

Motor Vehicle Owners' Right to Repair Act of 2007 (Introduced in House)

HR 2694 IH

110th CONGRESS
1st Session
H. R. 2694

To protect the rights of consumers to diagnose, service, maintain, and repair their motor vehicles, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

June 13, 2007

Mr. TOWNS introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To protect the rights of consumers to diagnose, service, maintain, and repair their motor vehicles, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Motor Vehicle Owners Right to Repair Act of 2007'.

SEC. 2. FINDINGS AND PURPOSES.

- (a) Findings- The Congress finds the following:
- (1) Consumers are entitled to diagnose, service, maintain, or repair their own motor vehicles if they so choose, or to choose a service provider to perform these services for their motor vehicles.
 - (2) Consumers are entitled to all information about safety alerts, recalls, and other events relevant to the operation of their vehicles and to have this information available to their service providers in order to ensure the fuel efficient and safe operation of their motor vehicles.

(3) Promoting competition in price and quality for the diagnosis of problems, service, maintenance, and repair of motor vehicles will benefit consumers.

(4) Regular diagnosis, service, maintenance, and repair of motor vehicles, motor vehicle equipment, and motor vehicle systems such as pollution control, transmission, antilock brakes, electronic and mechanical systems, heating and air-conditioning, and steering are essential to improve fuel economy, protect the environment, and promote the safety of modern motor vehicles.

(5) Better fuel economy can reduce our dependence on foreign oil and help protect the environment. Proper maintenance of a motor vehicle can significantly improve its gas mileage. Fixing a motor vehicle that is noticeably out of tune can improve its gas mileage by an average of 4 percent. Replacing a clogged air filter can improve a motor vehicle's mileage by as much as 10 percent. Fixing a serious maintenance problem, such as a faulty oxygen sensor, can improve a motor vehicle's mileage by as much as 40 percent.

(6) Computers of various kinds increasingly are being used by manufacturers in motor vehicle equipment and motor vehicle systems. On-board computer technology controls virtually all of the vehicle's systems, and only service technicians with the necessary information can access the computers to perform diagnosis, service, maintenance, and repair of the vehicle.

(7) Manufacturers have made available to their authorized dealers and service providers the information, tools, and replacement equipment necessary to diagnose problems and to service, maintain, and repair motor vehicles that incorporate computers in their motor vehicle systems.

(8) Manufacturers have failed to make available, or have inhibited, restricted, or limited the availability to consumers and independent service providers of the information, tools, and replacement equipment necessary to diagnose, service, maintain, and repair consumers' motor vehicles. A statistically valid and reliable survey of 10,000 consumers reported that 14 percent were turned away in calendar year 2006 and told to go to an authorized dealer because the independent car repair shop `did not have the tools, equipment or information required to do' the required service. Of these 14 percent, 62 percent stated that they were inconvenienced by the turn away. Of these turned away, 25 percent said that they would not or probably would not return to the independent garage because of the inconvenience incurred.

(9) Overall, independent service providers lose an average of 5.6 percent in productivity per month because of the lack of information and tools, which translates into an annual revenue loss of approximately \$5.8 billion.

(10) Consumers expressed a clear preference for independent repair shops for two significant reasons--convenience and price. By a ratio of 25 to 17, they expressed a preference for independent repair shops when convenience is the principle factor, and by a ratio of 13 to 5 when price is the principle factor choice.

(11) Consumers whose service providers cannot repair their motor vehicles because neither the consumer nor the service provider has access to the necessary information and tools lose both time and money and may have no realistic choice but to turn to an authorized dealer. Independent service providers suffer a business loss because they have to turn away consumers or expend time and effort contacting manufacturers' representatives to try to obtain the necessary information.

(12) Consumers in the United States have benefited from the availability of a wide choice of service providers for their motor vehicles. The American economy has also benefited from the availability of an aftermarket tools and parts supply that provides jobs to over 5 million workers in 495,000 businesses, and generates \$200 billion in annual sales.

(13) Vehicle owners in the United States should have the right--

(A) to all information necessary to allow the diagnosis, service, maintenance, and repair of their vehicles;

(B) to have access to information, tools, and replacement equipment so that they can, if they wish, diagnose problems themselves and maintain, service, and repair their own vehicles; and

(C) to the availability at both authorized and independent service providers of the tools, replacement equipment, and information necessary to diagnose problems in vehicles and to service, maintain, and repair them.

(14) Discriminating between authorized dealers and independent service providers and restricting the availability of information, tools and replacement equipment limits who can diagnose, service, maintain, and repair motor vehicles and what tools and replacement equipment may be used to repair those vehicles, limits consumer choice, limits competition, and impedes the safe and energy-efficient operation of motor vehicles.

(15) Access for consumers and all service providers of information, tools, and replacement equipment necessary to the diagnosis, service, maintenance, and repair of motor vehicles can be accomplished without infringing manufacturers' legitimate trade secrets.

(b) Purposes- The purposes of this Act are the following:

(1) To protect consumers' rights to choose a service provider for the diagnosis, service, maintenance, and repair of their motor vehicles;

(2) To promote safety and energy efficiency by requiring motor vehicle manufacturers to make available to consumers and their service providers the information, parts and tools necessary to facilitate regular diagnosis, service, maintenance, and repair of motor vehicles, motor vehicle equipment, and motor vehicle systems; and

(3) To promote competition in price and quality for the diagnosis of problems, and the service, maintenance, and repair of motor vehicles by giving consumers the widest possible choice of service providers.

SEC. 3. MANUFACTURER REQUIREMENTS.

(a) Duty To Disclose Information- The manufacturer of a motor vehicle sold, leased, or otherwise introduced into commerce in the United States shall provide to the motor vehicle owner, and to all service providers on reasonable and non-discriminatory terms, all information necessary to diagnose, service, maintain, or repair the motor vehicle, and all information necessary to fully utilize the tools and motor vehicle equipment (including replacement equipment) needed to diagnose, service, maintain, and repair the motor vehicle. Such information shall include--

(1) information about safety alerts, recalls, service bulletins and the need for adjustments to maintain energy efficiency;

(2) information necessary to access and integrate replacement equipment into the motor vehicle; and

(3) all other information of any kind needed or used to diagnose, service, maintain, repair, activate, certify, or install any motor vehicle equipment (including replacement equipment) in a motor vehicle.

(b) Duty To Make Tools Available- The manufacturer of a motor vehicle sold, leased, or otherwise introduced into commerce in the United States shall offer for sale to consumers, and to all service providers on reasonable and non-discriminatory terms, any tool necessary to diagnose, service, maintain, or repair a motor vehicle, and shall provide the information necessary to enable aftermarket tool companies to manufacture tools with the same functional characteristics as those tools made available by the manufacturers to authorized dealers.

(c) Replacement Equipment- The manufacturer of a motor vehicle sold, leased, or otherwise introduced into commerce in the United States shall offer for sale to consumers, and to all service providers on reasonable and non-discriminatory terms, all equipment necessary to diagnose, service, maintain, or repair a motor vehicle.

(d) Protection of Trade Secrets-

(1) A manufacturer may not be required to publicly disclose information that, if made public, would divulge methods or processes entitled to protection as trade secrets.

(2) No information may be withheld by a manufacturer on the ground that it is a trade secret if that information is provided (directly or indirectly) to authorized dealers or service providers.

SEC. 4. AUTHORITY OF FEDERAL TRADE COMMISSION.

(a) In General- For the purpose of enforcing compliance with this Act, the Federal Trade Commission may utilize all authority conferred on it by the Federal Trade Commission Act, or otherwise.

(b) A violation of section 3 of this Act constitutes an unfair method of competition and an unfair or deceptive act or practice within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1)).

(c) Violation of a rule prescribed under section 4(d) of this Act constitutes violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) Rulemaking- The Federal Trade Commission may prescribe rules to implement this Act.

(e) Cooperation With U.S. Department of Transportation- The Federal Trade Commission shall cooperate with the Department of Transportation to publish technical service bulletins on a Federal Internet Website.

(f) Limitation- The Federal Trade Commission may not prescribe rules that--

(1) interfere with the authority of the Administrator of the Environmental Protection Agency under section 202(m) of the Clean Air Act (42 U.S.C. 7521(m)) with regard to motor vehicle emissions control diagnostics systems; or

(2) conflict with rules prescribed by such Administrator under such section.

SEC. 5. ACTION BY STATES.

(a) In General- Whenever an attorney general of any State has reason to believe that the interests of the residents of that State have been or are being threatened or adversely affected by a violation of section 3 of this Act, or by the violation of a rule promulgated by the Federal Trade Commission to implement this Act, the State, as *parens patriae*, may bring a civil action on behalf of its residents to enjoin such violations, to obtain damages, restitution, or other compensation on behalf of residents of such State, or to obtain such further and other relief as the court may deem appropriate.

(b) Notice- The State shall serve prior written notice of any civil action under subsection (a) of this section upon the Federal Trade Commission with a copy of its complaint, except that if it is not feasible for the State to provide such prior notice, the State shall serve

such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Federal Trade Commission shall have the right--

- (1) to intervene in such action,
- (2) upon so intervening, to be heard on all matters arising therein, and
- (3) to file petitions for appeal.

(c) Construction- For purposes of bringing any civil action under subsection (a) of this section, nothing in this chapter shall prevent an attorney general from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(d) Actions by Federal Trade Commission- Whenever a civil action has been instituted by or on behalf of the Federal Trade Commission for violation of any rule prescribed under section 4(d) of this Act, no State may, during the pendency of such action instituted by or on behalf of the Federal Trade Commission, institute a civil action under this Act against any defendant named in the complaint in such action for violation of any rule as alleged in such complaint.

(e) Actions by Other State Officials-

- (1) Nothing contained in this section shall prohibit an authorized State official from proceeding in State court on the basis of an alleged violation of any civil or criminal statute of such State.
- (2) In addition to actions brought by an attorney general of a State under subsection (a) of this section, such an action may be brought by officers of such State who are so authorized.

SEC. 6. CONSUMERS' RIGHTS.

A consumer or service provider may bring a civil action to enjoin any violation of section 3 of this Act or of any rule issued pursuant to this Act and for damages therefore (including court costs and reasonable attorney and expert witness fees). Such an action may be brought in any court of competent jurisdiction.

SEC. 7. DEFINITIONS.

In this Act:

- (1) The term `commerce' has the meaning given that term in section 4 of the Federal Trade Commission Act (15 U.S.C. 44).
- (2) The terms `manufacturer', `motor vehicle', and `motor vehicle equipment' have the meanings given those terms in section 30102(a) of title 49, United States Code.
- (3) The term `motor vehicle owner' and the term `consumer' mean any person who owns, leases, or otherwise has the legal

right to use and possess a motor vehicle, or the agent of such person.

(4) The term `service provider' means a person engaged in the diagnosis, service, maintenance, or repair of motor vehicles or motor vehicle engines.

(5) The term `replacement equipment' has the meaning given that term in section 30102(b)(1) of title 49, United States Code.

(6) The term `model year' has the meaning given that term in section 32901(a) of title 49, United States Code.

(7) The term `dealer' has the meaning given that term in section 30102(a) of title 49, United States Code.

(8) The term `technical service bulletin' means a communication sent to a dealer about the diagnosis, service, maintenance or repair of a motor vehicle or item of motor vehicle equipment and shall include all communications sent to the Secretary of Transportation under sections 30166(f) and 30166(m)(3)(A)(ii) of title 49, United States Code.