

HOUSE BILL REPORT

HB 2536

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to automotive repair.

Brief Description: Concerning automotive repair.

Sponsor(s): Representatives Heavey, Jones and Haugen; by request of Attorney General.

Brief History:

Reported by House Committee on:
Commerce & Labor, February 6, 1992, DPS.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *The substitute bill be substituted therefor and the substitute bill do pass.* Signed by 6 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Franklin; R. King; O'Brien; and Prentice.

Minority Report: *Do not pass.* Signed by 4 members: Representatives Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Vance; and Wilson.

Staff: Jim Kelley (786-7166).

Background:

In 1977, the Automotive Repair Act was enacted in response to a significant number of complaints received by the Department of Licensing and the attorney general. The complaints involved auto repair shops charging for services not rendered, selling old parts for new, and charging for repairs done without first obtaining the car owner's approval.

The act, as amended in 1982, provides that if the estimated price of a repair job exceeds \$75, the consumer is entitled to a written estimate. If the original estimate is under \$75, no more than \$75 may be charged without customer approval. The law also requires auto repairmen to return replaced auto parts at the request of the customer. Shops are required to prominently post notice of the customers' rights as to estimates. Violations of the act are subject

to the Consumer Protection Act. Costs and attorney fees are authorized to the prevailing party in a suit for repair charges. The Department of Licensing and the Department of Revenue annually must provide written notice of this act with license plate renewals and business and occupation tax forms.

In 1991, automotive repair problems were the third most frequent consumer complaint received by the Attorney General's Office. Frequent complaints focus on a perceived lack of clarity of the notice and estimate of cost provisions in the law.

Summary of Substitute Bill:

The automotive repair statute is amended to provide more specificity and to improve communication between automotive repair shops and consumers.

Gender specific language is replaced with gender neutral language, for example, the term "automotive repairman" is replaced with "automotive repair shop."

All estimates exceeding \$75 must be in writing and include: The name, address, and phone number of the repair shop; the name, address, and phone number of the customer, if available; the date the vehicle was delivered; the year, make, model, license plate number, and odometer reading of the vehicle; a description of the problem or the specific repairs requested; and a choice of alternatives for the customer. The customer's alternatives remain essentially the same. They are: (1) Contact me, or a designated person, if the price will exceed this estimate by more than 10 percent; (2) Contact me, or a designated person, if the price will exceed this estimate by more than a given price; or (3) I do not want a written estimate.

The information a repair shop must provide on an invoice is made more specific. The invoice must include: an itemized list of the services performed; an itemized list and description of all parts supplied; the price per part and total amount charged for all parts; the number of hours of labor charged, identified as a flat rate or actual hours work; the total amount charged for all labor; and the total for all parts and labor. A copy of the invoice must be provided to the customer and a copy retained by the repair shop.

The requirement is retained that, if possible, replaced parts must be returned to the customer upon request or if not possible, the customer must be shown the part. A requirement is added that if the customer is shown a

replaced part, the customer must sign a written acknowledgment that he or she was shown the part.

The rights of the customer regarding written estimates are made more specific. The repair shop may not charge for parts and labor not included in the estimate or charge more than 110 percent of the estimated price unless it has first obtained written or oral authorization of the customer. If the customer gives his or her oral authorization, the repair shop must note on the estimate the date and time of the oral authorization, the additional parts and labor required, the name of the employee who obtains the authorization, and the name and phone number of the person authorizing additional costs.

A written estimate is not required when there is no face-to-face contact between the customer and the repair shop. However, prior to providing parts or labor, the repair shop must obtain either the customer's oral or written authorization.

The requirement that the repair shop post a sign advising the customer of his or her rights is retained. However, the language of the sign is changed to reflect changes in the law. In addition, the repair shop must post a second sign detailing repair charges. This sign must list the price per hour for labor, the fact that the repair shop does not charge for estimates and diagnosis, and storage charges for vehicles left more than 24 hours beyond the completion of repairs.

As before, if a repair shop fails to comply with the requirements governing estimates and invoices, it is barred from recovering more than 110 percent of the amount authorized by the customer, unless the repair shop can prove that the action it took was reasonable, necessary, and justified. A repair shop that fails to comply with specific requirements of the act is barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor. However, this restriction on the availability of possessory or chattel liens no longer applies to fleet repair or maintenance of business vehicles.

Specific acts or practices are declared to be unfair or deceptive:

- 1) Advertising or making a statement, that the repair shop knows, or should have known, is false, deceptive, or misleading;
- 2) Materially misstating the price of repairs;

- 3) Misrepresenting the safety or reliability of a vehicle to a customer to induce approval for unnecessary repairs;
- 4) Making performance contingent upon a customer's waiver of any rights;
- 5) Representing that repairs have been performed or parts replaced or installed on a vehicle when that is not true;
- 6) Charging a customer for parts not installed or repairs that have not actually been performed;
- 7) Unauthorized use or conversion of a customer's vehicle or property;
- 8) Failing or refusing to provide a customer, upon request, and exact copy of any document signed by the customer, at no cost; and
- 9) Charging both the customer and the warranty or extended service provider for the same covered part or labor.

The repair shop must deliver to the customer, with the invoice, a copy of all warranties that apply to parts and labor provided.

The language making a violation of the chapter a per se violation of the consumer protection act is updated.

Substitute Bill Compared to Original Bill: The substitute strikes the following provisions from the original bill:

- 1) Most of the intent section;
- 2) The requirement that estimates include the time of day the vehicle was delivered;
- 3) The specifically listed unfair or deceptive practice prohibiting performance of repairs not "consistent with the standards of the industry;" and
- 4) The reference to the attorney general in the section requiring retention of records for inspection.

The substitute bill also strikes much of the warranties disclosure section. Repair shops are only required to provide customers with a copy of the warranties that apply to service done on their car.

Fiscal Note: Requested January 24, 1992.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (original bill) There are a large number of complaints made to the attorney general concerning automobile repair. The current law labors too hard to produce too little. This bill is designed to improve communication.

Testimony Against: There is no reason for this legislation. The Department of Licensing recommended against licensing in its sunrise review last year. The findings of the sunrise review recommended that an advisory group be formed. The unfair or deceptive practice requiring performance of repairs "consistent with the standards of the industry" should be stricken.

Witnesses: Lynn Hendrickson, Assistant Attorney General (in favor); Janet Cunningham and Jim Boldt, Washington Auto Dealers Association (opposed); Bruce Olsen, AAA (in favor, with suggested changes); and Leo Bowman, Leo's Lineup and Tires (opposed).