor and the total additional cost.~~

~~(3) If the authorization from the customer for additional repairs, parts, or labor in excess of the written estimated price is obtained by electronic mail (e-mail), the dealer shall print and attach to the work order and invoice, the e-mail authorization which shows the date and time of transmission and describes the additional repairs, parts, labor and the total additional cost.~~

~~(4) The additional repairs, parts, labor, total additional cost, and a statement that the additional repairs were authorized either orally, or by fax, or by e-mail shall be recorded on the final invoice pursuant to Section 9884.9 of the Business and Professions Code. All documentation must be retained pursuant to Section 9884.11 of the Business and Professions Code.~~

~~(d)(c) Estimated Price to Tear Down, Inspect, Report and Reassemble. For purposes of this article, to "tear down" shall mean to disassemble, and "teardown" shall mean the act of disassembly. If it is necessary to tear down a vehicle component in order to prepare a written an estimated price for a required repair, the automotive repair dealer shall first give the customer a written an estimated price for the teardown. This price The estimate shall include the cost of reassembly of reassembling the component. The estimated price estimate shall also include the cost of list all parts and necessary labor necessary to replace items such as gaskets, seals and O rings that are normally destroyed by teardown of the component, such as gaskets, seals and O rings. If the act of teardown might prevent the restoration of the component to its~~

~~former the condition in which it was provided to the automotive repair dealer by the customer, the automotive repair dealer shall write include that information on the work order containing teardown estimate before the work order signed by the customer customer authorizes the teardown estimate. If authorized orally or electronically, the authorization shall be documented in accordance with the procedures described in this chapter.~~

The automotive repair dealer shall notify the customer both orally and conspicuously in writing on the teardown estimate the maximum time it will take the automotive repair dealer to reassemble the vehicle or the vehicle component in the event the customer elects not to proceed with the repair or maintenance of the vehicle, ~~and~~ The automotive repair dealer shall reassemble the vehicle or component within that the time period specified in the teardown estimate if the customer elects not to proceed with the repair or maintenance. The maximum time shall be counted from the date of authorization of teardown.

After the teardown has been performed, the automotive repair dealer shall prepare a ~~written estimated price~~ an estimate for labor and parts necessary for the required repair. All parts required for such repair shall be listed on the estimate. The automotive repair dealer shall then obtain the customer's authorization for either repair or reassembly before any further work is done or charges accrue.

~~(e) Revising an Itemized Work Order. If the customer has authorized repairs according to a work order on which parts and labor are itemized, the dealer shall not change the method of repair or parts supplied without the written, oral, or electronic authorization of the customer. The authorization shall be obtained from the customer as provided in subsection (c) and Section 9884.9 of the Business and Professions Code.~~

~~(f) Designation of Person to Authorize Additional Work or Parts. When a customer, pursuant to subdivision (d) of Section 9884.9 of the Business and Professions Code, designates another person to authorize work not estimated or parts not included in the written estimated price given to the customer, all of the following shall apply:~~

~~(1) The designation may be a separate form by itself or may be incorporated into the dealer's work order form described in subsection (b) of Section 3352.~~

~~(2) If a separate form is used for the designation, the form and content of the designation shall be as follows:~~

~~“DESIGNATION OF PERSON TO AUTHORIZE ADDITIONAL WORK OR PARTS~~

~~I hereby designate the individual named below to authorize any additional work not specified or parts not included in the original written estimated price for parts and labor:~~

Name of Designee: _____

Phone Number: _____

Fax Number: _____

E-Mail Address: _____

Name of Customer: _____

Work Order No.: _____

Date: _____

(Customer's Signature)"

(3) If the designation is incorporated into a work order form, it need only separately include the designation statement specified in paragraph (2) of this subsection, and the name, phone number, facsimile number and email address of the designee, and the customer's signature, and the date of signing.

(4) The dealer shall not accept from the customer the designation of any person or entity not eligible to be a designee under subdivision (d) of Section 9884.9 of the Business and Professions Code. The ineligible designees include the automotive repair dealer providing repair services and an insurer involved in a claim that includes the motor vehicle being repaired, and employees and agents and persons acting on behalf of the dealer or insurer.

(5) The designation form shall be completed in duplicate and shall be distributed as follows:

(A) The copy of the completed and signed designation form shall be given to the customer with the customer's copy of the work order as required by paragraph (3) of subdivision (a) of Section 9884.7 of the Business and Professions Code.

(B) The original of the completed and signed designation form shall be attached to the dealer's copy of the work order, if not incorporated therein, and shall be retained pursuant to Section 9884.11 of the Business and Professions Code and Section 3358.

(6) When authorization for additional work or parts not estimated is obtained from a designee, it shall be obtained and recorded in compliance with subsection (c) of this section before any additional work not estimated is done or parts not estimated are supplied.

(g)(d) Unusual Circumstances; Authorization Required.

When the customer is unable to deliver the motor vehicle to the automotive repair dealer during business hours or if the motor vehicle is towed to the automotive repair dealer without the customer during business hours, and the customer has requested the automotive repair dealer to

take possession of the motor vehicle for the purpose of repairing or estimating the cost of repairing the motor vehicle, the automotive repair dealer shall not undertake the ~~diagnosing or repairing~~ repair of any malfunction of the motor vehicle for compensation unless the automotive repair dealer has complied with all of the following conditions:

(1) ~~The automotive repair dealer has prepared a work order stating the written estimated price an estimate~~ for labor and parts, as specified in subsection (a) or (b), necessary to repair the motor vehicle; and

(2) ~~By telephone, fax or e-mail, the customer has been given all of the information on the work order and the customer has approved the work order; and~~ The automotive repair dealer has provided the customer orally or electronically all of the information on the estimate; and

(3) ~~The customer has given oral, written or electronic authorization to the automotive repair dealer to make the repairs and the automotive repair dealer has documented the authorization as provided in this subsection (c) and Section 9884.9 of the Business and Professions Code. The automotive repair dealer has obtained authorization from the customer to make the repairs specified in the estimate and has documented the authorization as provided in this subsection and Section 9884.9 of the Business and Professions Code.~~

(A) The automotive repair dealer shall record the authorization from the customer for the initial estimate by documenting on the work order and on the invoice the date, time, name of the person authorizing the repairs, and the telephone number called, if any, together with the specification of the parts, labor, and total cost.

(B) The automotive repair dealer shall retain all records created to obtain the authorization from the customer for the initial estimate along with the work order and invoice pursuant to section 9884.11 of the Business and Professions Code and section 3358 of this chapter.

(4) ~~Any charge for parts or labor in excess of the original written estimated price must be separately authorized by the customer and documented by the dealer, as provided in subsection (c) and Section 9884.9 of the Business and Professions Code. The automotive repair dealer shall obtain and document separate authorization from the customer for any charge for parts or labor in excess of the original estimate, as provided in Section 3354(a) and Section 9884.9 of the Business and Professions Code.~~

(h) ~~Definitions. As used in this section, “written” shall mean the communication of information in writing, other than by electronic means; “oral” shall mean the oral communication of information either in person or telephonically; “electronic” shall mean the communication of information by facsimile transmission (fax) or electronic mail (e-mail).~~

(e) Sublet disclosure. No automotive repair service that is required to be done will be done by someone other than the dealer or his or her employees without the consent of the customer,

unless the customer cannot reasonably be notified. An automotive repair dealer shall include with the estimate a statement of any automotive repair to be done by someone other than the automotive repair dealer or his or her employees. If requested by the customer, an automotive repair dealer shall disclose and record on the estimate the name and location of the facility at which the sublet repair work will be done.

AUTHORITY:

Note: Authority cited: Sections 9882 and 9884.9, Business and Professions Code. Reference: Sections 9884.8, 9884.9, 9889.50 and 9889.52, Business and Professions Code.

~~§ 3354. Unusual Circumstances; Authorization Required.~~

§ 3354. Additional Authorization

(a) Exceeding Estimate. Except as provided in subsection (c), the automotive repair dealer shall obtain authorization from the customer before any additional work is commenced and any additional charges accrue for labor or parts in excess of the original estimated and authorized price in accordance with the following requirements:

(1) (A) If the customer provides an oral authorization for additional repairs, the automotive repair dealer shall record the authorization by documenting on the work order the date, time, name of the person authorizing the additional repairs, and the telephone number called, if any, together with the specification and cost of the additional parts, labor, and total revised cost.

(B) If the customer provides an electronic authorization for additional repairs, the automotive repair dealer shall record the authorization either by documenting this information directly on the work order or by producing this information on documents that supplement the work order. Documents supplementing the work order include but are not limited to a series of electronic communications between the automotive repair dealer and the customer that relate to the additional authorization.

(2) Any records created to obtain the additional authorization from the customer for the additional repairs estimated shall be retained along with the work order and invoice pursuant to section 9884.11 of the Business and Professions Code and section 3358 of this chapter.

(3) The additional authorization shall be recorded on the final invoice pursuant to section 9884.9 of the Business and Professions Code by:

(A) recording on the final invoice the date and time of the additional authorization, name of the person who authorized the additional repairs, and the telephone number called, if any; the specification and cost of additional repairs, parts and labor; and the total revised cost; or

(B) if consent to the additional repairs is oral, obtaining the customer’s signature or initials on the final invoice acknowledging notice of and consent to the additional repairs, parts, and labor, stated as follows:

“I acknowledge notice and oral approval of an increase in the original estimated price.

(signature or initials)”

(C) if consent to the additional repairs is electronic, obtaining the customer’s signature or initials on the final invoice acknowledging notice of and consent to the additional repairs, parts, and labor, stated as follows:

“I acknowledge notice and electronic approval of an increase in the original estimated price.

(signature or initials)”

(4) The final invoice provided to the customer shall contain a statement indicating whether the additional repairs were authorized orally or electronically. If authorized electronically, the method of electronic authorization used shall also be recorded on the invoice.

(5) All documentation must be retained pursuant to section 9884.11 of the Business and Professions Code and section 3358 of this chapter.

(b) Revising an Itemized Work Order. If the customer has authorized repairs according to a work order on which parts and labor are itemized, the automotive repair dealer shall not change the method of repair or parts supplied without written, oral, or electronic authorization from the customer. The authorization shall be obtained from the customer as provided in subsection (a) and section 9884.9 of the Business and Professions Code.

(c) Designation of Person to Authorize Additional Work or Parts. When a customer, pursuant to subdivision (d) of section 9884.9 of the Business and Professions Code, designates another person to authorize work not estimated or parts not included in the estimate given to the customer, all of the following shall apply:

(1) The designation may be either a separate form or incorporated into the automotive repair dealer’s work order form described in subsection (b) of section 3352 and must include, at a minimum, the following:

(A) On the separate form or section of the work order , the following title: “DESIGNATION OF PERSON TO AUTHORIZE ADDITIONAL WORK OR PARTS.”

(B) The following statement: “I hereby designate the individual named below to authorize any additional work not specified or parts not included in the original estimate for parts and labor.”

(B) The name of the designee

(C) The contact information for the designee

(D) The customer's signature

(E) The date of signing

(F) The work order number

(2) The automotive repair dealer shall not accept from the customer the designation of any person or entity not eligible to be a designee under subdivision (d) of section 9884.9 of the Business and Professions Code. Ineligible designees include the automotive repair dealer providing repair services, an insurer involved in a claim that includes the motor vehicle being repaired, and any employees, agents, and persons acting on behalf of the automotive repair dealer or insurer.

(3) The completed and signed designation form shall be distributed as follows:

(A) A copy of the form shall be given to the customer with the customer's copy of the work order as soon as the customer signs it as required by paragraph (3) of subdivision (a) of section 9884.7 of the Business and Professions Code.

(B) The original shall be retained with the automotive repair dealer's copy of the work order, if not incorporated therein, pursuant to section 9884.11 of the Business and Professions Code and section 3358.

(4) When authorization for additional work or parts not estimated is obtained from a customer's designee, it shall be obtained and recorded in compliance with subsection (a) of this section before any additional work not included in the original estimate is done, parts not estimated are supplied, or costs are accrued to the customer.

(5) An automotive repair dealer may accept authorization for additional work from either the customer or the customer's designee.

Note: Authority cited: Sections 9882 and 9884.9, Business and Professions Code. Reference: Sections 9884.8 and 9884.9, Business and Professions Code.

§ 3355. Replaced Parts ~~That Are Not Returnable~~

~~Those parts and components that are replaced and that are sold on an exchange basis are exempt from the provisions of Section 9884.10 of the Act requiring the return of replaced parts to the customer, provided the customer is informed that said parts are not returnable orally and by written record on the work order and invoice. When a request is made before the work is started, the dealer shall provide a reasonable opportunity to the customer to inspect the part.~~

(a) Upon request of the customer at the time the work order is taken, the automotive repair dealer shall return replaced parts to the customer at the time of completion of the work, pursuant to section 9884.10 of the Business and Professions Code.

(b) Parts that are exempt from this requirement include:

(1) Parts and components that are replaced and sold on an exchange basis; and

(2) Parts that an automotive repair dealer is required to return to the manufacturer or distributor under a warranty arrangement

(A) At the time the work order is taken, the automotive repair dealer shall offer to show, and upon customer's acceptance of such offer shall show, the replacement part, unless no charge is being made for the replacement part.

(c) If a part specified in subsection (b) is replaced, the automotive repair dealer shall inform the customer orally and on both the work order and final invoice that said part is not returnable.

Note: Authority cited: Section 9882, Business and Professions Code.

Reference: Section 9884.10, Business and Professions Code.

§ 3356. Invoice Requirements.

(a) All invoices for service and repair work performed, and parts supplied, as provided for in Section 9884.8 of the Business and Professions Code, shall comply with the following:

(1) The invoice shall show the automotive repair dealer's registration number and the corresponding business name and address as shown in the Bureau's records. If the automotive repair dealer's telephone number is shown, it shall comply with the requirements of subsection (b) of Section 3371 of this chapter.

(2) The invoice shall separately list, describe and identify all of the following:

(A) All service and repair work performed, including all diagnostic and warranty work, and the price for each described service and repair.

(B) Each part supplied, in such a manner that the customer can understand what was purchased, and the price for each described part. The description of each part shall state whether the part was new, used, reconditioned, rebuilt, ~~or~~ an OEM crash part, or a non-OEM aftermarket crash part.

(C) Part kits containing several components may be listed as a single part on the invoice and identified by brand name and corresponding part number or similar designation. Any unused components from the kit shall be offered to the customer.

~~(C)~~(D) The subtotal price for all service and repair work performed.

~~(D)~~(E) The subtotal price for all parts supplied, not including sales tax.

~~(E)~~(F) The applicable sales tax, if any.

(b) If a customer is to be charged for a part, that part shall be specifically listed as an item in the invoice, as provided in subparagraph (B) of paragraph (2) of subsection (a) above. If that item is not listed in the invoice, it shall not be regarded as a part, and a separate charge may not be made for it.

(c) Separate billing in an invoice for items generically noted as shop supplies, miscellaneous parts, or the like, is prohibited.

(d) The automotive repair dealer shall give the customer a legible copy of the invoice and shall retain a legible copy as part of the automotive repair dealer's records pursuant to Section 9884.11 of the Business and Professions Code and Section 3358 of this article.

AUTHORITY:

Note: Authority cited: Sections 137 and 9882, Business and Professions Code. Reference: Sections 9884.8, 9889.50 and 9889.52, Business and Professions Code; and Sections 12000 and 12001, Vehicle Code.

§ ~~3356~~13357. Toxic Waste Disposal Costs.

An automotive repair dealer may charge a customer for costs associated with the handling, management and disposal of toxic wastes or hazardous substances under California or federal law which directly relate to the servicing or repair of the customer's vehicle. Such charge must be disclosed to the customer by being separately itemized on the estimate prepared pursuant to Section 9884.9(a) of the Business and Professions Code and on the invoice prepared pursuant to Section 9884.8 of the Business and Professions Code. In order to assess this charge, the automotive repair dealer must note on the estimate and invoice the station's Environmental Protection Agency identification number required by Section 262.12 of Title 40 of the Code of Federal Regulations.

AUTHORITY:

Note: Authority cited: Section 9882, Business and Professions Code. Reference: Sections 9882, 9884.8, and 9884.9(a), Business and Professions Code.

~~§ 3357. Denial, Suspension, and Revocation Substantial Relation Criteria.~~

AUTHORITY:

~~Note: Authority cited: Sections 9882 and 9884.19, Business and Professions Code. Reference: Sections 475 et seq. of Division 1.5, Business and Professions Code.~~

§ 3358. Maintenance of Records.

Each automotive repair dealer shall maintain, in either written or electronic form, legible copies of the following records for ~~not less than~~ at least three years:

(a) All invoices relating to automotive repair including invoices received from other sources for parts and/or labor.

(b) All ~~written~~ estimates pertaining to work performed.

(c) All work orders and/or contracts for repairs, parts and labor.

(d) All such records shall be open for reasonable inspection and/or reproduction by the bureau or other law enforcement officials during normal business hours.

(e) All records associated with an individual transaction, as specified in this section, shall have a unique identifier linking the records to that specific transaction.

AUTHORITY:

Note: Authority cited: Sections 9882 and 9884.11, Business and Professions Code. Reference: Section 9884.11, Business and Professions Code.

~~§ 3359. Sublet Disclosure.~~

~~Upon the request of a customer, an automotive repair dealer shall disclose the location at which any repair work will be done other than repair work to be done at the dealer's location and by the dealer or his/her employees~~

AUTHORITY:

~~Note: Authority cited: Section 9882, Business and Professions Code.~~

~~Reference: Sections 9882 and 9884.7, Business and Professions Code.~~