

110TH CONGRESS
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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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Motor Vehicle Owners
5 Right to Repair Act of 2007”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—The Congress finds the following:

8 (1) Consumers are entitled to diagnose, service,
9 maintain, or repair their own motor vehicles if they

1 so choose, or to choose a service provider to perform
2 these services for their motor vehicles.

3 (2) Consumers are entitled to all information
4 about safety alerts, recalls, and other events relevant
5 to the operation of their vehicles and to have this in-
6 formation available to their service providers in
7 order to ensure the fuel efficient and safe operation
8 of their motor vehicles.

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

12 (4) Regular diagnosis, service, maintenance,
13 and repair of motor vehicles, motor vehicle equip-
14 ment, and motor vehicle systems such as pollution
15 control, transmission, antilock brakes, electronic and
16 mechanical systems, heating and air-conditioning,
17 and steering are essential to improve fuel economy,
18 protect the environment, and promote the safety of
19 modern motor vehicles.

20 (5) Better fuel economy can reduce our depend-
21 ence on foreign oil and help protect the environment.
22 Proper maintenance of a motor vehicle can signifi-
23 cantly improve its gas mileage. Fixing a motor vehi-
24 cle that is noticeably out of tune can improve its gas
25 mileage by an average of 4 percent. Replacing a

1 clogged air filter can improve a motor vehicle's mile-
2 age by as much as 10 percent. Fixing a serious
3 maintenance problem, such as a faulty oxygen sen-
4 sor, can improve a motor vehicle's mileage by as
5 much as 40 percent.

6 (6) Computers of various kinds increasingly are
7 being used by manufacturers in motor vehicle equip-
8 ment and motor vehicle systems. On-board computer
9 technology controls virtually all of the vehicle's sys-
10 tems, and only service technicians with the necessary
11 information can access the computers to perform di-
12 agnosis, service, maintenance, and repair of the vehi-
13 cle.

14 (7) Manufacturers have made available to their
15 authorized dealers and service providers the informa-
16 tion, tools, and replacement equipment necessary to
17 diagnose problems and to service, maintain, and re-
18 pair motor vehicles that incorporate computers in
19 their motor vehicle systems.

20 (8) Manufacturers have failed to make avail-
21 able, or have inhibited, restricted, or limited the
22 availability to consumers and independent service
23 providers of the information, tools, and replacement
24 equipment necessary to diagnose, service, maintain,
25 and repair consumers' motor vehicles. A statistically

1 valid and reliable survey of 10,000 consumers re-
2 ported that 14 percent were turned away in calendar
3 year 2006 and told to go to an authorized dealer be-
4 cause the independent car repair shop “did not have
5 the tools, equipment or information required to do”
6 the required service. Of these 14 percent, 62 percent
7 stated that they were inconvenienced by the turn
8 away. Of these turned away, 25 percent said that
9 they would not or probably would not return to the
10 independent garage because of the inconvenience in-
11 curred.

12 (9) Overall, independent service providers lose
13 an average of 5.6 percent in productivity per month
14 because of the lack of information and tools, which
15 translates into an annual revenue loss of approxi-
16 mately \$5.8 billion.

17 (10) Consumers expressed a clear preference
18 for independent repair shops for two significant rea-
19 sons—convenience and price. By a ratio of 25 to 17,
20 they expressed a preference for independent repair
21 shops when convenience is the principle factor, and
22 by a ratio of 13 to 5 when price is the principle fac-
23 tor choice.

24 (11) Consumers whose service providers cannot
25 repair their motor vehicles because neither the con-

1 consumer nor the service provider has access to the nec-
2 essary information and tools lose both time and
3 money and may have no realistic choice but to turn
4 to an authorized dealer. Independent service pro-
5 viders suffer a business loss because they have to
6 turn away consumers or expend time and effort con-
7 tacting manufacturers' representatives to try to ob-
8 tain the necessary information.

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

16 (13) Vehicle owners in the United States should
17 have the right—

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

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

1 (C) to the availability at both authorized
2 and independent service providers of the tools,
3 replacement equipment, and information nec-
4 essary to diagnose problems in vehicles and to
5 service, maintain, and repair them.

6 (14) Discriminating between authorized dealers
7 and independent service providers and restricting the
8 availability of information, tools and replacement
9 equipment limits who can diagnose, service, main-
10 tain, and repair motor vehicles and what tools and
11 replacement equipment may be used to repair those
12 vehicles, limits consumer choice, limits competition,
13 and impedes the safe and energy-efficient operation
14 of motor vehicles.

15 (15) Access for consumers and all service pro-
16 viders of information, tools, and replacement equip-
17 ment necessary to the diagnosis, service, mainte-
18 nance, and repair of motor vehicles can be accom-
19 plished without infringing manufacturers' legitimate
20 trade secrets.

21 (b) PURPOSES.—The purposes of this Act are the fol-
22 lowing:

23 (1) To protect consumers' rights to choose a
24 service provider for the diagnosis, service, mainte-
25 nance, and repair of their motor vehicles;

1 (2) To promote safety and energy efficiency by
2 requiring motor vehicle manufacturers to make
3 available to consumers and their service providers
4 the information, parts and tools necessary to facili-
5 tate regular diagnosis, service, maintenance, and re-
6 pair of motor vehicles, motor vehicle equipment, and
7 motor vehicle systems; and

8 (3) To promote competition in price and quality
9 for the diagnosis of problems, and the service, main-
10 tenance, and repair of motor vehicles by giving con-
11 sumers the widest possible choice of service pro-
12 viders.

13 **SEC. 3. MANUFACTURER REQUIREMENTS.**

14 (a) DUTY TO DISCLOSE INFORMATION.—The manu-
15 facturer of a motor vehicle sold, leased, or otherwise intro-
16 duced into commerce in the United States shall provide
17 to the motor vehicle owner, and to all service providers
18 on reasonable and non-discriminatory terms, all informa-
19 tion necessary to diagnose, service, maintain, or repair the
20 motor vehicle, and all information necessary to fully utilize
21 the tools and motor vehicle equipment (including replace-
22 ment equipment) needed to diagnose, service, maintain,
23 and repair the motor vehicle. Such information shall in-
24 clude—

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

4 (2) information necessary to access and inte-
5 grate replacement equipment into the motor vehicle;
6 and

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

11 (b) DUTY TO MAKE TOOLS AVAILABLE.—The manu-
12 facturer of a motor vehicle sold, leased, or otherwise intro-
13 duced into commerce in the United States shall offer for
14 sale to consumers, and to all service providers on reason-
15 able and non-discriminatory terms, any tool necessary to
16 diagnose, service, maintain, or repair a motor vehicle, and
17 shall provide the information necessary to enable
18 aftermarket tool companies to manufacture tools with the
19 same functional characteristics as those tools made avail-
20 able by the manufacturers to authorized dealers.

21 (c) REPLACEMENT EQUIPMENT.—The manufacturer
22 of a motor vehicle sold, leased, or otherwise introduced
23 into commerce in the United States shall offer for sale
24 to consumers, and to all service providers on reasonable

1 and non-discriminatory terms, all equipment necessary to
2 diagnose, service, maintain, or repair a motor vehicle.

3 (d) PROTECTION OF TRADE SECRETS.—

4 (1) A manufacturer may not be required to
5 publicly disclose information that, if made public,
6 would divulge methods or processes entitled to pro-
7 tection as trade secrets.

8 (2) No information may be withheld by a manu-
9 facturer on the ground that it is a trade secret if
10 that information is provided (directly or indirectly)
11 to authorized dealers or service providers.

12 **SEC. 4. AUTHORITY OF FEDERAL TRADE COMMISSION.**

13 (a) IN GENERAL.—For the purpose of enforcing com-
14 pliance with this Act, the Federal Trade Commission may
15 utilize all authority conferred on it by the Federal Trade
16 Commission Act, or otherwise.

17 (b) A violation of section 3 of this Act constitutes
18 an unfair method of competition and an unfair or decep-
19 tive act or practice within the meaning of section 5(a)(1)
20 of the Federal Trade Commission Act (15 U.S.C.
21 45(a)(1)).

22 (c) Violation of a rule prescribed under section 4(d)
23 of this Act constitutes violation of a rule defining an un-
24 fair or deceptive act or practice prescribed under section

1 18(a)(1)(B) of the Federal Trade Commission Act (15
2 U.S.C. 57a(a)(1)(B)).

3 (d) RULEMAKING.—The Federal Trade Commission
4 may prescribe rules to implement this Act.

5 (e) COOPERATION WITH U.S. DEPARTMENT OF
6 TRANSPORTATION.—The Federal Trade Commission shall
7 cooperate with the Department of Transportation to pub-
8 lish technical service bulletins on a Federal Internet
9 Website.

10 (f) LIMITATION.—The Federal Trade Commission
11 may not prescribe rules that—

12 (1) interfere with the authority of the Adminis-
13 trator of the Environmental Protection Agency
14 under section 202(m) of the Clean Air Act (42
15 U.S.C. 7521(m)) with regard to motor vehicle emis-
16 sions control diagnostics systems; or

17 (2) conflict with rules prescribed by such Ad-
18 ministrator under such section.

19 **SEC. 5. ACTION BY STATES.**

20 (a) IN GENERAL.—Whenever an attorney general of
21 any State has reason to believe that the interests of the
22 residents of that State have been or are being threatened
23 or adversely affected by a violation of section 3 of this
24 Act, or by the violation of a rule promulgated by the Fed-
25 eral Trade Commission to implement this Act, the State,

1 as *parens patriae*, may bring a civil action on behalf of
2 its residents to enjoin such violations, to obtain damages,
3 restitution, or other compensation on behalf of residents
4 of such State, or to obtain such further and other relief
5 as the court may deem appropriate.

6 (b) NOTICE.—The State shall serve prior written no-
7 tice of any civil action under subsection (a) of this section
8 upon the Federal Trade Commission with a copy of its
9 complaint, except that if it is not feasible for the State
10 to provide such prior notice, the State shall serve such
11 notice immediately upon instituting such action. Upon re-
12 ceiving a notice respecting a civil action, the Federal
13 Trade Commission shall have the right—

14 (1) to intervene in such action,

15 (2) upon so intervening, to be heard on all mat-
16 ters arising therein, and

17 (3) to file petitions for appeal.

18 (c) CONSTRUCTION.—For purposes of bringing any
19 civil action under subsection (a) of this section, nothing
20 in this chapter shall prevent an attorney general from ex-
21 ercising the powers conferred on the attorney general by
22 the laws of such State to conduct investigations or to ad-
23 minister oaths or affirmations or to compel the attendance
24 of witnesses or the production of documentary and other
25 evidence.

1 (d) ACTIONS BY FEDERAL TRADE COMMISSION.—

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

10 (e) ACTIONS BY OTHER STATE OFFICIALS.—

11 (1) Nothing contained in this section shall pro-
12 hibit an authorized State official from proceeding in
13 State court on the basis of an alleged violation of
14 any civil or criminal statute of such State.

15 (2) In addition to actions brought by an attor-
16 ney general of a State under subsection (a) of this
17 section, such an action may be brought by officers
18 of such State who are so authorized.

19 **SEC. 6. CONSUMERS' RIGHTS.**

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

1 **SEC. 7. DEFINITIONS.**

2 In this Act:

3 (1) The term “commerce” has the meaning
4 given that term in section 4 of the Federal Trade
5 Commission Act (15 U.S.C. 44).

6 (2) The terms “manufacturer”, “motor vehi-
7 cle”, and “motor vehicle equipment” have the mean-
8 ings given those terms in section 30102(a) of title
9 49, United States Code.

10 (3) The term “motor vehicle owner” and the
11 term “consumer” mean any person who owns,
12 leases, or otherwise has the legal right to use and
13 possess a motor vehicle, or the agent of such person.

14 (4) The term “service provider” means a person
15 engaged in the diagnosis, service, maintenance, or
16 repair of motor vehicles or motor vehicle engines.

17 (5) The term “replacement equipment” has the
18 meaning given that term in section 30102(b)(1) of
19 title 49, United States Code.

20 (6) The term “model year” has the meaning
21 given that term in section 32901(a) of title 49,
22 United States Code.

23 (7) The term “dealer” has the meaning given
24 that term in section 30102(a) of title 49, United
25 States Code.

1 (8) The term “technical service bulletin” means
2 a communication sent to a dealer about the diag-
3 nosis, service, maintenance or repair of a motor ve-
4 hicle or item of motor vehicle equipment and shall
5 include all communications sent to the Secretary of
6 Transportation under sections 30166(f) and
7 30166(m)(3)(A)(ii) of title 49, United States Code.

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