

ASSEMBLY, No. 803

STATE OF NEW JERSEY

213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

Sponsored by:

Assemblyman REED GUSCIORA

District 15 (Mercer)

Assemblywoman BONNIE WATSON COLEMAN

District 15 (Mercer)

Assemblywoman ELEASE EVANS

District 35 (Bergen and Passaic)

Co-Sponsored by:

Assemblyman Vas, Assemblywoman Oliver, Assemblymen McKeon, Roberts, Fisher, Burzichelli, Chivukula, Cryan, Prieto, Green, Assemblywoman Voss, Assemblymen Rudder, Chiappone, Assemblywoman Jasey, Assemblyman Johnson and Assemblywoman Handlin

SYNOPSIS

"Motor Vehicle Owners' Right to Repair Act."

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 9/16/2008)

1 AN ACT concerning the diagnosis, service and repair of motor
2 vehicles and supplementing Title 56 of the Revised Statutes.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*

6

7 1. This act shall be known and may be cited as the "Motor
8 Vehicle Owners' Right to Repair Act."

9

10 2. The Legislature finds and declares that:

11 a. The ability to diagnose, service and repair a motor vehicle in
12 a timely, reliable and affordable manner is essential to the safety
13 and well-being of consumers in this State.

14 b. Consumers are entitled to choose among competing repair
15 facilities for the convenient, reliable and affordable repair of their
16 motor vehicles.

17 c. Increased competition among repair facilities will benefit
18 vehicle owners in this State.

19 d. Computers of various kinds are commonly being used in
20 motor vehicle systems, such as pollution control, transmission,
21 antilock brakes, electronic and mechanical systems, heating and air-
22 conditioning, sound and steering.

23 e. The diagnosis, service and repair of these vehicle systems are
24 essential to the safe and proper operation of motor vehicles.

25 f. In many instances, access codes prevent owners from making,
26 or having made, the necessary diagnosis, service and repair of their
27 motor vehicles in a timely, convenient, reliable and affordable
28 manner.

29 g. Vehicle owners in this State should have the right:

30 (1) to obtain all information necessary to provide for the
31 diagnosis, service and repair of their vehicles;

32 (2) to choose between original parts and aftermarket parts when
33 repairing their motor vehicles; and

34 (3) to make, or have made, repairs necessary to keep their
35 vehicles in reasonably good and serviceable condition during the
36 expected vehicle life.

37 h. The limitation of access to vehicle repair information
38 regarding who can repair motor vehicles and what parts may be
39 used to repair those vehicles limits consumer choice and thus limits
40 competition.

41

42 3. As used in this act:

43 "Director" means the Director of the Division of Consumer
44 Affairs in the Department of Law and Public Safety, or his
45 designee.

46 "Manufacturer" means a person engaged in the business of
47 manufacturing, assembling or distributing motor vehicles, who will,
48 under normal business conditions during the year, manufacture,

1 assemble or distribute to dealers at least 10 new motor vehicles.

2 "Model year" means the annual production period of a
3 manufacturer, that includes January 1st of the calendar year; or the
4 specific calendar year if the manufacturer does not have an annual
5 production period.

6 "Motor vehicle" means a passenger automobile or motorcycle as
7 defined in R.S.39:1-1 which is purchased or leased in the State of
8 New Jersey or which is registered by the New Jersey Motor Vehicle
9 Commission.

10 "Motor vehicle equipment" means any system, part, or
11 component of a motor vehicle as originally manufactured; or any
12 similar part or component manufactured or sold for replacement or
13 improvement of a system, part or component or as an accessory or
14 addition to a motor vehicle; or any device or an article of apparel
15 (except medicine or eyeglasses prescribed by a licensed
16 practitioner) that is not a system, part, or component of a motor
17 vehicle and is manufactured, sold, delivered, offered, or intended to
18 be used only to safeguard motor vehicles and highway users against
19 risk of accident, injury, or death.

20 "Repair facility" means a person engaged in the repair,
21 diagnosing or servicing of motor vehicles.

22 "Vehicle owner" means any person who owns, leases or
23 otherwise has the legal right to use and possess a motor vehicle, or
24 the agent of such person.

25

26 4. a. The manufacturer of a motor vehicle shall promptly
27 provide to the vehicle owner, to a repair facility, and to the director
28 for use by any vehicle owner or repair facility, the information
29 necessary to diagnose, service or repair a motor vehicle. The
30 information shall include:

31 (1) information necessary to integrate replacement equipment
32 into the vehicle; and

33 (2) other information, as determined by the director, that is used
34 to diagnose, service, repair, activate, certify or install any motor
35 vehicle equipment in a motor vehicle.

36 b. (1) A manufacturer shall not be required to publicly disclose
37 information that, if made public, would divulge methods or
38 processes entitled to protection as trade secrets of that
39 manufacturer, but may be required to disclose that information to
40 the director for the purpose of determining whether that information
41 is entitled to such protection. The determination shall be made on
42 the record after an opportunity for an agency hearing.

43 (2) No information may be withheld by a manufacturer if that
44 information is provided either directly or indirectly to franchised
45 dealers or other repair facilities.

46

47 5. a. Not later than 180 days after the date of enactment of this
48 act, the director shall prescribe rules setting forth a uniform method

1 by which a manufacturer shall provide the information required by
2 subsection a. of section 4 of this act, including disclosure in writing,
3 on the Internet, or in any other manner, or under other terms the
4 director determines may be appropriate. These rules shall take
5 effect for vehicles manufactured after model year 1994.

6 b. The director shall not prescribe rules that:

7 (1) interfere with the authority of the Administrator of the
8 Environmental Protection Agency under section 202(m) of the
9 "Clean Air Act" (42 U.S.C. 7521(m)) with regard to motor vehicle
10 emissions control diagnostics systems; or

11 (2) conflict with rules prescribed by the administrator under that
12 section.

13
14 6. Any person who violates any of the provisions of this act, in
15 addition to any other penalty provided by law, shall be liable for a
16 penalty of not more than \$10,000 for the first offense and not more
17 than \$20,000 for the second and each subsequent offense.

18 A vehicle owner or repair facility may bring a civil action to
19 enjoin a violation of this act and to recover the costs of litigation
20 including reasonable attorney and expert witness fees.

21
22 7. This act shall take effect on the 180th day following
23 enactment.

24
25
26 STATEMENT

27
28 This bill provides that motor vehicle manufacturers are
29 responsible for providing to vehicle owners, repair facilities and the
30 Director of the Division of Consumer Affairs in the Department of
31 Law and Public Safety, information necessary to diagnose, service
32 or repair a motor vehicle. The information is to include information
33 necessary to integrate replacement equipment into the vehicle and
34 any other information of any kind used to diagnose, service, repair,
35 activate, certify or install any motor vehicle equipment in a motor
36 vehicle.

37 However, a manufacturer would not be required to disclose
38 information that, if made public, would reveal trade secret
39 information.

40 The director is to establish a uniform method by which a
41 manufacturer would provide the necessary diagnostic and repair
42 information to vehicle owners.

43 A violation of this bill would result in a penalty of not more than
44 \$10,000 for the first offense and not more than \$20,000 for the
45 second and each subsequent offense. A vehicle owner or repair
46 facility may also bring a civil action to enjoin a violation of this act
47 and to recover the costs of litigation including reasonable attorney
48 and expert witness fees.