

Motor Vehicle Owners' Right to Repair Act of 2005 (Introduced in House)

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To protect the rights of consumers to diagnose, service, and repair motor vehicles in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

May 3, 2005

Mr. BARTON of Texas (for himself, Mr. TOWNS, and Mr. ISSA) 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, and repair motor vehicles in the United States, 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 2005'.

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings- Congress finds the following:

- (1) The ability to diagnose, service, and repair a motor vehicle in a timely, reliable, and affordable manner is essential to the safety and well-being of automotive consumers in the United States.
- (2) Consumers are entitled to choose among competing repair facilities for the convenient, reliable, and affordable repair of their motor vehicles.
- (3) Increased competition among repair facilities will benefit vehicle owners in the United States.
- (4) Computers of various kinds are increasingly being used in motor vehicle systems, such as pollution control, transmission, anti-lock brakes, electronic and mechanical systems, heating and air-conditioning, mobile electronics, airbags, and steering.
- (5) The diagnosis, service, and repair of these vehicle systems are essential to the safety and proper operation of modern motor vehicles.
- (6) In many instances, access codes prevent owners from making, or having made, the necessary diagnosis, service, and repair of their motor vehicles in a timely, convenient, reliable, and affordable manner.
- (7) Automobile manufacturers have restricted access to the information motor vehicle owners need in order to diagnose, service, and repair their vehicles, in a manner that has hindered open competition among repair facilities.

(8) Consumers in the United States have benefited from the availability of a competitive aftermarket industry, or parts and accessories used in the repair, maintenance, or enhancement of a motor vehicle. The American economy has also benefited from the availability of a competitive aftermarket industry that provides jobs to over 5 million workers in over 495,000 businesses, and generates \$200 billion in annual sales.

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

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

(B) to choose between original parts and aftermarket parts when repairing their motor vehicles; and

(C) to make, or have made, repairs necessary to keep their vehicles in reasonably good and serviceable condition during the life of the vehicle.

(10) The restriction of vehicle repair information and tools limits who can repair motor vehicles and what parts may be used to repair those vehicles, which limits consumer choice, impedes competition, and increases the costs of vehicle repair for consumers.

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

(1) To ensure the safety of all vehicle owners by requiring disclosure of all information necessary for the proper diagnosis, service, and repair of a vehicle in a timely, affordable, and reliable manner.

(2) To encourage competition in the diagnosis, service, and repair of motor vehicles.

SEC. 3. MANUFACTURER DISCLOSURE REQUIREMENTS.

(a) Duty to Disclose- The manufacturer of a motor vehicle sold or introduced into commerce in the United States shall promptly provide to the vehicle owner, or to a repair facility of the motor vehicle owner's choosing, the information necessary to diagnose, service, or repair the vehicle. The motor vehicle manufacturer shall make available all non-emission-related service information, training information, and diagnostic tools on a non-discriminatory basis to any repair facility of the owner's choosing, and shall not limit such information to those repair facilities within the manufacturers' approved network. The information to be made available shall include the following:

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

(2) The same diagnostic tools and capabilities related to vehicle repair that are made available to franchised dealerships shall be made available to independent repair facilities. These diagnostic tools and capabilities shall be made available for purchase by motor vehicle owners or their agents through reasonable business means. The service and training information and manufacturer diagnostic capabilities shall be available to independent repair facilities, and to the companies from which they normally purchase diagnostic tools, without the need for the motor vehicle owner to return to a franchised dealership.

(b) Protection of Trade Secrets- Nothing in this Act shall be deemed to require the disclosure of trade secrets, nor the public disclosure of any information related exclusively to the design and manufacture of motor vehicle parts. No information necessary to repair a vehicle shall be withheld by a manufacturer if such information is provided (directly or indirectly) to franchised dealerships or other repair facilities.

SEC. 4. REGULATIONS.

(a) In General- Not later than 1 year after the date of enactment of this Act, the Federal Trade Commission shall prescribe regulations setting forth an appropriate method by which manufacturers shall provide the information required by section 3, including disclosure in writing, via the Internet, or under such terms as the Commission determines appropriate. The regulations shall take effect upon final issuance of such regulations and shall apply to vehicles manufactured after model year 1994.

(b) Limitation- The Federal Trade Commission may not prescribe rules that interfere with the authority of, or conflict with rules prescribed by, 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.

SEC. 5. ENFORCEMENT.

(a) Unfair or Deceptive Act or Practice- The failure by a manufacturer to comply with section 3(a) or the regulations prescribed under section 4 shall be treated as an unfair method of competition and an unfair or deceptive act or practice in or affecting commerce (within the meaning of section 5(a)(1) of the Federal Trade Commission Act (15 U.S.C. 45(a)(1))). A violation of this Act shall be treated as a 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)).

(b) Actions by the Federal Trade Commission- The Federal Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act. Any entity that violates this Act shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act.

(c) Effect on Other Laws- Nothing contained in this Act shall be construed to limit the authority of the Federal Trade Commission under any other provisions of law.

SEC. 6. DEFINITIONS.

In this Act:

(1) 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.

(2) The term `motor vehicle owner' or `vehicle owner' means any person who owns, leases, or otherwise has the legal right to use and possess a motor vehicle.

(3) The term `repair facility' means a facility maintained by a person engaged in the repair, diagnosing, or servicing of motor vehicles or motor vehicle engines.