

HOUSE BILL REPORT

HB 1766

As Reported By House Committee On:
Commerce & Labor

Title: An act relating to automotive repair.

Brief Description: Concerning automotive repair.

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

Brief History:

Reported by House Committee on:
Commerce & Labor, March 2, 1993, DPS.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Lisk, Ranking Minority Member; Chandler, Assistant Ranking Minority Member; Conway; Horn; King; Springer; and Veloria.

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 Office of 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 repair facilities 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 1992, automotive repair problems were the second most frequent consumer complaint received by the Office of the Attorney General. 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 facilities and consumers.

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

All estimates exceeding \$100 must be in writing and include: the date, the name, address, and phone number of the repair facility; the name, address, and phone number of the customer, or the customer's designee; if the vehicle was delivered for repair, the year, make, model, license plate number or last eight numbers of the vehicle identification 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) I request an estimate in writing before you begin repairs. Contact me if the price will exceed the estimate by more than 10 percent; (2) Proceed with repairs, but contact me if the price will exceed a given price; or (3) I do not want a written estimate.

The information a repair facility must provide on an invoice is made more specific. The invoice must include: a description of the services performed; a list and description of all parts supplied; the price per part and total amount charged for all parts; the total amount charged for all labor; and the total charge. A copy of the estimate must be provided to the customer and a copy retained by the repair shop. A copy of the invoice must be provided to the customer. Only material omissions in the estimate or invoice are actionable in a court of law or equity.

The language is refined but the requirement is retained that, where possible, replaced parts must be returned to the customer upon request or if not possible, the customer must be shown the part.

The rights of the customer regarding written estimates are made more specific. The repair shop may not 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, the name or identification number of the employee obtaining the authorization, and the name and the phone number of the person authorizing the additional costs.

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

The requirement that the repair facility 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.

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 relating to estimates, invoices, and other consumer rights, is barred from asserting a possessory or chattel lien for the amount of the unauthorized parts or labor.

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

- 1) Advertising that is false, deceptive, or misleading;
- 2) Materially misstating the estimated price for a specified repair procedure;
- 3) Retaining payment from a customer for parts not delivered or installed or a repair procedure not performed;
- 4) Unauthorized operation of a customer's vehicle for purposes not related to repair or diagnosis;
- 5) Failing or refusing to provide a customer, upon request, a copy of any document signed by the customer, at no cost;

- 6) Retaining duplicative payment from both the customer and the warranty or extended service provider for the same covered part or labor; and
- 7) Charging a customer for repairs for which there is no reasonable basis.

The repair shop must make available upon request a copy of any express warranty provided by the repair facility to the customer that covers repairs performed on the vehicle.

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: A definition is added for "after market body part or nonoriginal equipment manufacturer body part." Each of these terms is defined as "an exterior body panel or nonstructural body component manufactured by someone other than the original equipment manufacturer and supplied through suppliers other than those in the manufacturer's normal distribution channels."

The substitute bill adds "unibody," "body collision repair," and "refinishing" to the specialties included in the definition of "automotive repair."

The substitute bill requires that the invoice include after market body parts or nonoriginal equipment manufacturer body parts where collision repair is involved.

The substitute bill provides that only material omissions in the estimate or invoice may give rise to a cause of action.

The substitute bill clarifies that a customer may designate another person to receive a written estimate on the customer's behalf and the repair facility may rely on that person's authorization.

The restriction prohibiting repair facilities from charging for parts and labor which are not a part of the written estimate is stricken. However, the repair facility may not charge more than 110 percent of the estimate.

Instead of requiring that the Office of the Attorney General submit a report on the findings of the National Association of Attorneys General Automotive Repair Task Force, the substitute provides that the Office of the Attorney General may report on the findings of the task force.

Other technical changes are made.

Fiscal Note: Requested February 22, 1993.

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

Testimony For (Original Bill): This bill is an attempt to deal with a significant problem. Most consumers rely heavily on the expertise of auto repair facilities. The Attorney General's Office has recently sought injunctions against Sears Automotive and Precision Tune facilities for overselling. In many cases consumers are unaware that they have been victimized. There are two key elements to this bill: (1) It encourages clear communication with a firm estimate in advance. This is the best tool for resolving disputes; and (2) It identifies and prohibits specific unfair and deceptive acts or practices. This bill is the result of much negotiation and compromise.

Testimony Against (Original Bill): An unintentional paperwork violation should not be a consumer protection violation. The bill should have some element of intent so that pure accidents are not punished. Under current practices some businesses will not be able to keep estimates after they have been converted to invoices. We should not be bound to results of the national attorney general task force study.

Witnesses: Christine Gregoire, Washington State Attorney General (in favor); Doug Walsh, Assistant Attorney General (in favor); Carl Rader and Rose Bowman, Automobile Service Association of Washington (in favor, with concerns); Bruce Olsen, AAA (in favor); Jim Boldt, Washington State Automobile Dealers Association (in favor, with concerns); and Larry Stevens, Automobile Service Association (in favor, with concerns).