

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1208

H. P. 964

House of Representatives, March 13, 1979

On Motion of Mr. Carroll of Limerick, referred to the Committee on Business Legislation. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Brannigan of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Correct Certain Abuses in the Motor Vehicle Repair Business.

Be it enacted by the People of the State of Maine, as follows:

29 MRSA c. 23 is enacted to read:

CHAPTER 23

MOTOR VEHICLE REPAIR

§ 2601. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. **Customer.** "Customer" means an individual, corporation or other legal entity, including an agent, who contracts with a repair facility for repair of a motor vehicle.

2. **Estimate.** "Estimate" means a written statement made in good faith which specifically describes and itemizes, as far as practicable, labor, parts and charges for labor, parts and any other services reasonably necessary to repair a motor vehicle.

3. Flat rate. "Flat rate" means any method of calculating charges for labor that is not based upon the amount of time actually spent repairing a motor vehicle.

4. Motor vehicle. "Motor vehicle" means "motor vehicle" as defined in section 1, subsection 7.

5. Repair. "Repair" means the examination, maintenance, servicing, adjustment, improvement, replacement, removal or installation of any part of a motor vehicle, including body work and painting and incidental services such as storage and towing, but excluding the sale of motor fuel.

6. Repair facility. "Repair facility" means an individual, corporation or other legal entity which repairs motor vehicles for the general public for compensation.

§ 2602. Exemptions

This chapter shall not apply to:

1. Repairs for \$25 or less. The repair of a motor vehicle if the final bill will be \$25 or less. A customer is not obligated to pay any charge in excess of \$25 if the repair facility fails to comply with any of the provisions of this chapter in the belief that the final bill will be \$25 or less.

2. Repairs by owner. The repair of a motor vehicle by its owner.

§ 2603. Estimates

1. Customer request. If a customer requests an estimate, the repair facility shall promptly prepare an estimate and give it to the customer. If the customer consents, the facility may orally communicate the contents of the estimate to the customer, but the facility shall give the customer the estimate itself before payment of any charge is demanded.

2. No liability without agreement. A customer who requests an estimate under subsection 1 is not obligated to pay any charge unless the customer specifically agrees, orally or in writing, to that charge before the repairs for which that charge is made are begun.

3. Fee for estimate. A facility may charge a customer a reasonable fee for the labor required to prepare an estimate if the fee is based upon the amount of time actually spent preparing the estimate and if the customer agrees to the hourly rate for labor before the estimate is prepared. The customer is not obligated to pay any charge for labor in the final bill if that charge was also included in the fee for preparing the estimate.

4. Disassembly. If a facility has to disassemble a part in order to prepare an estimate, the facility shall include in the contents of the estimate the labor, parts and charges for labor, parts and any other services reasonably necessary to reassemble that part and restore it to its former condition, or to replace that part

if it cannot be restored to its former condition, in which case the facility shall inform the customer of that fact before disassembly.

5. Construction of section. This section shall not be construed to require a facility to give a customer an estimate if the facility refuses to repair the customer's motor vehicle, but a facility may not refuse to repair a customer's motor vehicle solely because the customer requests an estimate.

§ 2604. Liens

1. Limitations. No repair facility has a lien or may assert purported rights under any lien for any charge which the customer is not obligated to pay under this chapter.

2. No prejudice to other rights. A facility's failure to assert rights under any lien shall not prejudice lawful action by the facility to collect a debt.

§ 2605. Repairs by other persons

1. Customer information. Before a repair facility begins repairing a customer's motor vehicle, the facility shall inform the customer of the nature and extent of any repairs which the facility reasonably anticipates will be made by a person other than the facility and the identity of that person and his place of business. If, after the facility has begun making repairs, it becomes necessary for a person other than the facility to make repairs, the facility shall make a reasonable effort to inform the customer of the items listed in this subsection.

2. Facility liability. In addition to the liability of any other person, a facility shall be responsible for repairs made by a person other than the facility as if the facility itself had made the repairs.

§ 2606. Replaced parts

Before payment of any charge is demanded, a repair facility shall return to the customer any replaced parts, unless the facility is required to return the parts to the manufacturer or distributor under a bona fide warranty or exchange arrangement or unless the customer waives his right to their return at the time of their return.

§ 2607. Invoices

1. Duty. A repair facility shall prepare an invoice for each motor vehicle it repairs, give the customer a copy and keep the original for at least one year.

2. Contents. An invoice shall include the following:

A. The name and address of the customer and, if different, the motor vehicle's registered owner;

B. The make, model, year, odometer reading and registration number of the motor vehicle and the state of issuance;

- C. The date the facility accepted the motor vehicle for repair and the date it was returned to the customer;
- D. The name, identification number of and charge for each part added or which replaced an existing part and whether the part is used, reconditioned or rebuilt, unless the charge for the part is less than \$1;
- E. The total charge for labor, an identification of repairs for which a flat rate was charged, the specific charge, the name of each person who made repairs and the repairs for which he was responsible;
- F. The charge for any other service, including storage, towing, service and handling, sales tax, inspection fee and any other official fee; and
- G. The identification of any repairs made by a person other than the facility and that person's name and place of business.

§ 2608. Prohibited practices

1. Repair facility. No repair facility may:

- A. Install a used, reconditioned or rebuilt part unless the customer agrees to the installation before that part is installed;
- B. Fail or refuse to remedy promptly and without charge any repairs that were not made in a good and workmanlike manner in accordance with accepted standards of the trade;
- C. Include any charge for labor in the final bill if the fee for preparing the estimate also included that charge;
- D. Charge a customer more than \$25 if the facility fails to comply with any of the provisions of this chapter in the belief that the final bill will be \$25 or less; or
- E. Make any statement which is, or should be known to be, false or misleading.

§ 2609. Notices

Every repair facility shall post the following notice in a place where it is reasonably likely to be seen by its customers. The notice shall be completed with accurate information on charges and printed so that it is conspicuous and can be easily read by the average person.

“LEGAL NOTICE TO OUR CUSTOMERS

A. IF YOUR FINAL BILL WILL BE MORE THAN \$25:

- 1. You can get a written estimate if you ask for it. A fee may be charged for the estimate. We do not have to give you an estimate if we refuse to repair your car, but we cannot refuse to repair your car just because you ask for an estimate.

2. We cannot install any used or rebuilt parts without your consent.
3. We have to return to you any replaced parts before you pay your bill, unless we have to return the parts to our manufacturer or distributor.
4. We have to give you a detailed invoice.
5. You can get your car back immediately if you get an estimate and pay for the repairs to which you agree under the estimate, as well as any other repairs over and above the estimate for which you also specifically agree to pay. Even if you do not get an estimate, we may hold your car only if you refuse to pay for repairs for which you are liable under the law.

B. WE CHARGE \$ /HOUR FOR LABOR.

We round off the time to the nearest .”

The notice shall also contain the following if it applies:

“We also charge a “flat rate” for some repairs. Our service manager will explain what a “flat rate” is and show you how much it may cost you.”

§ 2610 Unfair trade practice

A repair facility’s failure to comply with this chapter shall constitute an unfair trade practice under Title 5, section 206 et seq.

§ 2611. Waiver prohibited

Unless specifically provided otherwise, the duties imposed by and rights created under this chapter may not be waived or otherwise modified. Any waiver or modification is contrary to public policy and shall be void and unenforceable.

§ 2612. Savings clause

This chapter shall be in addition to, and shall not be construed so as to limit or replace in any way, rights or procedures provided to customers either by statute or by common law.

STATEMENT OF FACT

This bill helps protect the auto repair customer against common abuses, gives him information that enables him to shop for the best repair deal and helps to eliminate misunderstanding between him and the repair shop. This bill does these things responsibly, without creating a massive licensing bureaucracy or a cumbersome regulatory scheme and without imposing unfair or unreasonable burdens on repair shops.

The bill applies to auto repairs of all kinds, including mechanical and body work, and to any repair shop doing business with the public for compensation. It also covers any customer, whether consumer or commercial. Repair of one’s own vehicle and repairs for \$25 or less are excluded. The bill requires a repair shop to

give the customer a detailed written estimate if he requests it. Shops may charge a reasonable fee for estimates. No customer who gets an estimate has to pay any charge unless he specifically agrees in advance. In the interest of convenience, a shop and its customer may communicate orally about the estimate if the customer consents. The bill also requires repair shops to inform their customers beforehand if someone else will be doing any work on their vehicles. Before the customer pays the final bill, the shop must return to him any replaced part unless the shop has to return the part to the manufacturer or distributor or unless the customer waives his right at that time. After a customer has paid, the shop must give him an invoice detailing the transaction, including a brief description and itemization of parts, labor, charges and other services, the mechanics' names and the particular jobs they performed. The bill prohibits any repair shop from holding a customer's vehicle for nonpayment if he has paid the charges for which he is liable. Any customer who gets an estimate will have the benefit of a specific agreement about his liability. Even the customer who does not get an estimate is not obligated to pay any charge over \$25 if the shop fails to comply with the bill's requirements in the belief that the final bill will be \$25 or less. Repair shops may not install rebuilt parts without the customer's prior consent, double bill a customer or make false or misleading statements. Shops must also correct improperly made repairs promptly and without charge. The bill requires every repair shop to post a conspicuous notice, as provided in chapter 23, informing customers of their legal rights and the shop's rates. Finally, the bill authorizes the Attorney General to enforce the bill under the Unfair Trade Practices Act.