

# House Bill 2268

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 **as introduced**.

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.

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, 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) **"Owner's designee" means an individual who has custody of a motor vehicle or per-**  
7 **mission to make decisions concerning the repair or maintenance of a motor vehicle, provided**  
8 **that the individual can verify that the owner of the motor vehicle has given the custody or**  
9 **granted the permission.**

10 (2)(a) **"Vehicle repair shop" means a person engaged in the business of evaluating the**  
11 **condition of, maintaining and repairing motor vehicles.**

12 (b) **"Vehicle repair shop" does not include a person that, in connection with a claim under**  
13 **a motor vehicle liability insurance policy, as defined in ORS 746.275, evaluates the condition**  
14 **of or makes repairs to a motor vehicle that was physically damaged.**

15 **SECTION 2. (1) A vehicle repair shop shall prepare an estimate of the cost of work the**  
16 **vehicle repair shop proposes to perform on a motor vehicle before beginning the work. The**  
17 **vehicle repair shop shall give a copy of the estimate to the owner of the motor vehicle, or**  
18 **the owner's designee, and shall retain a copy. The estimate, at a minimum, must:**

19 (a) **Describe the nature of the proposed work and the general methods or procedures the**  
20 **vehicle repair shop will use to perform the work;**

21 (b) **Divide the work into separate tasks, to the extent that the work may be divided into**  
22 **separate tasks, and identify the tasks critical to maintaining the motor vehicle in or re-**  
23 **storing the motor vehicle to an operable condition;**

24 (c) **Identify each part and component system the vehicle repair shop proposes to replace**  
25 **and state conspicuously whether the replacement part or component system will be new,**  
26 **used, rebuilt or reconditioned;**

27 (d) **Identify conspicuously each part of a new component system proposed for replace-**

**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 **ment that is used, rebuilt or reconditioned;**

2 **(e) State conspicuously whether a part or component system is supplied by the original**  
3 **equipment manufacturer;**

4 **(f) List the estimated cost of labor for each task, the cost for each part or component**  
5 **system the vehicle repair shop proposes to replace and the amount of any incidental charges;**  
6 **and**

7 **(g) State conspicuously that the final costs for the tasks performed and the parts re-**  
8 **placed may vary from the stated costs by not more than 10 percent or \$100, whichever**  
9 **amount is less.**

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

15 **(a) List the total estimated cost of performing the disassembly, evaluation and reassem-**  
16 **bly, assuming for the purpose of the estimate that the motor vehicle owner or owner's**  
17 **designee elects not to proceed with work the vehicle repair shop may recommend or propose**  
18 **after evaluating the condition of the motor vehicle;**

19 **(b) List separately the labor costs of performing the disassembly, evaluation and reas-**  
20 **sembly;**

21 **(c) List separately the cost to replace parts that will be damaged or destroyed in the**  
22 **course of performing the disassembly, evaluation and reassembly;**

23 **(d) State the maximum amount of time, calculated from the date on which the motor**  
24 **vehicle owner or owner's designee authorizes the disassembly, evaluation and reassembly of**  
25 **the motor vehicle, that the vehicle repair shop would take to reassemble the motor vehicle**  
26 **if the owner or owner's designee elects not to proceed with work the vehicle repair shop**  
27 **recommends or proposes after evaluating the condition of the motor vehicle; and**

28 **(e) State whether and the extent to which the disassembly, evaluation and reassembly**  
29 **of the vehicle will prevent the restoration of the motor vehicle or a component of the motor**  
30 **vehicle to the initial state of the motor vehicle or component before the disassembly, evalu-**  
31 **ation and reassembly.**

32 **(3) If a vehicle repair shop proposes to replace parts of the motor vehicle with parts made**  
33 **by the original equipment manufacturer, the vehicle repair shop shall attach a warranty**  
34 **statement to the estimate described in subsection (1) of this section that guarantees that the**  
35 **replacement parts meet or exceed standards used in manufacturing the original parts.**

36 **(4) If the vehicle repair shop proposes to replace parts of the motor vehicle with parts**  
37 **other than those made by the original equipment manufacturer, the estimate shall include**  
38 **a statement that reads:**

39 \_\_\_\_\_  
40  
41 **This estimate has been prepared based on the use of a motor vehicle part not made by**  
42 **the original equipment manufacturer. The use of a motor vehicle part not made by the ori-**  
43 **ginal equipment manufacturer may invalidate any remaining warranties of the original**  
44 **equipment manufacturer on that motor vehicle part. The person who prepared this estimate**  
45 **will provide a copy of the part warranty for parts not made by the original equipment man-**

1 **ufacturer for comparison purposes.**

2  
3  
4 **(5) For purposes of this section, a statement or identification is conspicuous if a rea-**  
5 **sonable person reading the estimate should have noticed the statement or identification. A**  
6 **vehicle repair shop may direct a reader’s attention to the statement or identification by**  
7 **printing the statement or identification on the estimate in boldface, italics or capital letters**  
8 **or with a contrasting color, underlining or other means reasonably intended to call attention**  
9 **to the statement or identification.**

10 **SECTION 3. (1) Except as provided in subsection (2) of this section, a vehicle repair shop**  
11 **may not take any of the following actions if an estimate prepared under section 2 of this 2009**  
12 **Act shows that taking the action will cost the owner of a motor vehicle or the owner’s**  
13 **designee more than \$100:**

14 **(a) Evaluate the condition of a motor vehicle.**

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

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

18 **(A) Repair physical damage to a motor vehicle; or**

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

21 **(d) Use a work method or procedure, perform a task or replace a part with a part of a**  
22 **quality or condition that differs from the method, procedure, task or part described or**  
23 **identified in the estimate, if the change increases the cost specified in the estimate by more**  
24 **than 10 percent or by more than \$100, whichever amount is less.**

25 **(2) A vehicle repair shop shall obtain a separate authorization from the owner of a motor**  
26 **vehicle or the owner’s designee before taking any of the actions described in subsection (1)**  
27 **of this section. After consulting with the owner or owner’s designee, the vehicle repair shop**  
28 **shall cross out, remove from or otherwise indicate on the estimate prepared under section**  
29 **2 of this 2009 Act the work the vehicle repair shop will not perform on the motor vehicle and**  
30 **shall recalculate and display on the estimate the cost of work the vehicle repair shop will**  
31 **perform before obtaining authorization or assent from the owner or owner’s designee. The**  
32 **vehicle repair shop may obtain authorization or assent by any of the following means:**

33 **(a) Obtaining the signature of the owner or owner’s designee under a statement printed**  
34 **on the estimate that authorizes the action.**

35 **(b) Obtaining the oral assent of the owner or owner’s designee by telephone. The vehicle**  
36 **repair shop shall provide the owner or owner’s designee with all material information shown**  
37 **on the estimate and shall note on the estimate the name and telephone number of the person**  
38 **that gives the assent and the date and time of the call.**

39 **(c) Receiving by facsimile or electronic mail a written message that authorizes the work.**  
40 **A facsimile message must display the signature of the person that gives the authorization**  
41 **and the date and time of transmission. An electronic mail message must show the name of**  
42 **the person that gives the authorization and the date and time of transmission. The vehicle**  
43 **repair shop shall attach the facsimile or a printout of the electronic mail message to a copy**  
44 **of the estimate.**

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

1 (a) Charge a person for work the vehicle repair shop does not perform on a motor vehicle  
 2 even if the work is shown on an estimate for which the vehicle repair shop has obtained an  
 3 authorization from the owner of the motor vehicle or the owner's designee.

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

7 (c) Provide or install, without the consent of the owner of a motor vehicle or the owner's  
 8 designee, a part that an independent test facility has not certified to be at least equivalent  
 9 to the part replaced. For purposes of this paragraph, a replacement part is at least equiv-  
 10 alent to the part replaced if the replacement part is the same kind of part and is of at least  
 11 the same quality with respect to fit, finish, function and corrosion resistance.

12 (2) A vehicle repair shop shall:

13 (a) Reassemble, within the time indicated on an estimate prepared under section 2 (2) of  
 14 this 2009 Act, a motor vehicle that the vehicle repair shop has disassembled or from which  
 15 the vehicle repair shop has removed parts in order to evaluate the condition of the motor  
 16 vehicle.

17 (b) Maintain for not less than three years, in electronic or printed form, legible copies  
 18 of all documents required or provided under sections 1 to 5 of this 2009 Act and all invoices  
 19 pertaining to work performed under sections 2 and 3 of this 2009 Act, including invoices for  
 20 parts or labor that other persons provide to the vehicle repair shop.

21 **SECTION 5.** (1) An owner of a motor vehicle may designate a person as the owner's  
 22 designee in writing either on the estimate prepared under section 2 of this 2009 Act or by  
 23 means of a separate writing. The owner shall sign a designation made under this section. If  
 24 the designation is a separate writing, the vehicle repair shop that prepared the estimate shall  
 25 attach a copy of the separate writing to the estimate.

26 (2) An owner of a motor vehicle may not designate a vehicle repair shop or an owner,  
 27 agent or employee of a vehicle repair shop as the owner's designee.

28 **SECTION 6.** ORS 646.608, as amended by section 8, chapter 19, Oregon Laws 2008, and section  
 29 5, chapter 31, Oregon Laws 2008, is amended to read:

30 646.608. (1) A person engages in an unlawful practice when in the course of the person's busi-  
 31 ness, vocation or occupation the person does any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (o) In a sale, rental or other disposition of real estate, goods or services, gives or offers to give  
 18 a rebate or discount or otherwise pays or offers to pay value to the customer in consideration of  
 19 the customer giving to the person the names of prospective purchasers, lessees, or borrowers, or  
 20 otherwise aiding the person in making a sale, lease, or loan to another person, if earning the rebate,  
 21 discount or other value is contingent upon occurrence of an event subsequent to the time the cus-  
 22 tomer enters into the transaction.

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

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

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

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

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

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

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

35 (w) Manufactures mercury fever thermometers.

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

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

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

41 (y) Sells a thermostat that contains mercury unless the thermostat is labeled in a manner to  
 42 inform the purchaser that mercury is present in the thermostat and that the thermostat may not be  
 43 disposed of until the mercury is removed, reused, recycled or otherwise managed to ensure that the  
 44 mercury does not become part of the solid waste stream or wastewater. For purposes of this para-  
 45 graph, "thermostat" means a device commonly used to sense and, through electrical communication

- 1 with heating, cooling or ventilation equipment, control room temperature.
- 2 (z) Sells or offers for sale a motor vehicle manufactured after January 1, 2006, that contains
- 3 mercury light switches.
- 4 (aa) Violates the provisions of ORS 803.375, 803.385 or 815.410 to 815.430.
- 5 (bb) Violates ORS 646A.070 (1).
- 6 (cc) Violates any requirement of ORS 646A.030 to 646A.040.
- 7 (dd) Violates the provisions of ORS 128.801 to 128.898.
- 8 (ee) Violates ORS 646.883 or 646.885.
- 9 (ff) Violates any provision of ORS 646A.020.
- 10 (gg) Violates ORS 646.569.
- 11 (hh) Violates the provisions of ORS 646A.142.
- 12 (ii) Violates ORS 646A.360.
- 13 (jj) Violates ORS 646.553 or 646.557 or any rule adopted pursuant thereto.
- 14 (kk) Violates ORS 646.563.
- 15 (LL) Violates ORS 759.690 or any rule adopted pursuant thereto.
- 16 (mm) Violates the provisions of ORS 759.705, 759.710 and 759.720 or any rule adopted pursuant
- 17 thereto.
- 18 (nn) Violates ORS 646A.210 or 646A.214.
- 19 (oo) Violates any provision of ORS 646A.124 to 646A.134.
- 20 (pp) Violates ORS 646A.254.
- 21 (qq) Violates ORS 646A.095.
- 22 (rr) Violates ORS 822.046.
- 23 (ss) Violates ORS 128.001.
- 24 (tt) Violates ORS 646.649 (2) to (4).
- 25 (uu) Violates ORS 646A.090 (2) to (4).
- 26 (vv) Violates ORS 87.686.
- 27 (ww) Violates ORS 646.651.
- 28 (xx) Violates ORS 646A.362.
- 29 (yy) Violates ORS 646A.052 or any rule adopted under ORS 646A.052 or 646A.054.
- 30 (zz) Violates ORS 180.440 (1).
- 31 (aaa) Commits the offense of acting as a vehicle dealer without a certificate under ORS 822.005.
- 32 (bbb) Violates ORS 87.007 (2) or (3).
- 33 (ccc) Violates ORS 92.405 (1), (2) or (3).
- 34 (ddd) Engages in an unlawful practice under ORS 646.648.
- 35 (eee) Violates ORS 646A.365.
- 36 (fff) Violates ORS 98.854 or 98.858 or a rule adopted under ORS 98.864.
- 37 (ggg) Sells a gift card in violation of ORS 646A.276.
- 38 (hhh) Violates ORS 646A.102, 646A.106 or 646A.108.
- 39 (iii) Violates ORS 646A.430 to 646A.450.
- 40 (jjj) Violates a provision of sections 2 to 6, chapter 19, Oregon Laws 2008.
- 41 (kkk) Violates section 2, chapter 31, Oregon Laws 2008, 30 or more days after a recall notice,
- 42 warning or declaration described in section 2, chapter 31, Oregon Laws 2008, is issued for the chil-
- 43 dren's product, as defined in section 1, chapter 31, Oregon Laws 2008, that is the subject of the vi-
- 44 olation.
- 45 **(LLL) Violates a provision of sections 1 to 5 of this 2009 Act.**

1 (2) A representation under subsection (1) of this section or ORS 646.607 may be any manifesta-  
2 tion of any assertion by words or conduct, including, but not limited to, a failure to disclose a fact.

3 (3) In order to prevail in an action or suit under ORS 646.605 to 646.652, a prosecuting attorney  
4 need not prove competition between the parties or actual confusion or misunderstanding.

5 (4) An action or suit may not be brought under subsection (1)(u) of this section unless the At-  
6 torney General has first established a rule in accordance with the provisions of ORS chapter 183  
7 declaring the conduct to be unfair or deceptive in trade or commerce.

8 (5) Notwithstanding any other provision of ORS 646.605 to 646.652, if an action or suit is brought  
9 under subsection (1)(zz) of this section by a person other than a prosecuting attorney, relief is lim-  
10 ited to an injunction and the prevailing party may be awarded reasonable attorney fees.

11 **SECTION 7. Sections 1 to 5 of this 2009 Act and the amendments to ORS 646.608 by sec-**  
12 **tion 6 of this 2009 Act apply to estimates a vehicle repair shop prepares or work a vehicle**  
13 **repair shop performs on a motor vehicle on or after the effective date of this 2009 Act.**

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