

117TH CONGRESS
1ST SESSION

H. R. 3664

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

IN THE HOUSE OF REPRESENTATIVES

JUNE 1, 2021

Mr. ISSA (for himself, Mr. JOYCE of Ohio, Mr. PERRY, Ms. LOFGREN, Mr. COHEN, and Ms. JACKSON LEE) introduced the following bill; which was 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 “Save Money on Auto
5 Repair Transportation Act” or the “SMART Act”.

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

8 Section 271 of title 35, United States Code, is
9 amended by adding at the end the following:

1 “(j)(1) In this subsection—

2 “(A) the term ‘component part’—

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

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

10 “(B) the term ‘make’ includes any testing of an
11 article of manufacture;

12 “(C) the term ‘motor vehicle’ has the meaning
13 given the term in section 32101(7) of title 49; and

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

18 “(2) With respect to a design patent that claims a
19 component part of a motor vehicle as originally manufac-
20 tured—

21 “(A) it shall not be an act of infringement of
22 the design patent to make or offer to sell within the
23 United States, or import into 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

1 the design patent if the purpose of the article of
2 manufacture is for the repair of a motor vehicle so
3 as to restore the motor vehicle to the appearance of
4 the motor vehicle as originally manufactured; and

5 “(B) after the expiration of a period of 30
6 months beginning on the first day on which any
7 such component part is first offered to the public for
8 sale as part of a motor vehicle in any country, it
9 shall not be an act of infringement of the design
10 patent to use or sell within the United States any
11 article of manufacture that is similar or the same in
12 appearance to the component part that is claimed in
13 the design patent if the purpose of the article of
14 manufacture is for the repair of a motor vehicle so
15 as to restore the motor vehicle to the appearance of
16 the motor vehicle as originally manufactured.”.

17 **SEC. 3. CONFORMING AMENDMENT.**

18 Section 289 of title 35, United States Code, is
19 amended—

20 (1) in the first undesignated paragraph, by
21 striking “Whoever” and inserting the following:

22 “(a) IN GENERAL.—Whoever”;

23 (2) in the second undesignated paragraph, by
24 striking “Nothing” and inserting the following:

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

3 (3) by inserting after subsection (a), as so des-
4 ignated, the following:

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

9 **SEC. 4. EFFECTIVE DATE.**

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

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