

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 3245

By: Lamons

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5
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
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 is 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:
24

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

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

As used in this act:

1. "Director" means the Executive Director of the Oklahoma Motor Vehicle Commission;
2. "Manufacturer" means a person engaged in the business of manufacturing, assembling or distributing motor vehicles, who will, under normal business conditions during the year, manufacture, assemble or distribute to dealers at least ten new motor vehicles;
3. "Model year" means the annual production period of a manufacturer, that includes January 1 of the calendar year or the

1 specific calendar year if the manufacturer does not have an annual
2 production period;

3 4. "Motor vehicles" means any motor-driven vehicle required to
4 be registered under the Oklahoma Vehicle License and Registration
5 Act;

6 5. "Motor vehicle equipment" means:

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

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

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

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

22 7. "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.

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

4 A. Upon request, the manufacturer of a motor vehicle shall
5 promptly provide to the vehicle owner, to a repair facility, and to
6 the Executive Director for use by any vehicle owner or repair
7 facility, the information necessary to diagnose, service or repair a
8 motor vehicle. The information shall include:

9 1. Information necessary to integrate replacement equipment
10 into the vehicle; and

11 2. Other information, as determined by the Director, that is
12 used to diagnose, service, repair, activate, certify or install any
13 motor vehicle equipment in a motor vehicle.

14 B. A manufacturer shall not be required to publicly disclose
15 information that, if made public, would divulge methods or processes
16 entitled to protection as trade secrets of that manufacturer, but
17 may be required to disclose that information to the Director for the
18 purpose of determining whether that information is entitled to such
19 protection. The determination shall be made on the record after an
20 opportunity for an agency hearing. No information may be withheld
21 by a manufacturer if that information is provided either directly or
22 indirectly to franchised dealers or other repair dealers.

23 C. Not later than one hundred eighty (180) days after the date
24 of the enactment of this act, the Director shall prescribe rules

1 setting the uniform method by which a manufacturer shall provide the
2 information required by subsection A of this section, including
3 disclosure in writing, on the Internet, or in any other manner, or
4 under the terms the Director determines may be appropriate. These
5 rules shall take effect for vehicles manufactured after model year
6 1994.

7 D. The Director shall not prescribe rules that interfere with
8 the authority of the Administrator of the Environmental Protection
9 Agency under Section 202(m) of the Clean Air Act, 42 U.S.C., Section
10 7521, with regard to motor vehicle emissions control diagnostics
11 systems or that conflict with rules prescribed by the Administrator
12 under that section.

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

16 A. Any person who violates any of the provisions of this act,
17 in addition to any other penalty provided by law, may be fined in an
18 amount not exceeding Ten Thousand Dollars (\$10,000.00) for a first
19 offense and not exceeding Twenty Thousand Dollars (\$20,000.00) for
20 any second or subsequent offense.

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

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

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