

113TH CONGRESS
1ST SESSION

S. 780

To amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles.

IN THE SENATE OF THE UNITED STATES

APRIL 23, 2013

Mr. WHITEHOUSE (for himself and Mr. HATCH) introduced the following bill;
which was read twice and referred to the Committee on the Judiciary

A BILL

To amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Promoting Automotive
5 Repair, Trade, and Sales Act of 2013” or the “PARTS
6 Act”.

1 **SEC. 2. EXCEPTION FROM INFRINGEMENT FOR CERTAIN**
2 **COMPONENT PARTS OF MOTOR VEHICLES.**

3 Section 271 of title 35, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(j)(1) With respect to a design patent that claims
7 a component part of a motor vehicle as originally manufac-
8 tured—

9 “(A) it shall not be an act of infringement of
10 such design patent to make or offer to sell within
11 the United States, or import into the United States,
12 any article of manufacture that is similar or the
13 same in appearance to the component part that is
14 claimed in such design patent if the purpose of such
15 article of manufacture is for the repair of a motor
16 vehicle so as to restore such vehicle to its appear-
17 ance as originally manufactured; and

18 “(B) after the expiration of a period of 30
19 months beginning on the first day on which any
20 such component part is first offered to the public for
21 sale as part of a motor vehicle in any country, it
22 shall not be an act of infringement of such design
23 patent to use or sell within the United States any
24 article of manufacture that is similar or the same in
25 appearance to the component part that is claimed in
26 such design patent if the purpose of such article of

1 manufacture is for the repair of a motor vehicle so
 2 as to restore such vehicle to its appearance as origi-
 3 nally manufactured.

4 “(2) For purposes of this subsection—

5 “(A) the term ‘component part’—

6 “(i) means a component part of the exte-
 7 rior of a motor vehicle only, such as a hood,
 8 fender, tail light, side mirror, or quarter panel;
 9 and

10 “(ii) does not include an inflatable re-
 11 straint system or other component part located
 12 in the interior of a motor vehicle;

13 “(B) the term ‘motor vehicle’ has the meaning
 14 given that term in section 32101(7) of title 49;

15 “(C) the term ‘make’ includes any testing of an
 16 article of manufacture; and

17 “(D) the term ‘offer to sell’ includes any mar-
 18 keting of an article of manufacture to prospective
 19 purchasers or users and any pre-sale distribution of
 20 the article of manufacture.”.

21 **SEC. 3. CONFORMING AMENDMENT.**

22 Section 289 of title 35, United States Code, is
 23 amended—

24 (1) in the first paragraph, by striking “Who-
 25 ever” and inserting the following:

1 “(a) IN GENERAL.—Whoever”;

2 (2) in the second paragraph, by striking “Noth-
3 ing” and inserting the following:

4 “(c) RELATIONSHIP TO OTHER REMEDIES.—Noth-
5 ing”; and

6 (3) by inserting after subsection (a), as des-
7 ignated by paragraph (1), the following:

8 “(b) INAPPLICABILITY.—This section shall not apply
9 to an act described in paragraph (1) or (2) of subsection
10 (a) if that act would not be considered an act of infringe-
11 ment under section 271(j)”.

12 **SEC. 4. EFFECTIVE DATE.**

13 The amendments made by this Act shall take effect
14 upon the expiration of the 90-day period beginning on the
15 date of the enactment of this Act and shall apply to any
16 patent issued, or application for patent filed, before, on,
17 or after that effective date.

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