
HOUSE BILL 2536

State of Washington

52nd Legislature

1992 Regular Session

By Representatives Heavey, Jones and Haugen; by request of Attorney General

Read first time 01/20/92. Referred to Committee on Commerce & Labor.

1 AN ACT Relating to automotive repair; amending RCW 46.71.070 and
2 46.71.090; adding new sections to chapter 46.71 RCW; repealing RCW
3 46.71.010, 46.71.020, 46.71.030, 46.71.040, 46.71.043, 46.71.047,
4 46.71.050, 46.71.060, and 46.71.065; and providing an effective date.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature recognizes that the
7 diagnosis, repair, and maintenance performed by auto repair shops
8 impact the mechanical operation, reliability, and safety of motor
9 vehicles operated on the public streets and highways of the state of
10 Washington. The legislature further recognizes that improved
11 communications and accurate representations between automotive repair
12 shops and consumers will considerably increase the likelihood that
13 necessary maintenance, repair, and diagnosis will be effected in a
14 manner that will result in safe and reliable operation of motor

1 vehicles and that the alternative of a defective motor vehicle is
2 likely to create a hardship for, or may cause injury to, the consumer
3 or another member of the public.

4 It is the intent of the legislature to ensure that the consumer is
5 made aware of his or her rights under this chapter and is not refused
6 information, documents, or service that would otherwise obstruct the
7 exercise of his or her rights.

8 In enacting these comprehensive measures, it is the intent of the
9 legislature to create the proper blend of private and public remedies
10 necessary to enforce this chapter, such that auto repair shops will be
11 sufficiently induced to provide quality automotive repair service, to
12 enhance the confidence and communication between consumers and
13 automotive repair shops, as well as the safety of our streets and
14 highways.

15 The provisions of this chapter shall be liberally construed to the
16 end that deceptive acts or practices in the area of automotive repair
17 in this state may be prohibited and prevented, and irresponsible,
18 unreliable, or dishonest persons may be prevented from engaging in the
19 automotive repair business in this state and reliable persons may be
20 encouraged to engage in the business of automotive repair in this
21 state.

22 NEW SECTION. **Sec. 2.** For purposes of this chapter:

23 (1) "Automotive repair shop" or "repair shop" means any person,
24 firm, association, or corporation who for compensation engages in the
25 business of automotive repair or diagnosis, or both, of malfunctions of
26 motor vehicles subject to licensure under chapter 46.16 RCW; and

27 (2) "Automotive repair" includes but is not limited to:

28 (a) All diagnosis and repairs to vehicles subject to chapter 46.16
29 RCW which are commonly performed in a repair shop by a motor vehicle

1 mechanic including the installation, exchange, or repair of mechanical
2 parts or units for any vehicle or the performance of any electrical or
3 mechanical adjustment to any vehicle; and

4 (b) All work in shops that perform one or more specialties within
5 the automotive repair trade including, but not limited to, body, brake,
6 electrical, exhaust repair or installation, frame, front-end,
7 radiators, tires, transmission, tune-up, and windshield.

8 NEW SECTION. **Sec. 3.** (1) All estimates that exceed seventy-
9 five dollars shall be in writing and include the following information:
10 The name, address, and telephone number of the repair shop; the name,
11 address, and telephone number, if available, of the customer or the
12 customer's designee; the date and approximate time the vehicle was
13 delivered for repair; the year, make, and model of the vehicle; the
14 vehicle license plate number; the odometer reading of the vehicle; a
15 description of the problem reported by the customer or the specific
16 repairs requested by the customer; and a choice of alternative
17 described in section 5 of this act.

18 (2) Whether or not a written estimate is required, all parts and
19 labor provided by an automotive repair shop, including all warranty
20 work, shall be clearly and accurately recorded in writing on an invoice
21 and shall include, in addition to the information listed in subsection
22 (1) of this section, the following information: An itemized list of
23 the repair or maintenance services performed on the vehicle; an
24 itemized list of all parts supplied, identified by name and part
25 number, part kit description or recognized package, and an indication
26 whether the part supplied was new, used, reconditioned, or rebuilt; the
27 price per part charged and the total amount charged for all parts; the
28 number of hours of labor charged for the repair work, identified as

1 either flat rate or actual hours worked; the total amount charged for
2 all labor; and the total charge for parts and labor.

3 (3) A copy of the estimate, unless waived, shall be provided to the
4 customer prior to providing parts or labor as required under section 5
5 of this act. A copy of the invoice shall be provided to the customer
6 upon completion of the repairs. One copy of the estimate and the
7 invoice shall be retained, either in hard copy or electronic medium, by
8 the repair shop as required under section 11 of this act.

9 NEW SECTION. **Sec. 4.** (1) Except for parts covered by a
10 manufacturer's warranty, the repair shop shall return replaced parts to
11 the customer at the time the work is completed, if the customer
12 requested the parts at the time of authorization of the repair.

13 (2) If a customer requests the return of a part that must be
14 returned to the manufacturer, distributor, or remanufacturer, or if the
15 part is to be rebuilt by the repair shop, the repair shop shall offer
16 to show the part to the customer at the time the work is completed.
17 The customer shall sign a written acknowledgment that he or she was
18 shown the part.

19 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (3)
20 of this section, a repair shop shall provide a written price estimate
21 of the cost of all parts and labor necessary for the repair. Prior to
22 providing parts or labor, the automotive repair shop shall provide the
23 customer with a written price estimate including the following
24 disclosure options:

25 YOU ARE ENTITLED TO REQUIRE THE REPAIR SHOP TO OBTAIN YOUR ORAL
26 OR WRITTEN AUTHORIZATION TO EXCEED THE WRITTEN PRICE ESTIMATE.
27 YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

1 1. Contact me, or a designated person, if the price will exceed
2 this estimate by more than ten percent.
3 DATE:.....

4 2. Contact me, or a designated person, if the price will exceed
5 this estimate by more than \$.....
6 DATE:.....

7 3. I do not want a written estimate.
8 DATE:.....

9 (2) The repair shop may not charge for parts and labor provided
10 which are not a part of the written price estimate and may not charge
11 the customer more than one hundred ten percent, exclusive of retail
12 sales tax, of the total shown on the written price estimate. Neither
13 of these limitations apply if, prior to providing additional parts or
14 labor the repair shop obtains either the oral or written authorization
15 of the customer, or the customer's designee, to exceed the written
16 price estimate. The repair shop or its representative will note on the
17 estimate the date and time of obtaining an oral authorization, the
18 additional parts and labor required, the estimated cost of the
19 additional parts and labor, the name of the employee who obtains the
20 authorization, and the name and telephone number of the person
21 authorizing the additional costs.

22 (3) A written estimate shall not be required when the customer's
23 motor vehicle has been brought to an automotive repair shop's regular
24 place of business without face-to-face contact between the customer and
25 the repair shop. However, prior to providing parts and labor, the
26 repair shop must obtain either the oral or written authorization of the
27 customer or the customer's designee. The repair shop or its
28 representative shall note on the estimate the date and time of
29 obtaining an oral authorization, the parts and labor required, the
30 estimated cost of the parts and labor, the name or identification
31 number of the employee who obtains the authorization, and the name of
32 the person authorizing the repairs.

1 NEW SECTION. **Sec. 7.** An automotive repair shop that fails to
2 comply with the estimate requirements of section 5 of this act is
3 barred from recovering in an action to recover for automotive repairs
4 any amount in excess of one hundred ten percent of the amount
5 authorized by the customer, or the customer's designee, unless the
6 repair shop proves by a preponderance of the evidence that his or her
7 conduct was reasonable, necessary, and justified under the
8 circumstances. In an action to recover for automotive repairs the
9 prevailing party may, at the discretion of the court, recover the costs
10 of the action and reasonable attorneys' fees.

11 NEW SECTION. **Sec. 8.** (1) A repair shop that provides parts or
12 labor which are not a part of the written price estimate, or whose
13 final charges exceed one hundred ten percent of the written price
14 estimate, without the oral or written authorization of the customer, or
15 the customer's designee, required under section 5 of this act, shall be
16 barred from asserting a possessory or chattel lien for the amount of
17 the unauthorized parts or labor upon the motor vehicle.

18 (2) A repair shop that fails to comply with the provisions of
19 section 3 or 4 of this act shall be barred from asserting a possessory
20 or chattel lien for the amount charged for any part used in the repair
21 of the motor vehicle.

22 (3) Subsections (1) and (2) of this section shall not apply to
23 fleet repair or maintenance transactions where the vehicles that are
24 subject to repair are used primarily for business purposes.

25 NEW SECTION. **Sec. 9.** Each of the following acts or practices
26 are considered unfair or deceptive:

1 (1) Advertising or making any statement, directly or by
2 implication, that the repair shop knows, or should have known, to be
3 false, deceptive, or misleading;

4 (2) Materially understating, underestimating, lowballing, or
5 misstating the estimated price of automotive repairs;

6 (3) Misrepresenting the safety or reliability of a vehicle to a
7 customer to induce approval for unnecessary repairs;

8 (4) Making performance of any repair or service contingent upon a
9 customer's waiver of any rights created in this chapter;

10 (5) Representing that repairs have been performed or parts replaced
11 or installed on a vehicle when that is not true;

12 (6) Charging a customer for parts not installed or repairs that
13 have not actually been performed;

14 (7) Unauthorized use or conversion of a customer's vehicle or
15 property;

16 (8) Failing or refusing to provide a customer, upon request, an
17 exact copy, at no charge, of any document signed by the customer;

18 (9) Charging both the customer and the warranty or extended service
19 contract provider for the same covered component, part, or labor;

20 (10) Failure to perform repairs using equipment, tools, supplies,
21 and parts in a manner consistent with the standards of the industry.

22 NEW SECTION. **Sec. 10.** (1) The repair shop shall deliver to
23 the customer, with the invoice, a legible written copy of all
24 warranties, itemizing the parts, components, and labor represented to
25 be covered by the warranty, or, in the alternative, deliver to the
26 customer a warranty covering all parts, components, and labor supplied
27 pursuant to a particular repair order. Any warranty must conspicuously
28 and clearly disclose in writing the following:

1 (a) The nature and extent of the warranty including a description
2 of all parts, characteristics, or properties covered by or excluded
3 from the warranty, the duration of the warranty, and what must be done
4 by a claimant before the warrantor will fulfill its obligation;

5 (b) The manner in which the warrantor will perform. The warrantor
6 shall state all conditions and limitations and exactly what the
7 warrantor will do under the warranty, such as repair, replacement, or
8 refund. If the warrantor or recipient has an option as to what may
9 satisfy the warranty, this must be clearly stated;

10 (c) The warrantor's identity and address shall be clearly revealed
11 in any documents evidencing the warranty.

12 (2) The repair shop must clearly and conspicuously disclose the
13 fact that a warranty provides for adjustment on a pro rata basis, and
14 the basis on which the warranty will be prorated, that includes the
15 time or mileage, the part, component, or item repaired has been used,
16 and in what manner the warrantor will perform. If adjustments are
17 based on a price other than that paid by the customer, clear disclosure
18 must be made of the amount. However, a fictitious price may not be
19 used even where the sum is adequately disclosed.

20 NEW SECTION. **Sec. 11.** Every automotive repair shop shall
21 retain and make available for inspection upon request by the customer,
22 the customer's authorized representative, or the attorney general, true
23 and correct copies of the customer's written price estimates and
24 invoices required under this chapter for at least one year from the
25 date on which the repairs were performed.

26 **Sec. 12.** RCW 46.71.070 and 1982 c 62 s 9 are each amended to read
27 as follows:

1 The legislature finds that the practices covered by this chapter
2 are matters vitally affecting the public interest for the purpose of
3 applying the consumer protection act, chapter 19.86 RCW. Violations of
4 this chapter are not reasonable in relation to the development and
5 preservation of business. A violation of this chapter is an unfair
6 ((act or practice in violation of)) or deceptive act in trade or
7 commerce and an unfair method of competition for the purpose of
8 applying the consumer protection act, chapter 19.86 RCW. In an action
9 under chapter 19.86 RCW due to an automotive ((repairman's)) repair
10 shop's charging or attempt to charge a customer an amount in excess of
11 one hundred ten percent of the amount authorized by the customer, a
12 violation shall not be found if the automotive ((repairman)) repair
13 shop proves by a preponderance of the evidence that ((his or her)) its
14 conduct was reasonable, necessary, and justified under the
15 circumstances.

16 Notwithstanding RCW 46.64.050, no violation of this chapter shall
17 give rise to criminal liability under that section.

18 **Sec. 13.** RCW 46.71.090 and 1982 c 62 s 11 are each amended to read
19 as follows:

20 When the department of revenue issues a registration certificate
21 under RCW 82.32.030 to an automotive ((repairman)) repair shop, it
22 shall give written notice to the person of the requirements of this
23 chapter in a manner prescribed by the director of revenue. The
24 department of revenue shall thereafter give the notice on an annual
25 basis in conjunction with the business and occupation tax return
26 provided to each person holding a registration certificate as an
27 automotive ((repairman)) repair shop.

1 NEW SECTION. **Sec. 14.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

5 NEW SECTION. **Sec. 15.** The following acts or parts of acts are
6 each repealed:

- 7 (1) RCW 46.71.010 and 1982 c 62 s 1 & 1977 ex.s. c 280 s 1;
- 8 (2) RCW 46.71.020 and 1977 ex.s. c 280 s 2;
- 9 (3) RCW 46.71.030 and 1982 c 62 s 2 & 1977 ex.s. c 280 s 3;
- 10 (4) RCW 46.71.040 and 1982 c 62 s 3 & 1977 ex.s. c 280 s 4;
- 11 (5) RCW 46.71.043 and 1982 c 62 s 4;
- 12 (6) RCW 46.71.047 and 1982 c 62 s 5;
- 13 (7) RCW 46.71.050 and 1982 c 62 s 6 & 1977 ex.s. c 280 s 5;
- 14 (8) RCW 46.71.060 and 1982 c 62 s 7 & 1977 ex.s. c 280 s 6; and
- 15 (9) RCW 46.71.065 and 1982 c 62 s 8.

16 NEW SECTION. **Sec. 16.** Sections 1 through 11 of this act are
17 each added to chapter 46.71 RCW.

18 NEW SECTION. **Sec. 17.** This act shall take effect January 1,
19 1993.