

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2820

By: Sullivan

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6 AS INTRODUCED

7 An Act relating to motor vehicles; creating the Motor
8 Vehicle Owners Right to Repair Act; providing short
9 title; stating findings; defining terms; requiring
10 vehicle information be provided to certain persons;
11 prohibiting disclosure of certain information;
12 requiring disclosure of information upon certain
13 determination; requiring record be made of the
14 determination; prohibiting the withholding of
15 information under certain circumstances; requiring
16 enactment of rules within certain time limitation;
17 providing monetary penalties for certain violations;
18 allowing certain persons to file a civil action;
19 providing for codification; and providing an
20 effective date.

21 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 903 of Title 15, unless there is
24 created a duplication in numbering, reads as follows:

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

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 904 of Title 15, unless there is
3 created a duplication in numbering, reads as follows:

4 The Legislature finds and declares that:

5 1. The ability to diagnose, service and repair a motor vehicle
6 in a timely, reliable and affordable manner is essential to the
7 safety and well-being of consumers in this state;

8 2. Consumers are entitled to choose among competing repair
9 facilities for the convenient, reliable and affordable repair of
10 their motor vehicles;

11 3. Increased competition among repair facilities will benefit
12 vehicle owners in this state;

13 4. Computers of various kinds are commonly being used in motor
14 vehicle systems, such as pollution control, transmission, antilock
15 brakes, electronic and mechanical systems, heating and air-
16 conditioning, sound and steering;

17 5. The diagnosis, service and repair of these vehicle systems
18 are essential to the safe and proper operation of motor vehicles;

19 6. In many instances, access codes prevent owners from making,
20 or having made, the necessary diagnosis, service and repair of the
21 motor vehicles in a timely, convenient, reliable and affordable
22 manner;

23 7. Vehicle owners in this state should have the right:
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- a. to obtain all information necessary to provide for 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 expected vehicle life; and

8 8. The limitation of access to vehicle repair information
9 regarding who can repair motor vehicles and what parts may be used
10 to repair those vehicles limits consumer choice and thus limits
11 competition.

12 SECTION 3. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 905 of Title 15, unless there is
14 created a duplication in numbering, reads as follows:

15 As used in the Motor Vehicle Owners Right to Repair Act:

16 1. "Manufacturer" means a person engaged in the business of
17 manufacturing, assembling or distributing motor vehicles, who will,
18 under normal business conditions during the year, manufacture,
19 assemble or distribute to dealers at least ten new motor vehicles;

20 2. "Model year" means the annual production period of a
21 manufacturer, that includes January 1 of the calendar year or the
22 specific calendar year if the manufacturer does not have an annual
23 production period;

24 3. "Motor vehicles" means:

1 a. any motor-driven vehicle required to be registered
2 under the Oklahoma Vehicle License and Registration
3 Act, and

4 b. any motor vehicle used primarily as a farm implement,
5 for drawing plows, mowing machines and other
6 implements of husbandry;

7 4. "Motor vehicle equipment" means:

8 a. any system, part, or component of a motor vehicle as
9 originally manufactured,

10 b. any similar part or component manufactured or sold for
11 replacement or improvement of a system, part or
12 component or as an accessory or addition to a motor
13 vehicle, or

14 c. any device or an article of apparel, with the
15 exception of medicine or eyeglasses prescribed by a
16 licensed practitioner, that is not a system, part, or
17 component of a motor vehicle and is manufactured,
18 sold, delivered, offered, or intended to be used only
19 to safeguard motor vehicles and highway users against
20 risk of accident, injury or death;

21 5. "Repair facility" means a person engaged in the repair,
22 diagnosing or servicing of motor vehicles; and
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1 6. "Vehicle owner" means any person who owns, leases or
2 otherwise has the legal right to use and possess a motor vehicle or
3 the agent of such person.

4 SECTION 4. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 906 of Title 15, unless there is
6 created a duplication in numbering, reads as follows:

7 A. Upon request, the manufacturer of a motor vehicle shall
8 promptly provide to the vehicle owner, to a repair facility, and to
9 the Attorney General for use by any vehicle owner or repair
10 facility, the information necessary to diagnose, service or repair a
11 motor vehicle. Pursuant to the provisions of this section, if a
12 request is made, no action by the state or any of its political
13 subdivisions is required unless a complaint or request for action is
14 made. Neither the state nor any of its political subdivisions has
15 an obligation to archive or act as a clearing house for the
16 requested information. However, the state and any of its political
17 subdivisions shall compel the provision of the information to the
18 owner, technician and the Office of the Attorney General. The
19 information shall include:

20 1. Information necessary to integrate replacement equipment
21 into the vehicle; and

22 2. Other information, as determined by the Attorney General,
23 that is used to diagnose, service, repair, activate, certify or
24 install any motor vehicle equipment in a motor vehicle.

1 B. A manufacturer shall not be required to publicly disclose
2 information that, if made public, would divulge methods or processes
3 entitled to protection as trade secrets of that manufacturer, but
4 may be required to disclose that information to the Attorney General
5 for the purpose of determining whether that information is entitled
6 to such protection. The determination shall be made on the record
7 after an opportunity for an agency hearing. No information may be
8 withheld by a manufacturer if that information is provided either
9 directly or indirectly to franchised dealers or other repair
10 dealers.

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

19 D. The Attorney General shall not prescribe rules that
20 interfere with the authority of the Administrator of the
21 Environmental Protection Agency under Section 202(m) of the Clean
22 Air Act, 42 U.S.C., Section 7521, with regard to motor vehicle
23 emissions control diagnostics systems or that conflict with rules
24 prescribed by the Administrator under that section.

1 SECTION 5. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 907 of Title 15, unless there is
3 created a duplication in numbering, reads as follows:

4 A. Any person who violates any of the provisions of the Motor
5 Vehicle Owners Right to Repair Act, in addition to any other penalty
6 provided by law, may be fined in an amount not exceeding Ten
7 Thousand Dollars (\$10,000.00) for a first offense and not exceeding
8 Twenty Thousand Dollars (\$20,000.00) for any second or subsequent
9 offense.

10 B. A vehicle owner or repair facility may bring a civil action
11 to enjoin a violation of the Motor Vehicle Owners Right to Repair
12 Act and to recover the costs of litigation including reasonable
13 attorney and expert witness fees.

14 SECTION 6. This act shall become effective November 1, 2008.

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