

A-Engrossed
House Bill 2268

Ordered by the House March 27
Including House Amendments dated March 27

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of Attorney General Hardy Myers for Department of Justice)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Requires vehicle repair shop to prepare estimate of work that vehicle repair shop proposes to perform on motor vehicle before beginning work. Specifies contents of estimate. Requires vehicle repair shop to obtain separate, specific authorization for certain types of work if work is estimated to cost motor vehicle owner or owner's designee more than [*\$100*] **\$200**.

Requires vehicle repair shop to take certain actions and prohibits vehicle repair shop from taking certain other actions.

Permits owner of motor vehicle to designate, in writing, **orally or by telephone**, person as owner's designee.

Authorizes enforcement of violation of Act as unlawful trade practice.

A BILL FOR AN ACT

1
2 Relating to requirements for customer authorization of motor vehicle repairs; creating new pro-
3 visions; and amending ORS 646.608.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. As used in sections 1 to 5 of this 2009 Act:**

6 (1)(a) **"Motor vehicle" means a self-propelled device, other than a motor home, that is**
7 **used:**

8 (A) **To transport persons or property upon a public highway; and**

9 (B) **For personal, family or household purposes.**

10 (b) **"Motor vehicle" does not include a motor vehicle owned as part of a fleet and main-**
11 **tained under the terms of a maintenance contract.**

12 (2) **"Owner" means an individual who has legal authority or apparent legal authority to**
13 **make decisions concerning the maintenance or repair of a motor vehicle.**

14 (3) **"Owner's designee" means an individual who received permission in accordance with**
15 **section 5 of this 2009 Act to make decisions concerning the repair or maintenance of a motor**
16 **vehicle.**

17 (4)(a) **"Vehicle repair shop" means an individual, corporation, partnership, limited liabil-**
18 **ity company or other business entity that in exchange for payment evaluates the condition**
19 **of, maintains or repairs a motor vehicle.**

20 (b) **"Vehicle repair shop" does not include a motor vehicle body and frame repair shop,**
21 **as defined in ORS 746.275.**

22 **SECTION 2. (1) A vehicle repair shop shall prepare an estimate of the cost of work the**
23 **vehicle repair shop proposes to perform on a motor vehicle before beginning the work. The**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 vehicle repair shop not later than before receiving final payment shall give a copy of the
2 estimate, either as a separate document or in the form of an invoice, to the owner or the
3 owner's designee. The vehicle repair shop shall retain a copy of the estimate. The estimate,
4 at a minimum, must:

5 (a) Describe the general nature of the proposed work;

6 (b) Divide the work into separate tasks, to the extent that the work may be divided into
7 separate tasks; and

8 (c) List:

9 (A) The estimated cost of labor and the parts or component systems the vehicle repair
10 shop proposes to replace;

11 (B) The amount of any incidental charges; and

12 (C) The total estimated cost, which may consist of a reasonable range.

13 (2) If a vehicle repair shop proposes to disassemble all or a portion of a motor vehicle
14 or to remove parts or components of a motor vehicle in order to evaluate the condition of
15 the motor vehicle for the purpose of recommending or proposing additional work, in addition
16 to complying with the requirements shown in subsection (1) of this section, the estimate
17 must:

18 (a) List the total estimated cost of performing the disassembly and evaluation and a
19 separate estimate of the cost for reassembly, assuming for the purpose of the estimate that
20 the owner or owner's designee elects not to proceed with work the vehicle repair shop may
21 recommend or propose after evaluating the condition of the motor vehicle; and

22 (b) State the estimated amount of time, calculated from the date on which the owner or
23 owner's designee authorizes the disassembly, evaluation and reassembly of the motor vehicle,
24 that the vehicle repair shop would reasonably take to reassemble the motor vehicle if all
25 necessary parts are available and if the owner or owner's designee, on the day that the
26 owner or owner's designee receives the estimate, elects not to proceed with work the vehicle
27 repair shop recommends or proposes after evaluating the condition of the motor vehicle.

28 **SECTION 3.** (1) Except as provided in subsection (2) of this section, a vehicle repair shop
29 may not take any of the following actions if an estimate prepared under section 2 of this 2009
30 Act shows that taking the action will cost the owner or the owner's designee more than \$200:

31 (a) Evaluate the condition of a motor vehicle.

32 (b) Disassemble all or a portion of a motor vehicle or remove parts or components of a
33 motor vehicle in order to evaluate the condition of the motor vehicle.

34 (c) Perform labor or replace or recondition a part in order to:

35 (A) Repair a motor vehicle; or

36 (B) Maintain the motor vehicle in or restore the motor vehicle to an operable condition
37 or a condition that conforms with an identified or recognized standard.

38 (d) Use a work method or procedure, perform a task or labor or replace a part in a
39 manner that differs from the method, procedure, task, labor or part described or identified
40 in the estimate, if the change increases the cost specified in the estimate by more than 10
41 percent or by more than \$200, whichever amount is less.

42 (2) A vehicle repair shop shall obtain a separate authorization from the owner or the
43 owner's designee before taking an action described in subsection (1) of this section. After
44 consulting with the owner or owner's designee, the vehicle repair shop shall:

45 (a) Cross out, remove from or otherwise indicate on the estimate prepared under section

1 2 of this 2009 Act the work the vehicle repair shop will not perform on the motor vehicle and
2 recalculate and display on the estimate the cost of work the vehicle repair shop will perform
3 before obtaining authorization or assent from the owner or owner's designee; or

4 (b) Prepare a new estimate in accordance with section 2 of this 2009 Act and void the
5 previous estimate before obtaining authorization or assent from the owner or owner's
6 designee.

7 (3) The vehicle repair shop may obtain authorization or assent by any of the following
8 means:

9 (a) Obtaining the signature of the owner or owner's designee under a statement printed
10 on the estimate that authorizes the action.

11 (b) Obtaining the oral assent of the owner or owner's designee by telephone. The vehicle
12 repair shop shall provide the owner or owner's designee with all material information shown
13 on the estimate and shall note on the estimate the name and telephone number of the person
14 that gives the assent and the date and time of the call.

15 (c) Receiving by facsimile, electronic mail or other electronic means a written message
16 that authorizes the work. A facsimile message must display the signature of the person that
17 gives the authorization and the date and time of transmission. An electronic mail or other
18 electronic message must show the name of the person that gives the authorization and the
19 date and time of transmission. The vehicle repair shop shall attach the facsimile or a print-
20 out of the electronic mail or other electronic message to a copy of the estimate.

21 **SECTION 4.** (1) A vehicle repair shop may not:

22 (a) Charge a person for work not performed on a motor vehicle even if the work is shown
23 on an estimate for which the vehicle repair shop has obtained an authorization from the
24 owner or the owner's designee.

25 (b) Provide or install used parts or any component system composed of new and used
26 parts if an estimate prepared under section 2 of this 2009 Act indicates that the vehicle re-
27 pair shop will use new parts or component systems in work performed on the motor vehicle.

28 (c) Knowingly provide or install, without disclosing to the owner or the owner's designee,
29 a used or reconditioned part.

30 (2) A vehicle repair shop shall:

31 (a) Reassemble, if all necessary parts are available, approximately within the time indi-
32 cated on an estimate prepared under section 2 (2) of this 2009 Act, a motor vehicle that the
33 vehicle repair shop has disassembled or from which the vehicle repair shop has removed
34 parts in order to evaluate the condition of the motor vehicle.

35 (b) Maintain for not less than one year, in electronic or printed form, legible copies of
36 all documents required or provided under sections 1 to 5 of this 2009 Act.

37 **SECTION 5.** (1) An owner may designate a person as the owner's designee:

38 (a) In writing, either on the estimate prepared under section 2 of this 2009 Act or by
39 means of a separate document. The owner shall sign a written designation made in accord-
40 ance with this paragraph. If the designation is a separate document, the vehicle repair shop
41 shall attach a copy of the document to the estimate.

42 (b) Orally or by telephone. For a designation made in accordance with this paragraph, the
43 vehicle repair shop shall note on the estimate the name and telephone number of the person
44 who made the designation, the name of the owner's designee and, if the person made the
45 designation by telephone, the date and time of the call.

1 **(2) An owner may waive the authorization requirement set forth in section 3 (2) of this**
2 **2009 Act only when the owner receives an explanation of the authorization requirements and**
3 **signs a separate document directly under a statement that conspicuously identifies the au-**
4 **thorization requirement.**

5 **(3) An owner may not designate a motor vehicle repair shop or a principal, agent or**
6 **employee of a motor vehicle repair shop as the owner's designee.**

7 **(4) For purposes of this section, a statement is conspicuous if a reasonable person read-**
8 **ing the separate document should have noticed the statement.**

9 **SECTION 6.** ORS 646.608, as amended by section 8, chapter 19, Oregon Laws 2008, and section
10 5, chapter 31, Oregon Laws 2008, is amended to read:

11 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-
12 ness, vocation or occupation the person does any of the following:

13 (a) Passes off real estate, goods or services as those of another.

14 (b) Causes likelihood of confusion or of misunderstanding as to the source, sponsorship, ap-
15 proval, or certification of real estate, goods or services.

16 (c) Causes likelihood of confusion or of misunderstanding as to affiliation, connection, or asso-
17 ciation with, or certification by, another.

18 (d) Uses deceptive representations or designations of geographic origin in connection with real
19 estate, goods or services.

20 (e) Represents that real estate, goods or services have sponsorship, approval, characteristics,
21 ingredients, uses, benefits, quantities or qualities that they do not have or that a person has a
22 sponsorship, approval, status, qualification, affiliation, or connection that the person does not have.

23 (f) Represents that real estate or goods are original or new if they are deteriorated, altered,
24 reconditioned, reclaimed, used or secondhand.

25 (g) Represents that real estate, goods or services are of a particular standard, quality, or grade,
26 or that real estate or goods are of a particular style or model, if they are of another.

27 (h) Disparages the real estate, goods, services, property or business of a customer or another
28 by false or misleading representations of fact.

29 (i) Advertises real estate, goods or services with intent not to provide them as advertised, or
30 with intent not to supply reasonably expectable public demand, unless the advertisement discloses
31 a limitation of quantity.

32 (j) Makes false or misleading representations of fact concerning the reasons for, existence of,
33 or amounts of price reductions.

34 (k) Makes false or misleading representations concerning credit availability or the nature of the
35 transaction or obligation incurred.

36 (L) Makes false or misleading representations relating to commissions or other compensation to
37 be paid in exchange for permitting real estate, goods or services to be used for model or demon-
38 stration purposes or in exchange for submitting names of potential customers.

39 (m) Performs service on or dismantles any goods or real estate when not authorized by the
40 owner or apparent owner thereof.

41 (n) Solicits potential customers by telephone or door to door as a seller unless the person pro-
42 vides the information required under ORS 646.611.

43 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give
44 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of
45 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or

1 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,
2 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-
3 tomer enters into the transaction.

4 (p) Makes any false or misleading statement about a prize, contest or promotion used to publi-
5 cize a product, business or service.

6 (q) Promises to deliver real estate, goods or services within a certain period of time with intent
7 not to deliver them as promised.

8 (r) Organizes or induces or attempts to induce membership in a pyramid club.

9 (s) Makes false or misleading representations of fact concerning the offering price of, or the
10 person's cost for real estate, goods or services.

11 (t) Concurrent with tender or delivery of any real estate, goods or services fails to disclose any
12 known material defect or material nonconformity.

13 (u) Engages in any other unfair or deceptive conduct in trade or commerce.

14 (v) Violates any of the provisions relating to auction sales, auctioneers or auction marts under
15 ORS 698.640, whether in a commercial or noncommercial situation.

16 (w) Manufactures mercury fever thermometers.

17 (x) Sells or supplies mercury fever thermometers unless the thermometer is required by federal
18 law, or is:

19 (A) Prescribed by a person licensed under ORS chapter 677; and

20 (B) Supplied with instructions on the careful handling of the thermometer to avoid breakage and
21 on the proper cleanup of mercury should breakage occur.

22 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to
23 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be
24 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the
25 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-
26 graph, "thermostat" means a device commonly used to sense and, through electrical communication
27 with heating, cooling or ventilation equipment, control room temperature.

28 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
29 mercury light switches.

30 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.

31 (bb) Violates ORS 646A.070 (1).

32 (cc) Violates any requirement of ORS 646A.030 to 646A.040.

33 (dd) Violates the provisions of ORS 128.801 to 128.898.

34 (ee) Violates ORS 646.883 or 646.885.

35 (ff) Violates any provision of ORS 646A.020.

36 (gg) Violates ORS 646.569.

37 (hh) Violates the provisions of ORS 646A.142.

38 (ii) Violates ORS 646A.360.

39 (jj) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.

40 (kk) Violates ORS 646.563.

41 (LL) Violates ORS 759.690 or any rule adopted pursuant thereto.

42 (mm) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
43 thereto.

44 (nn) Violates ORS 646A.210 or 646A.214.

45 (oo) Violates any provision of ORS 646A.124 to 646A.134.

- 1 (pp) Violates ORS 646A.254.
- 2 (qq) Violates ORS 646A.095.
- 3 (rr) Violates ORS 822.046.
- 4 (ss) Violates ORS 128.001.
- 5 (tt) Violates ORS 646.649 (2) to (4).
- 6 (uu) Violates ORS 646A.090 (2) to (4).
- 7 (vv) Violates ORS 87.686.
- 8 (ww) Violates ORS 646.651.
- 9 (xx) Violates ORS 646A.362.
- 10 (yy) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 11 (zz) Violates ORS 180.440 (1).
- 12 (aaa) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 13 (bbb) Violates ORS 87.007 (2) or (3).
- 14 (ccc) Violates ORS 92.405 (1), (2) or (3).
- 15 (ddd) Engages in an unlawful practice under ORS 646.648.
- 16 (eee) Violates ORS 646A.365.
- 17 (fff) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 18 (ggg) Sells a gift card in violation of ORS 646A.276.
- 19 (hhh) Violates ORS 646A.102, 646A.106 or 646A.108.
- 20 (iii) Violates ORS 646A.430 to 646A.450.
- 21 (jjj) Violates a provision of sections 2 to 6, chapter 19, Oregon Laws 2008.
- 22 (kkk) Violates section 2, chapter 31, Oregon Laws 2008, 30 or more days after a recall notice,
23 warning or declaration described in section 2, chapter 31, Oregon Laws 2008, is issued for the chil-
24 dren’s product, as defined in section 1, chapter 31, Oregon Laws 2008, that is the subject of the vi-
25 olation.
- 26 **(LLL) Violates a provision of sections 1 to 5 of this 2009 Act.**
- 27 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-
28 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.
- 29 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney
30 need not prove competition between the parties or actual confusion or misunderstanding.
- 31 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-
32 torney General has first established a rule in accordance with the provisions of ORS chapter 183
33 declaring the conduct to be unfair or deceptive in trade or commerce.
- 34 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought
35 under subsection (1)(zz) of this section by a person other than a prosecuting attorney, relief is lim-
36 ited to an injunction and the prevailing party may be awarded reasonable attorney fees.
- 37 **SECTION 7. Sections 1 to 5 of this 2009 Act and the amendments to ORS 646.608 by sec-**
38 **tion 6 of this 2009 Act apply to estimates a vehicle repair shop prepares or work a vehicle**
39 **repair shop performs on a motor vehicle on or after the effective date of this 2009 Act.**

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