
NORTHWEST AUTO TRADES ASSN

TESTIMONY IN OPPOSITION TO HB2496

Before the House Consumer Protection Committee / February 12, 2015

By: Darrell Fuller / 971-388-1786 / fuller_darrell@yahoo.com



Chair Fagan and members of the Committee:

The Northwest Automotive Trades Association (NATA) represents many sectors of the auto industry including mechanical repair shops, collision repair shops, motor vehicle dismantlers, tow truck operators and parts suppliers and distributors. Our 450 members criss-cross the state and include every size of businesses.

NATA opposes House Bill 2496. We cannot find evidence that a statistically significant problem exists which reaches the threshold of requiring Legislative action to create new state mandates on small businesses. Simply put, a statute is not needed to solve a problem which is statistically de minimis.

Do people have bad experiences when getting their motor vehicle repaired? Certainly. And I don't intend to dismiss the validity of those who receive poor customer service. Will this bill eliminate or significantly reduce the instances of poor customer service? We believe the answer is no.

House Bill 2496 adds two new and unnecessary requirements into the UTPA

RIGHT OF RETURN

One part of the bill creates a new, absolute consumer right to receive the parts replaced during a repair or service to a motor vehicle, without qualification or exception.

Consumers are already in the driver's seat. They control the repair process from the start. Any customer who wants to have their parts returned to them need only ask a shop whether or not they will return the parts. In the very rare event that a shop declines, there are many repair shops nearby who will gladly accept a new customer.

Customers don't need a new law to get good customer service, they only need to do a small amount of homework.

I checked with the Department of Justice, which tracks consumer complaints -- and which would be the recipient of complaints generated as a result of this bill -- to see if they could help quantify the extent of the problem. I also checked with NATA members. The DOJ has not provided any data suggesting they receive many, if any, complaints related to repair shops not returning parts. This could result from not having enough time to respond to my query, or it might be the Consumer Protection Division does not track this specific issue. Please note, however, if it were a significant issue the DOJ would likely track it.

Northwest Automotive Trades Association

7931 NE Halsey Street Suite 212 / Portland OR 97213 (503) 253-9898

info@aboutNATA.org www.aboutNATA.org

According to NATA members, one to three percent of customers currently want to keep their replaced parts. To the best of my knowledge resulting from a quick survey, every NATA member happily returns parts when requested. Often times, consumers only want to inspect the part. And, NATA members keep replaced parts an average of 7-10 days after a repair in case there is an issue. While only anecdotal, I estimate over 95 percent of the one to three percent of customers who want their parts returned actually receive them. In sum, we do not find evidence of a problem large enough to warrant a new statute.

POSTING NOTICE

The second new requirement is for all businesses which repair or service motor vehicles to post a notice in the business listing certain "consumer rights." Can you imagine how rare it will be for a customer to ask for a written estimate and be rebuffed by the repair shop only to notice and read they have a legal right to an estimate? **If a repair shop is not offering written estimates now -- a violation of the law -- it certainly won't post a notice on the wall informing customers of that right.** Those who ignore the law will ignore this one, too. On the other hand, those who obey the law now don't need a posted notice informing customers of their rights because the shop is following the law already.

While posting a notice in and of itself may seem a minor nuisance to a shop owner, it is important to know that failure to do so becomes a violation of the Unfair Trades Practices Act (UTPA) which will permit a private right of action by the customer against the repair shop. **To prevail under the UTPA, a consumer does NOT need to prove "actual confusion or misunderstanding" (ORS 464.608(3)).** So, if a properly posted notice should inadvertently fall off a wall and behind a couch, and not be noticed in a timely manner, it could be very costly to a small business owner working hard to do the right thing.

This absolute right may create several problems. They include, but are not limited to:

(1) As much as 20 percent of commonly replaced parts include a "core" charge. A core charge is similar to a deposit. The repair facility gets a credit for returning the replaced part to the manufacturer to be reconditioned. The core charge for the new and old part are a "wash", creating a neutral charge for the consumer. If a consumer chooses to keep a replaced part after agreeing to the repair estimate provided by the repair shop, the shop will need to increase the cost of the repair to account for the lost core charge or charges. Some examples of parts with a "core" charge are starters / alternators / most major power steering components such as rack and pinion units / power steering pumps / brake master cylinders / power brake boosters / water pumps / drive axels & some brake shoes.

(2) While I do not yet have an answer, it has been suggested that auto insurance policies have a provision in them which gives replaced parts ownership and disposal rights to the insurance company. If this turns out to be the case, then HB2496 will directly conflict with existing insurance policies.

(3) Similar to (2), I am checking, but do not yet have a response, on the provisions related to warranty and recall repairs authorized by the manufacturer.

(4) Auto repair shops are knowledgeable environmental stewards. They don't allow batteries to sit and leak outside. They don't leave piles of old tires to stack up. They don't leave mounds of used parts to rust in backyards or side lots. Encouraging people to retain broken parts from motor vehicles will have a negative environmental impact down the road as these parts, once discarded, will likely end up in ordinary landfills and disposed of in ways which do not protect our environment.

Oregon repair shops urge the House Consumer Protection Committee to keep HB2496 in committee without action. I am happy to answer any questions you have. Thank you.