

[First Reprint]

ASSEMBLY, No. 803

STATE OF NEW JERSEY
213th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2008 SESSION

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SYNOPSIS

"Motor Vehicle Owners' Right to Repair Act."

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs Committee on October 23, 2008, with amendments.



(Sponsorship Updated As Of: 10/28/2008)

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

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly ACO committee amendments adopted October 23, 2008.

1 Affairs in the Department of Law and Public Safety, or his
2 designee.

3 "Manufacturer" means a person engaged in the business of
4 manufacturing, assembling or distributing motor vehicles, who will,
5 under normal business conditions during the year, manufacture,
6 assemble or distribute to dealers at least 10 new motor vehicles.

7 "Model year" means the annual production period of a
8 manufacturer, that includes January 1st of the calendar year; or the
9 specific calendar year if the manufacturer does not have an annual
10 production period.

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

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

25 "Repair facility" means a person engaged in the repair,
26 diagnosing or servicing of motor vehicles¹, including but not
27 limited to any independent service provider¹.

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

31

32 4. a. The manufacturer of a motor vehicle shall ¹~~['promptly']~~¹
33 provide to ¹~~['the']~~ any motor¹ vehicle owner, to a repair facility, and
34 to the director ¹~~['for use by any vehicle owner or repair facility, the']~~
35 any¹ information ¹~~['necessary']~~ relating¹ to ¹~~['diagnose']~~ the
36 diagnosis¹, service ¹,¹ or ¹~~['repair']~~ maintenance of¹ a motor vehicle.
37 The information ¹, which shall be provided on a timely and non-
38 discriminatory basis,¹ shall include:

39 (1) ¹any¹ information necessary to integrate replacement ¹motor
40 vehicle¹ equipment into the ¹motor¹ vehicle; and

41 (2) ¹any¹ other information, as determined by the director, that is
42 ¹~~['used']~~ necessary¹ to diagnose, service, repair, activate, certify ¹,¹
43 or install any motor vehicle equipment in a motor vehicle ¹or motor
44 vehicle system¹.

45 b. (1) A manufacturer shall not be required to publicly disclose
46 information that, if made public, would divulge methods or

1 processes entitled to protection as trade secrets of that
2 manufacturer, but may be required to disclose that information to
3 the director for the purpose of determining whether that information
4 is entitled to such protection. The determination shall be made on
5 the record after an opportunity for an agency hearing.

6 (2) No information may be withheld by a manufacturer if that
7 information is provided either directly or indirectly to franchised
8 dealers ¹, authorized service providers,¹ or other ¹service providers
9 or¹ repair facilities.

10

11 5. a. Not later than 180 days after the date of enactment of this
12 act, the director shall prescribe rules setting forth a uniform method
13 by which a manufacturer shall provide the information required by
14 subsection a. of section 4 of this act, including disclosure in writing,
15 on the Internet, or in any other manner, or under other terms the
16 director determines may be appropriate. These rules shall take
17 effect for vehicles manufactured after model year 1994.

18 b. The director shall not prescribe rules that:

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

23 (2) conflict with rules prescribed by the administrator under that
24 section.

25

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

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

33

34 7. This act shall take effect on the 180th day following
35 enactment.