

House Bill 3190

Sponsored by Representative MITCHELL

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 manufacturer to make available to owner of vehicle or independent repair provider on fair and reasonable terms any part, tool, service manual or other device, implement or information that vehicle manufacturer makes available to authorized repair provider for purpose of diagnosing, maintaining or repairing vehicle that vehicle manufacturer makes or supplies.

Permits vehicle manufacturer, as condition of supplying to owner or independent repair provider part, tool, service manual or other device, implement or information for purpose of diagnosing, maintaining or repairing motor vehicles that vehicle manufacturer makes or supplies, to require owner or independent repair provider to obtain license or certification, undergo training or otherwise demonstrate compliance with procedures vehicle manufacturer specifies for diagnosing, maintaining or repairing motor vehicles. Prohibits vehicle manufacturer from limiting or voiding warranty for motor vehicle that vehicle manufacturer makes or supplies solely because owner or independent repair provider diagnosed, maintained or repaired motor vehicle if owner or independent repair provider did so in accordance with license, certification, training or procedure that vehicle manufacturer issued, provided or specified.

Provides that violation of Act is unlawful trade practice under Unlawful Trade Practices Act. Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

1
2 Relating to a right to repair motor vehicles; creating new provisions; amending ORS 646.607; and
3 prescribing an effective date.

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

SECTION 1. (1) As used in this section:

6 (a) **"Authorized repair provider" means:**

7 (A) **A person that is not affiliated with a vehicle manufacturer but that has an agreement**
8 **with the vehicle manufacturer under which the vehicle manufacturer grants a license to or**
9 **otherwise permits the person to use the vehicle manufacturer's trade name, service mark**
10 **or other proprietary identification for the purpose of engaging in the business of diagnosing,**
11 **maintaining or repairing motor vehicles that the vehicle manufacturer makes or supplies;**
12 **or**

13 (B) **A vehicle manufacturer that engages in the business of diagnosing, maintaining and**
14 **repairing motor vehicles that the vehicle manufacturer makes or supplies, if the vehicle**
15 **manufacturer does not have an agreement with another person that engages in the business**
16 **of diagnosing, maintaining or repairing the vehicle manufacturer's motor vehicles.**

17 (b) **"Fair and reasonable terms" means costs and terms that are equivalent to the costs**
18 **for and terms under which a vehicle manufacturer offers a part, tool, service manual or**
19 **other device, implement or information to an authorized repair provider for the purpose of**
20 **diagnosing, maintaining or repairing a motor vehicle that the vehicle manufacturer makes**
21 **or supplies, and that:**

22 (A) **Include any license, right or authorization a person would need to use the part, tool,**
23 **service manual, device, implement or information; and**

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 (B) Account for any discount, rebate or incentive the vehicle manufacturer offers to an
2 authorized repair provider.

3 (c) "Independent repair provider" means:

4 (A) A person that engages in the business of diagnosing, maintaining or repairing motor
5 vehicles but that does not have an agreement with, and is not affiliated with a person that
6 has an agreement with, a vehicle manufacturer that is the same as or similar to an agree-
7 ment the vehicle manufacturer has with an authorized repair provider; or

8 (B) A vehicle manufacturer that engages in the business of diagnosing, maintaining or
9 repairing motor vehicles solely with respect to vehicles that the vehicle manufacturer does
10 not make or supply.

11 (d) "Motor vehicle" has the meaning given that term in ORS 801.360.

12 (e) "Owner" means a person that purchases, leases or owns a motor vehicle in this state.

13 (f) "Part" means a new or used replacement component for a motor vehicle that a vehicle
14 manufacturer makes available for the purpose of maintaining or repairing motor vehicles
15 that the vehicle manufacturer makes or supplies.

16 (g) "Service manual" means any diagram, report, service code description, schematic or
17 other documentation or information that a vehicle manufacturer provides to an authorized
18 repair provider for the purpose of diagnosing, maintaining or repairing motor vehicles that
19 the vehicle manufacturer makes or supplies.

20 (h) "Vehicle manufacturer" means a person that engages in the business of making and
21 selling, leasing or otherwise supplying new motor vehicles to another person.

22 (2)(a) A vehicle manufacturer shall make available to an owner or an independent repair
23 provider on fair and reasonable terms any part, tool, service manual or other device, imple-
24 ment or information that the vehicle manufacturer makes available to an authorized repair
25 provider for the purpose of diagnosing, maintaining or repairing motor vehicles that the ve-
26 hicle manufacturer makes or supplies.

27 (b) For the purposes of paragraph (a) of this subsection:

28 (A) A part, tool, service manual or other device, implement or information must be the
29 most recent or most appropriate part, tool, service manual, device, implement or information
30 necessary to best effect the needed diagnosis, maintenance or repair; and

31 (B) A service manual that is available in electronic form is available to an owner or in-
32 dependent repair provider on fair and reasonable terms only if the vehicle manufacturer does
33 not charge for the service manual, except that if the owner or independent repair provider
34 requests a printed copy of the service manual, the vehicle manufacturer may charge the
35 actual costs of printing and delivery.

36 (c) The vehicle manufacturer shall make available to an owner or independent repair
37 provider on fair and reasonable terms any special documentation, tools or parts necessary
38 to disable and reset any electronic security lock or other security function in the motor ve-
39 hicle that must be disabled or reset to allow the diagnosis, maintenance or repair or to allow
40 the motor vehicle to function properly. The vehicle manufacturer may provide the special
41 documentation, tool or part by means of a secure system.

42 (3) A vehicle manufacturer, as a condition of supplying to an owner or independent repair
43 provider a part, tool, service manual or other device, implement or information for the pur-
44 pose of diagnosing, maintaining or repairing motor vehicles that the vehicle manufacturer
45 makes or supplies, may require the owner or independent repair provider to obtain a license

1 or certification, undergo training or otherwise demonstrate compliance with procedures the
 2 vehicle manufacturer specifies for diagnosing, maintaining or repairing the vehicle
 3 manufacturer's motor vehicles. The vehicle manufacturer may not limit or void a warranty
 4 for a motor vehicle the vehicle manufacturer makes or supplies solely because an owner or
 5 independent repair provider has diagnosed, maintained or repaired the motor vehicle if the
 6 owner or independent repair provider diagnosed, maintained or repaired the motor vehicle
 7 in accordance with a license, certification, training or procedure the vehicle manufacturer
 8 issued, provided or specified under this subsection.

9 (4) This section does not:

10 (a) Require a vehicle manufacturer to disclose a trade secret to an owner or independent
 11 service provider except as necessary to provide a part, tool, service manual or other device,
 12 implement or information the owner or independent repair provider needs to diagnose,
 13 maintain or repair vehicles the vehicle manufacturer makes or supplies;

14 (b) Alter the terms of any agreement between a vehicle manufacturer and an authorized
 15 repair provider, including but not limited to the authorized repair provider's performance or
 16 provision of warranty service or recall repair work on the vehicle manufacturer's behalf
 17 under the agreement, except that any provision in the agreement that purports to waive,
 18 restrict or limit the vehicle manufacturer's compliance with this section is void and
 19 unenforceable; or

20 (c) Require a vehicle manufacturer or authorized repair provider to provide an owner,
 21 independent repair provider or prosecuting attorney with any information about an agree-
 22 ment between the vehicle manufacturer and authorized repair provider other than informa-
 23 tion that is necessary to determine whether the vehicle manufacturer is complying with this
 24 section.

25 (5) This section does not permit a person that is not an authorized repair provider to
 26 advertise, state, imply or communicate with another person in such a way as to create or
 27 maintain an impression that the person is an authorized repair provider. A person that takes
 28 an action that this subsection does not permit engages in an unlawful trade practice under
 29 ORS 646.607.

30 (6) A vehicle manufacturer that violates this section engages in an unlawful trade prac-
 31 tice under ORS 646.607.

32 **SECTION 2.** ORS 646.607 is amended to read:

33 646.607. A person engages in an unlawful trade practice if in the course of the person's business,
 34 vocation or occupation the person:

35 (1) Employs any unconscionable tactic in connection with selling, renting or disposing of real
 36 estate, goods or services, or collecting or enforcing an obligation;

37 (2) Fails to deliver all or any portion of real estate, goods or services as promised, and at a
 38 customer's request, fails to refund money that the customer gave to the person to purchase the
 39 undelivered real estate, goods or services and that the person does not retain pursuant to any right,
 40 claim or defense the person may assert in good faith. This subsection does not create a warranty
 41 obligation and does not apply to a dispute over the quality of real estate, goods or services delivered
 42 to a customer;

43 (3) Violates ORS 401.965 (2);

44 (4) Violates a provision of ORS 646A.725 to 646A.750;

45 (5) Violates ORS 646A.530;

- 1 (6) Employs a collection practice that is unlawful under ORS 646.639;
 - 2 (7) Is a beneficiary that violates ORS 86.726 (1)(a) or (2), 86.729 (4) or 86.732 (1) or (2);
 - 3 (8) Violates ORS 646A.093;
 - 4 (9) Violates a provision of ORS 646A.600 to 646A.628;
 - 5 (10) Violates ORS 646A.808 (2);
 - 6 (11) Violates ORS 336.184; [*or*]
 - 7 (12) Publishes on a website related to the person’s business, or in a consumer agreement related
 - 8 to a consumer transaction, a statement or representation of fact in which the person asserts that
 - 9 the person, in a particular manner or for particular purposes, will use, disclose, collect, maintain,
 - 10 delete or dispose of information that the person requests, requires or receives from a consumer and
 - 11 the person uses, discloses, collects, maintains, deletes or disposes of the information in a manner
 - 12 that is materially inconsistent with the person’s statement or representation[.]; **or**
 - 13 **(13) Takes an action that section 1 (5) of this 2019 Act does not permit or that otherwise**
 - 14 **violates section 1 of this 2019 Act.**
 - 15 **SECTION 3. Section 1 of this 2019 Act and the amendments to ORS 646.607 by section 2**
 - 16 **of this 2019 Act apply to motor vehicles that are sold or are in use on or after the effective**
 - 17 **date of this 2019 Act.**
 - 18 **SECTION 4. This 2019 Act takes effect on the 91st day after the date on which the 2019**
 - 19 **regular session of the Eightieth Legislative Assembly adjourns sine die.**
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