

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 1766

53rd Legislature
1993 Regular Session

Passed by the House April 20, 1993
Yeas 97 Nays 0

**Speaker of the
House of Representatives**

Passed by the Senate April 8, 1993
Yeas 47 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Alan Thompson, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 1766** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 1766

AS AMENDED BY THE SENATE

Passed Legislature - 1993 Regular Session

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives G. Cole, Heavey, Ogden, Zellinsky, R. Meyers, Wang, Conway and J. Kohl; by request of Attorney General)

Read first time 03/03/93.

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) An "after market body part" or "nonoriginal equipment
18 manufacturer body part" is an exterior body panel or nonstructural body

1 component manufactured by someone other than the original equipment
2 manufacturer and supplied through suppliers other than those in the
3 manufacturer's normal distribution channels.

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;

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

20 (c) The removal, replacement, or repair of exterior body panels,
21 the removal, replacement, or repair of structural and nonstructural
22 body components, the removal, replacement, or repair of collision
23 damaged suspension components, and the refinishing of automotive
24 components.

25 (3) "Automotive repair facility" or "repair facility" means any
26 person, firm, association, or corporation who for compensation engages
27 in the business of automotive repair or diagnosis, or both, of
28 malfunctions of motor vehicles subject to licensure under chapter 46.16
29 RCW and repair and refinishing auto-body collision damage as well as
30 overall refinishing and cosmetic repairs.

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

33 (5) A "remanufactured" part consists of a used assembly that has
34 been dismantled with the core parts being remachined and all other
35 parts replaced with new parts so as to provide performance comparable
36 to that found originally.

37 NEW SECTION. **Sec. 3.** (1) Except as otherwise provided in section
38 5 of this act, all estimates that exceed one hundred dollars shall be

1 in writing and include the following information: The date; the name,
2 address, and telephone number of the repair facility; the name,
3 address, and telephone number, if available, of the customer or the
4 customer's designee; if the vehicle is delivered for repair, the year,
5 make, and model of the vehicle, the vehicle license plate number or
6 last eight digits of the vehicle identification number, and the
7 odometer reading of the vehicle; a description of the problem reported
8 by the customer or the specific repairs requested by the customer; and
9 a choice of alternatives described in section 5 of this act.

10 (2) Whether or not a written estimate is required, parts and labor
11 provided by an automotive repair facility shall be clearly and
12 accurately recorded in writing on an invoice and shall include, in
13 addition to the information listed in subsection (1) of this section,
14 the following information: A description of the repair or maintenance
15 services performed on the vehicle; a list of all parts supplied,
16 identified by name and part number, if available, part kit description
17 or recognized package or shop supplies, if any, and an indication
18 whether the parts supplied are rebuilt, or used, if applicable or where
19 collision repair is involved, after market body parts or nonoriginal
20 equipment manufacturer body parts, if applicable; the price per part
21 charged, if any, and the total amount charged for all parts; the total
22 amount charged for all labor, if any; and the total charge. Parts and
23 labor do not need to be separately disclosed if pricing is expressed as
24 an advertised special by the job, a predisclosed written repair menu
25 item, or a routine service package.

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

32 (4) A copy of the estimate, unless waived, shall be provided to the
33 customer or customer's designee prior to providing parts or labor as
34 required under section 5 of this act. A copy of the invoice shall be
35 provided to the customer upon completion of the repairs.

36 (5) Only material omissions, under this section, are actionable in
37 a court of law or equity.

1 where collision repair is involved, after market body parts or
2 nonoriginal equipment manufacturer body parts, if applicable, the name
3 or identification number of the employee who obtains the authorization,
4 and the name and telephone number of the person authorizing the
5 additional costs.

6 (3) A written estimate shall not be required when the customer's
7 motor vehicle or component has been brought to an automotive repair
8 facility's regular place of business without face-to-face contact
9 between the customer and the repair facility. Face-to-face contact
10 means actual in-person discussion between the customer or his or her
11 designee and the agent or employee of the automotive repair facility
12 authorized to intake vehicles or components. However, prior to
13 providing parts and labor, the repair facility must obtain either the
14 oral or written authorization of the customer or the customer's
15 designee. The repair facility or its representative shall note on the
16 estimate or repair order the date and time of obtaining an oral
17 authorization, the total amount authorized, the name or identification
18 number of the employee who obtains the authorization, and the name of
19 the person authorizing the repairs.

20 NEW SECTION. **Sec. 6.** An automotive repair facility shall post in
21 a prominent place on the business premises one or more signs, readily
22 visible to customers, in the following form:

23 "YOUR CUSTOMER RIGHTS
24 YOU ARE ENTITLED BY LAW TO:

- 25 1. A WRITTEN ESTIMATE FOR REPAIRS WHICH WILL COST MORE THAN ONE
26 HUNDRED DOLLARS, UNLESS WAIVED OR ABSENT FACE-TO-FACE
27 CONTACT (SEE ITEM 4 BELOW);
- 28 2. RETURN OR INSPECTION OF ALL REPLACED PARTS, IF REQUESTED AT
29 TIME OF REPAIR AUTHORIZATION;
- 30 3. AUTHORIZE ORALLY OR IN WRITING ANY REPAIRS WHICH EXCEED THE
31 ESTIMATED TOTAL PRESALES TAX COST BY MORE THAN TEN PERCENT;
- 32 4. AUTHORIZE ANY REPAIRS ORALLY OR IN WRITING IF YOUR VEHICLE
33 IS LEFT WITH THE REPAIR FACILITY WITHOUT FACE-TO-FACE
34 CONTACT BETWEEN YOU AND THE REPAIR FACILITY PERSONNEL.

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

1 The first line of each sign shall be in letters not less than one
2 and one-half inch in height and the remaining lines shall be in letters
3 not less than one-half inch in height.

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

14 NEW SECTION. **Sec. 8.** A repair facility that fails to comply with
15 section 4, 5, or 6 of this act is barred from asserting a possessory or
16 chattel lien for the amount of the unauthorized parts or labor upon the
17 motor vehicle or component.

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

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

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

25 (3) Retaining payment from a customer for parts not delivered or
26 installed or a labor operation or repair procedure that has not
27 actually been performed;

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

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

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

35 (7) Charging a customer for unnecessary repairs. For purposes of
36 this subsection "unnecessary repairs" means those for which there is no

1 reasonable basis for performing the service. A reasonable basis
2 includes, but is not limited to: (a) That the repair service is
3 consistent with specifications established by law or the manufacturer
4 of the motor vehicle, component, or part; (b) that the repair is in
5 accordance with accepted industry standards; or (c) that the repair was
6 performed at the specific request of the customer.

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

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

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

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

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

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

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

3 When the department of revenue issues a registration certificate
4 under RCW 82.32.030 to an automotive ((~~repairman~~)) repair facility, it
5 shall give written notice to the person of the requirements of this
6 chapter in a manner prescribed by the director of revenue. The
7 department of revenue shall thereafter give the notice on an annual
8 basis in conjunction with the business and occupation tax return
9 provided to each person holding a registration certificate as an
10 automotive ((~~repairman~~)) repair facility.

11 NEW SECTION. **Sec. 14.** The attorney general shall study the
12 recommendations of the national association of attorneys general
13 automotive repair task force and make findings on the possible use of
14 the task force's recommendations in this state. The attorney general
15 may submit a report of its findings to the appropriate standing
16 committees of the legislature by December 1, 1994.

17 NEW SECTION. **Sec. 15.** If any provision of this act is declared
18 unconstitutional, or the applicability thereof to any person or
19 circumstances is held invalid, the constitutionality of the remainder
20 of the act and the applicability thereof to persons and circumstances
21 shall not be affected thereby.

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

- 24 (1) RCW 46.71.010 and 1982 c 62 s 1 & 1977 ex.s. c 280 s 1;
- 25 (2) RCW 46.71.020 and 1977 ex.s. c 280 s 2;
- 26 (3) RCW 46.71.030 and 1982 c 62 s 2 & 1977 ex.s. c 280 s 3;
- 27 (4) RCW 46.71.040 and 1982 c 62 s 3 & 1977 ex.s. c 280 s 4;
- 28 (5) RCW 46.71.043 and 1982 c 62 s 4;
- 29 (6) RCW 46.71.047 and 1982 c 62 s 5;
- 30 (7) RCW 46.71.050 and 1982 c 62 s 6 & 1977 ex.s. c 280 s 5; and
- 31 (8) RCW 46.71.065 and 1982 c 62 s 8.

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

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

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