

183, and 186, and which are entitled to representation in the convention as provided in section 173.2.

Sec. 3. Chapter 184, Code 1989, is repealed.

Approved February 20, 1990

## CHAPTER 1010

### MOTOR VEHICLE SERVICE TRADE PRACTICES

*S.F. 81*

**AN ACT** relating to consumer transactions involving the performance of repairs or service upon a motor vehicle, and imposing penalties.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. NEW SECTION. 537B.1 TITLE.

This chapter is entitled the "Motor Vehicle Service Trade Practices Act".

Sec. 2. NEW SECTION. 537B.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Consumer" means a person contracting for, or intending to contract for, repairs or service upon a motor vehicle used primarily for farm or personal use.
2. "Motor vehicle" means a motor vehicle as defined in section 321.1. However, "motor vehicle" does not include a motor vehicle, as defined in section 321.1, with a registered gross vehicle weight rating of more than twelve thousand pounds.
3. "Supplier" means a person offering to contract for repairs or service upon a motor vehicle. Supplier includes an employee or other representative of the supplier.

Sec. 3. NEW SECTION. 537B.3 REQUIRED TRADE PRACTICES.

1. If a consumer authorizes, in writing, repairs or service upon a motor vehicle prior to the commencement of the repairs or service, a conspicuous disclosure in substantially the following language shall appear on the authorization form or on a separate form provided to the consumer at the time of the authorization.

#### ESTIMATE

**YOU HAVE THE RIGHT TO A WRITTEN OR ORAL ESTIMATE IF THE EXPECTED COST OF REPAIRS OR SERVICE WILL BE MORE THAN FIFTY DOLLARS. YOUR BILL WILL NOT BE HIGHER THAN THE ESTIMATE BY MORE THAN TEN PERCENT UNLESS YOU APPROVE A HIGHER AMOUNT BEFORE REPAIRS ARE FINISHED. INITIAL YOUR CHOICE:**

\_\_\_\_\_ Written estimate.

\_\_\_\_\_ Oral estimate.

\_\_\_\_\_ No estimate.

\_\_\_\_\_ Call me if repairs and service will be more than

\$\_\_\_\_\_.

2. The form described in subsection 1, shall at minimum contain the following information:

- a. The date.
- b. The supplier's name.
- c. The consumer's name and telephone number.
- d. The reasonably anticipated completion date.

If a written estimate is requested, the supplier may write the written estimate on the authorization form or on another form. If the nature of repairs or service is unknown at the time that the estimate is given, the supplier may state an hourly labor charge for the work. If the consumer so requests, a copy of the written estimate shall be provided to the consumer prior to the commencement of any repairs or service.

3. If a consumer orally authorizes repairs or service upon a motor vehicle prior to the commencement of the repairs or service, the supplier shall inform the consumer of the right to receive a written or oral estimate. The supplier shall note the consumer's response on the form described in subsections 1 and 2. If the consumer requests an estimate, the supplier shall provide the estimate to the consumer prior to commencing the repairs or service.

Sec. 4. NEW SECTION. 537B.4 AFTERMARKET PARTS.

1. As used in this section:

a. "Aftermarket crash part" means a replacement for any of the nonmechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels, which replacement is not manufactured or marketed by the original equipment manufacturer of the motor vehicle. Aftermarket crash part does not include replacement glass for the windows, windshield, or backlight of the motor vehicle.

b. "Motor vehicle" means a motor vehicle as defined in section 321.1.

c. "Repair facility" means a motor vehicle dealer, garage, body shop, or other person, which undertakes the repair or replacement of those parts of a motor vehicle that generally constitute the exterior of a motor vehicle for a fee.

2. A repair facility shall not use aftermarket crash parts in the repair of a customer's motor vehicle without disclosing the proposed use of such parts in the estimate of repairs given to the customer prior to the repair of the motor vehicle. The estimate shall be in writing and shall clearly identify each part proposed to be used which is an aftermarket crash part. The following information shall appear in ten point type, or larger, on or attached to the estimate: "This estimate has been prepared based on the use of aftermarket crash parts supplied by a source other than the manufacturer of your motor vehicle. Any warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle."

3. An aftermarket crash part supplied for use in this state after January 1, 1991, shall have affixed or inscribed upon the part the logo or name of its manufacturer. A repair facility installing an aftermarket crash part on a motor vehicle shall install the part so that the manufacturer's logo or name is visible upon inspection after installation whenever practicable.

4. It is a deceptive act or practice for a repair facility or manufacturer or distributor of aftermarket crash parts to fail to comply with the requirements of this section.

Sec. 5. NEW SECTION. 537B.6 DECEPTIVE ACT OR PRACTICE.

It is a deceptive act or practice for a supplier to:

1. Fail to comply with the requirements of section 537B.3.

2. Make the performance of any repair or service contingent upon a consumer's waiver of any rights provided for in this chapter.

3. Fail to obtain oral or written authorization from the consumer for the anticipated cost of any additional, unforeseen, but necessary repairs or services when the cost of those repairs or services amount to more than ten percent, excluding tax, of the original estimate requested by a consumer.

4. Fail, if the anticipated cost of a repair or service is less than fifty dollars and an estimate has not been given to the consumer, to obtain oral or written authorization from the consumer for the anticipated cost of any additional unforeseen, but necessary repairs or services if the total cost of the repairs or services, if performed, will exceed fifty dollars.

5. Fail to disclose prior to the commencement of any repairs or service, that a charge will be made for disassembly, reassembly, partially completed work, or any other work not directly

related to the actual performance of the repairs or service. A charge so imposed must be directly related to the actual amount of labor or parts involved in the inspection, repair, or service.

6. Charge for any repair or service which has not been authorized by the consumer.

7. Fail to disclose upon the first contact with the consumer that any charge not directly related to the actual performance of the repair or service will be imposed by the supplier whether or not repairs or services are performed.

8. Fail to disclose upon the first contact with a consumer the basis upon which a charge will be imposed for towing the motor vehicle if that service will be performed.

9. Represent that repairs or services are necessary when that is not the fact.

10. Represent that repairs have been made or services have been performed when that is not the fact.

11. Represent that a motor vehicle or any part of a motor vehicle which is being inspected or diagnosed for a repair or service is in a dangerous condition, or that the consumer's continued use of it may be harmful, when that is not the fact.

12. Materially and intentionally understate or misstate the estimated cost of the repairs or service.

13. Fail to provide the consumer with an itemized list of repairs performed or services rendered, including a list of parts or materials and a statement of whether they are used, remanufactured or rebuilt, if not new, and their cost to the consumer, the amount charged for labor, and the identity of the individual performing the repair or service.

14. Fail to tender to the consumer any replaced parts, unless the parts are to be rebuilt or sold by the supplier, or returned to the manufacturer in connection with warranted repairs or services, and such intended reuse or return is made known to the consumer prior to commencing any repair or service. However, this subsection does not prohibit the supplier from retaining the replaced parts if the consumer so requests.

15. Fail to provide to the consumer upon the consumer's request a written, itemized receipt for any motor vehicle or part of a motor vehicle that is left with, or turned over to, the supplier for repair or service. The receipt shall include:

a. The identity of the supplier which will perform the repair or service.

b. The name and signature of the supplier or a representative who actually accepts the motor vehicle or any part of the motor vehicle.

c. A description including make and model number or other features as will reasonably identify the motor vehicle or any part of the motor vehicle to be repaired or serviced.

d. The date on which the motor vehicle or any part of the motor vehicle was left with or turned over to the supplier.

16. Fail to disclose to the consumer prior to the commencement of any repair or service, that any part of the repair or service will be performed by a person other than the supplier or the supplier's employees, if the consumer requests that information.

Sec. 6. Section 714.16, subsection 2, Code 1989, is amended by adding the following new lettered paragraphs:

NEW LETTERED PARAGRAPH. k. It is an unlawful practice for a supplier to commit a deceptive act or practice under chapter 537B.

NEW PARAGRAPH. l. It is an unlawful practice for a repair facility or manufacturer or distributor of aftermarket crash parts, as defined in section 537B.4, to commit a deceptive act or practice under chapter 537B.