
HOUSE BILL 1766

State of Washington

53rd Legislature

1993 Regular Session

By Representatives G. Cole, Heavey, Ogden, Zellinsky, R. Meyers, Wang, Conway and J. Kohl; by request of Attorney General

Read first time 02/08/93. Referred to Committee on Commerce & Labor.

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

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

7 NEW SECTION. **Sec. 1.** The automotive repair industry supports good
8 communication between auto repair facilities and their customers. The
9 legislature recognizes that improved communications and accurate
10 representations between automotive repair facilities and the customers
11 will: Increase consumer confidence; reduce the likelihood of disputes
12 arising; clarify repair facility lien interests; and promote fair and
13 nondeceptive practices, thereby enhancing the safety and reliability of
14 motor vehicles serviced by auto repair facilities in the state of
15 Washington.

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

17 (1) "Automotive repair facility" or "repair facility" means any
18 person, firm, association, or corporation who for compensation engages

1 in the business of automotive repair or diagnosis, or both, of
2 malfunctions of motor vehicles subject to licensure under chapter 46.16
3 RCW; and

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

5 (a) All repairs to vehicles subject to chapter 46.16 RCW that are
6 commonly performed in a repair facility by a motor vehicle technician
7 including the diagnosis, installation, exchange, or repair of
8 mechanical or electrical parts or units for any vehicle, the
9 performance of any electrical or mechanical adjustment to any vehicle,
10 or the performance of any service work required for routine maintenance
11 or repair of any vehicle. However, commercial fleet repair or
12 maintenance transactions involving two or more vehicles or ongoing
13 service or maintenance contracts involving vehicles used primarily for
14 business purposes are not included; and

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

19 (3) A "rebuilt" part consists of a used assembly that has been
20 dismantled and inspected with only the defective parts being replaced.

21 (4) A "remanufactured" part consists of a used assembly that has
22 been dismantled with the core parts being remachined and all other
23 parts replaced with new parts so as to provide performance comparable
24 to that found originally.

25 NEW SECTION. **Sec. 3.** (1) Except as otherwise provided in section
26 5 of this act, all estimates that exceed one hundred dollars shall be
27 in writing and include the following information: The date; the name,
28 address, and telephone number of the repair facility; the name,
29 address, and telephone number, if available, of the customer or the
30 customer's designee; if the vehicle is delivered for repair, the year,
31 make, and model of the vehicle, the vehicle license plate number or
32 last eight digits of the vehicle identification number, and the
33 odometer reading of the vehicle; a description of the problem reported
34 by the customer or the specific repairs requested by the customer; and
35 a choice of alternative described in section 5 of this act.

36 (2) Whether or not a written estimate is required, parts and labor
37 provided by an automotive repair facility shall be clearly and
38 accurately recorded in writing on an invoice and shall include, in

1 addition to the information listed in subsection (1) of this section,
2 the following information: A description of the repair or maintenance
3 services performed on the vehicle; a list of all parts supplied,
4 identified by name and part number, part kit description or recognized
5 package or shop supplies, if any, and an indication whether the parts
6 supplied are rebuilt, or used, if applicable; the price per part
7 charged, if any, and the total amount charged for all parts; the total
8 amount charged for all labor, if any; and the total charge. Parts and
9 labor do not need to be separately disclosed if pricing is expressed as
10 an advertised special by the job, a predisclosed written repair menu
11 item, or a routine service package.

12 (3) Notwithstanding subsection (2) of this section, if the repair
13 work is performed under warranty or without charge to the customer,
14 other than an applicable deductible, the repair facility shall provide
15 either an itemized list of the parts supplied, or describe the service
16 performed on the vehicle, but the repair facility is not required to
17 provide any pricing information for parts or labor.

18 (4) A copy of the estimate, unless waived, shall be provided to the
19 customer prior to providing parts or labor as required under section 5
20 of this act. A copy of the invoice shall be provided to the customer
21 upon completion of the repairs.

22 NEW SECTION. **Sec. 4.** Except for parts covered by a manufacturer's
23 or other warranty or parts that must be returned to a distributor,
24 remanufacturer, or rebuilder, the repair facility shall return replaced
25 parts to the customer at the time the work is completed if the customer
26 requested the parts at the time of authorization of the repair. If a
27 customer at the time of authorization of the repair requests the return
28 of a part that must be returned to the manufacturer, remanufacturer,
29 distributor, recycler, or rebuilder, or must be disposed of as required
30 by law, the repair facility shall offer to show the part to the
31 customer at the time the work is completed. The repair facility need
32 not show a replaced part if no charge is being made for the replacement
33 part.

34 NEW SECTION. **Sec. 5.** (1) Except as provided in subsection (3) of
35 this section, a repair facility prior to providing parts or labor shall
36 provide the customer with a written price estimate of the total cost of

1 the repair, including parts and labor, or offer the following
2 alternatives:

3 "YOU ARE ENTITLED TO A WRITTEN PRICE ESTIMATE FOR THE REPAIRS YOU HAVE
4 AUTHORIZED. YOU ARE ALSO ENTITLED TO REQUIRE THE REPAIR FACILITY TO
5 OBTAIN YOUR ORAL OR WRITTEN AUTHORIZATION TO EXCEED THE WRITTEN PRICE
6 ESTIMATE. YOUR SIGNATURE OR INITIALS WILL INDICATE YOUR SELECTION.

7 1. I request an estimate in writing before you begin repairs.
8 Contact me if the price will exceed this estimate by more than
9 ten percent.

10 2. Proceed with repairs but contact me if the price will exceed
11 \$.

12 3. I do not want a written estimate.

13 (Initial or signature)

14 Date: Time:"

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

28 (3) A written estimate shall not be required when the customer's
29 motor vehicle or component has been brought to an automotive repair
30 facility's regular place of business without face-to-face contact
31 between the customer and the repair facility. Face-to-face contact
32 means actual in-person discussion between the customer or his or her
33 designee and the agent or employee of the automotive repair facility
34 authorized to intake vehicles or components. However, prior to
35 providing parts and labor, the repair facility must obtain either the
36 oral or written authorization of the customer or the customer's
37 designee. The repair facility or its representative shall note on the
38 estimate or repair order the date and time of obtaining an oral
39 authorization, the total amount authorized, the name or identification

1 number of the employee who obtains the authorization, and the name of
2 the person authorizing the repairs.

3 NEW SECTION. **Sec. 6.** (1) An automotive repair facility shall post
4 in a prominent place on the business premises one or more signs,
5 readily visible to customers, in the following form:

6 "YOUR CUSTOMER RIGHTS
7 YOU ARE ENTITLED BY LAW TO:

- 8 1. A WRITTEN ESTIMATE FOR REPAIRS WHICH WILL COST MORE THAN ONE
9 HUNDRED DOLLARS, UNLESS WAIVED OR ABSENT FACE-TO-FACE
10 CONTACT (SEE ITEM 4 BELOW);
- 11 2. RETURN OR INSPECTION OF ALL REPLACED PARTS, IF REQUESTED, AT
12 TIME OF REPAIR AUTHORIZATION;
- 13 3. AUTHORIZE ORALLY OR IN WRITING ANY REPAIRS WHICH EXCEED THE
14 ESTIMATED TOTAL PRESALES TAX COST BY MORE THAN TEN PERCENT;
15 AND
- 16 4. AUTHORIZE ANY REPAIRS ORALLY OR IN WRITING IF YOUR VEHICLE
17 IS LEFT WITH THE REPAIR FACILITY WITHOUT FACE-TO-FACE
18 CONTACT BETWEEN YOU AND THE REPAIR FACILITY PERSONNEL.

19 IF YOU HAVE AUTHORIZED A REPAIR IN ACCORDANCE WITH THE ABOVE
20 INFORMATION YOU ARE REQUIRED TO PAY FOR THE COSTS OF THE REPAIR PRIOR
21 TO TAKING THE VEHICLE FROM THE PREMISES."

22 The first line of each sign shall be in letters not less than one
23 and one-half inch in height and the remaining lines shall be in letters
24 not less than one-half inch in height.

25 NEW SECTION. **Sec. 7.** An automotive repair facility that fails to
26 comply with the estimate requirements of section 5 of this act is
27 barred from recovering in an action to recover for automotive repairs
28 any amount in excess of one hundred ten percent of the amount
29 authorized by the customer, or the customer's designee, unless the
30 repair facility proves by a preponderance of the evidence that its
31 conduct was reasonable, necessary, and justified under the
32 circumstances. In an action to recover for automotive repairs the
33 prevailing party may, at the discretion of the court, recover the costs
34 of the action and reasonable attorneys' fees.

35 NEW SECTION. **Sec. 8.** A repair facility that fails to comply with
36 section 4 or 6 of this act is barred from asserting a possessory or
37 chattel lien for the amount of the unauthorized parts or labor upon the

1 motor vehicle or component. A repair facility that fails to comply
2 with section 5 of this act is barred from asserting a possessory or
3 chattel lien for the amount of the unauthorized parts or labor upon the
4 motor vehicle or component unless the repair facility proves by a
5 preponderance of the evidence that the noncompliance was reasonable,
6 necessary, and justified under the circumstances.

7 NEW SECTION. **Sec. 9.** Each of the following acts or practices are
8 unlawful:

9 (1) Advertising that is false, deceptive, or misleading. A single
10 or isolated media mistake does not constitute a false, deceptive, or
11 misleading statement or misrepresentation under this section;

12 (2) Materially understating or misstating the estimated price for
13 a specified repair procedure;

14 (3) Retaining payment from a customer for parts not delivered or
15 installed or a repair procedure that has not actually been performed;

16 (4) Unauthorized operation of a customer's vehicle for purposes not
17 related to repair or diagnosis;

18 (5) Failing or refusing to provide a customer, upon request, a
19 copy, at no charge, of any document signed by the customer;

20 (6) Retaining duplicative payment from both the customer and the
21 warranty or extended service contract provider for the same covered
22 component, part, or labor;

23 (7) Charging a customer for unnecessary repairs. For purposes of
24 this subsection "unnecessary repairs" means those for which there is no
25 reasonable basis for performing the service. A reasonable basis
26 includes, but is not limited to: (a) That the repair service is
27 consistent with specifications established by law or the manufacturer
28 of the motor vehicle, component, or part; (b) that the repair is in
29 accordance with accepted trade standards; or (c) that the repair was
30 performed at the specific request of the customer.

31 NEW SECTION. **Sec. 10.** The repair facility shall make available,
32 upon request, a copy of any express warranty provided by the repair
33 facility to the customer that covers repairs performed on the vehicle.

34 **Sec. 11.** RCW 46.71.060 and 1982 c 62 s 7 are each amended to read
35 as follows:

1 Every automotive ((~~repairman~~)) repair facility shall retain and
2 make available for inspection, upon request by the customer or the
3 customer's authorized representative, true copies of the written price
4 estimates and invoices required under this chapter for at least one
5 year after the date on which the repairs were performed.

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

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

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

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

27 When the department of revenue issues a registration certificate
28 under RCW 82.32.030 to an automotive ((~~repairman~~)) repair facility, it
29 shall give written notice to the person of the requirements of this
30 chapter in a manner prescribed by the director of revenue. The
31 department of revenue shall thereafter give the notice on an annual
32 basis in conjunction with the business and occupation tax return
33 provided to each person holding a registration certificate as an
34 automotive ((~~repairman~~)) repair facility.

35 NEW SECTION. **Sec. 14.** The attorney general shall study the
36 recommendations of the national association of attorneys general

1 automotive repair task force and make findings on the possible use of
2 the task force's recommendations in this state. The attorney general
3 shall submit a report of its findings to the appropriate standing
4 committees of the legislature by January 1, 1995.

5 NEW SECTION. **Sec. 15.** If any provision of this act is declared
6 unconstitutional, or the applicability thereof to any person or
7 circumstances is held invalid, the constitutionality of the remainder
8 of the act and the applicability thereof to persons and circumstances
9 shall not be affected thereby.

10 NEW SECTION. **Sec. 16.** The following acts or parts of acts are
11 each repealed:

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

20 NEW SECTION. **Sec. 17.** Sections 1 through 10 of this act are each
21 added to chapter 46.71 RCW.

22 NEW SECTION. **Sec. 18.** This act shall take effect January 1, 1994.

--- END ---