

By Senator Aronberg

27-1580-07

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

A bill to be entitled

An act relating to motor vehicles; providing a short title; providing legislative findings; providing purposes; requiring a manufacturer of motor vehicles to provide certain information with regard to the repair, service, or diagnosis of a motor vehicle to the owner of the motor vehicle or a repair facility of the owner's choosing; providing requirements for the information to be provided to the owner of the motor vehicle or independent vehicle repair facility; providing that the act does not require the disclosure of trade secrets; requiring the Department of Highway Safety and Motor Vehicles to adopt rules setting forth a method by which a manufacturer of motor vehicles must provide certain information; prohibiting the department from adopting certain rules; providing civil penalties; providing for the recovery of attorney's fees and costs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Motor vehicle owners' right to repair.--

(1) This section may be cited as the "Motor Vehicle Owners' Right to Repair Act."

(2) The Legislature finds and declares that:

(a) The ability to diagnose, service, and repair a motor vehicle in a timely, reliable, and affordable manner is

1 essential to the safety and well-being of consumers in this
2 state.

3 (b) A consumer is entitled to choose among competing
4 repair facilities for the convenient, reliable, and affordable
5 repair of his or her motor vehicle.

6 (c) Increased competition among repair facilities will
7 benefit vehicle owners in this state.

8 (d) Computers of various kinds are commonly used in
9 motor vehicle systems, such as pollution control,
10 transmission, antilock brakes, electronic and mechanical
11 systems, heating and air conditioning, mobile electronics,
12 airbags, and steering.

13 (e) The diagnosis, service, and repair of these
14 vehicle systems are essential to the safe and proper operation
15 of motor vehicles.

16 (f) In many instances, access codes prevent owners
17 from making, or having made, the necessary diagnosis, service,
18 and repair of their motor vehicles in a timely, convenient,
19 reliable, and affordable manner.

20 (g) Vehicle owners in this state have the right to:

21 1. Obtain all information necessary to provide for the
22 diagnosis, service, and repair of their vehicles;

23 2. Have access to affordable auto parts and services
24 when repairing their motor vehicles; and

25 3. Make, or have made, repairs necessary to keep their
26 vehicles in reasonably good and serviceable condition during
27 the life of the vehicle.

28 (h) The restriction of access to vehicle repair
29 information inherently limits who can repair motor vehicles
30 and what brands of parts may be used to repair those vehicles,
31 which limits consumer choice and impedes competition.

1 (3) The purposes of this section are to:

2 (a) Ensure the safety of all vehicle owners in this
3 state by requiring disclosure of all information necessary for
4 the proper diagnosis, service, and repair of a motor vehicle
5 in a timely, reliable, and affordable manner.

6 (b) Encourage competition in the diagnosis, service,
7 and repair of motor vehicles in this state.

8 (4) Each manufacturer of motor vehicles sold in this
9 state shall promptly provide to the vehicle owner, or to a
10 repair facility of the motor vehicle owner's choosing, the
11 information necessary to diagnose, service, or repair the
12 vehicle. The motor vehicle manufacturer must make available
13 all nonemission-related service information, training
14 information, and diagnostic tools on a nondiscriminatory basis
15 to any repair facility of the owner's choosing, and may not
16 limit such information to those repair facilities that are
17 within the manufacturer's approved network.

18 (a) The same service and training information related
19 to vehicle repair must be made available to all independent
20 vehicle repair facilities in the same manner and extent as it
21 is made available to franchised dealerships, and must include
22 all information needed to activate all controls that can be
23 activated by a franchised dealership.

24 (b) The same diagnostic tools and capabilities related
25 to vehicle repair which are made available to franchised
26 dealerships must be made available to independent vehicle
27 repair facilities. These diagnostic tools and capabilities
28 must be made available for purchase by a motor vehicle owner
29 or his or her agent through reasonable business means. The
30 service and training information and manufacturer diagnostic
31 capabilities must be available to any independent vehicle

1 repair facility and to the company from which the independent
2 vehicle repair facility normally purchases diagnostic tools
3 without the need for the motor vehicle owner to return to a
4 franchised dealership.

5 (5) This section does not require the disclosure of
6 trade secrets, and does not require the public disclosure of
7 any information related exclusively to the design and
8 manufacture of motor vehicle parts. Information necessary to
9 repair a motor vehicle may not be withheld by a manufacturer
10 if such information is provided, directly or indirectly by
11 such manufacturer, to franchised dealerships or other vehicle
12 repair facilities.

13 (6) By June 30, 2008, the Department of Highway Safety
14 and Motor Vehicles shall adopt rules setting forth an
15 appropriate and uniform method by which a motor vehicle
16 manufacturer must provide the information required in
17 subsection (4), including disclosure in writing, on the
18 Internet, or in any other manner, or under other terms that
19 the department considers appropriate. These rules shall take
20 effect upon final issuance and shall apply to vehicles
21 manufactured after the 1994 model year.

22 (7) The department may not prescribe rules that:

23 (a) Interfere with the authority of the administrator
24 of the Environmental Protection Agency under s. 202(m) of the
25 Clean Air Act, 42 U.S.C. 7521(m), with regard to diagnostic
26 systems for motor vehicle emissions controls; or

27 (b) Conflict with any rules or regulations prescribed
28 by the administrator of the Environmental Protection Agency
29 under that section.

30 (8) If a manufacturer of a motor vehicle offered for
31 sale in this state violates this section, in addition to any

1 other penalty provided by law, the manufacturer is subject to
2 a penalty of not more than \$10,000 for the first offense and
3 not more than \$20,000 for the second and each subsequent
4 offense. If there is ongoing non-compliance with this section,
5 such manufacturer shall be subject to a penalty of not more
6 than \$20,000 after each period of 60 days of ongoing
7 noncompliance. A vehicle owner or a repair facility may bring
8 a civil action to enjoin a violation of this section, to
9 recover all economic damages arising from such violation, and
10 to recover all costs of litigation, including reasonable
11 attorney's fees and expert witness fees.

12 Section 2. This act shall take effect July 1, 2007.

13
14 *****

15 SENATE SUMMARY

16 Requires a manufacturer of motor vehicles to provide
17 certain information with regard to the repair, service,
18 or diagnosis of a motor vehicle to the owner or an
19 independent repair facility. Provides requirements for
20 the information to be provided to the owner of the motor
21 vehicle or repair facility. Provides that the act does
22 not require the disclosure of trade secrets. Requires the
23 Department of Highway Safety and Motor Vehicles to adopt
24 rules setting forth a method by which a manufacturer of
25 motor vehicles must provide certain information.
26 Prohibits the department from adopting certain rules.
27 Provides civil penalties.
28
29
30
31