

Commerce
Amendment DOPASS 3-989 (p. 701)

FILED JAN 23 1989

SENATE FILE 81
BY PALMER

Passed Senate, Date 3-29-89 (p. 1059) Passed House, Date _____
Vote: Ayes 47 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

Motion to Reconsider 2/9/90 (p. 664)
" w/o 2/20 (p. 627)

A BILL FOR

1 An Act relating to consumer transactions involving the
2 performance of repairs or service upon a motor vehicle, and
3 imposing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 81

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

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

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

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

7 1. "Consumer" means a person contracting for, or intending
8 to contract for, repairs or service upon a motor vehicle used
9 primarily for farm or personal use.

10 2. "Motor vehicle" means a motor vehicle as defined in
3194-11 section 321.1.

12 3. "Supplier" means a person offering to contract for
13 repairs or service upon a motor vehicle. Supplier includes an
14 employee or other representative of the supplier.

3194-15 Sec. 3. NEW SECTION. 537B.3 REQUIRED TRADE PRACTICES --
16 FACE TO FACE TRANSACTIONS.

17 At the time of the initial face to face contact with the
18 consumer at the supplier's place of business during the
19 supplier's business hours, and prior to the commencement of
20 the repair or service:

21 1. A supplier shall, if the anticipated cost of the repair
22 or service exceeds twenty-five dollars, provide the consumer
23 with a form which includes the following minimum information:

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

3194-28 e. The anticipated cost of the repair or service, if
29 requested by the consumer.

30 f. The following disclosure in substantially the following
31 language:

32 ESTIMATE

33 YOU HAVE THE RIGHT TO AN ESTIMATE IF THE EXPECTED COST OF
34 REPAIRS OR SERVICES WILL BE MORE THAN TWENTY-FIVE DOLLARS.

35 INITIAL YOUR CHOICE:

- 1 _____ Written Estimate
- 2 _____ Oral Estimate
- 3 _____ No Estimate

4 2. The supplier shall provide the following notice to the
5 consumer:

6 NOTICE

7 IF THE EXPECTED COST OF A REPAIR OR SERVICE IS MORE THAN
8 TWENTY-FIVE DOLLARS, YOU HAVE THE RIGHT TO RECEIVE A WRITTEN
9 ESTIMATE, ORAL ESTIMATE, OR YOU CAN CHOOSE TO RECEIVE NO
10 ESTIMATE BEFORE WE BEGIN WORK. YOUR BILL WILL NOT BE HIGHER
11 THAN THE ESTIMATE BY MORE THAN TEN PERCENT UNLESS YOU APPROVE
12 A LARGER AMOUNT BEFORE REPAIRS ARE FINISHED. IOWA LAW
13 REQUIRES US TO GIVE YOU A FORM SO THAT YOU CAN CHOOSE EITHER A
14 WRITTEN, ORAL, OR NO ESTIMATE.

15 The notice may be provided by either or both of the
16 following procedures:

17 a. The supplier may post the notice in easily legible form
18 and size in a conspicuous place within that area of the
19 supplier's place of business to which consumers requesting any
20 repair or service are directed by the supplier.

21 b. The supplier may give the consumer a separate form at
22 the time of the initial face to face contact and prior to the
23 commencement of any repair or service which clearly and
24 conspicuously contains the notice required by this subsection.

25 3. The supplier shall, when requested by the consumer,
26 make a bona fide effort during the initial face to face
27 contact to provide a written estimate of the anticipated cost
28 of repairs or services on the form required by subsection 1.

29 4. If a consumer requests an estimate, the supplier shall
30 provide an estimate before commencing the repair or service,
31 in the form requested.

32 Sec. 4. NEW SECTION. 537B.4 REQUIRED TRADE PRACTICES --
33 NO FACE TO FACE CONTACT.

34 If there has not been face to face contact between the
35 consumer and the supplier prior to the commencement of the

1 repair or service:

2 1. The supplier shall make available to the consumer who
3 makes a supplier-authorized delivery of a motor vehicle for
4 repair or service at the supplier's place of business during
5 nonbusiness hours of the repair or service facility, a form in
6 duplicate with instructions directing the consumer to retain a
7 copy, which includes the following minimum information:

8 a. The supplier's name.

9 b. The following disclosures in substantially the
10 following language:

11 ESTIMATE

12 YOU HAVE THE RIGHT TO AN ESTIMATE OF THE COST OF REPAIRS OR
13 SERVICES WHICH YOU ARE REQUESTING. YOUR BILL WILL NOT BE
14 HIGHER THAN THE ESTIMATE BY MORE THAN TEN PERCENT UNLESS YOU
15 APPROVE A LARGER AMOUNT BEFORE REPAIRS ARE FINISHED. YOU CAN
16 CHOOSE THE KIND OF ESTIMATE YOU WANT TO RECEIVE BY SIGNING
17 YOUR NAME UNDER ONE OF THE FOLLOWING CHOICES AND INDICATING A
18 TELEPHONE WHERE YOU CAN BE REACHED IF NECESSARY:

19 (a) Written Estimate

20 _____
21 (Customer Signature)

22 (b) Oral Estimate

23 _____
24 (Customer Signature)

25 (c) No Estimate

26 _____
27 (Customer Signature)

28 Customer Name _____

29 Customer Telephone Number _____

30 Date _____

31 A supplier has not authorized delivery of a motor vehicle
32 during nonbusiness hours of the repair or service facility if
33 there has not been communication of that fact to the general
34 public by the supplier.

35 2. The supplier shall in all instances, upon the first

1 contact with the consumer, inform the consumer of the right to
2 receive a written or oral estimate of the anticipated cost of
3 repair.

4 3. The supplier shall give an oral estimate to the
5 consumer before commencing the repair or service, if an oral
6 estimate has been requested by the consumer.

7 4. The supplier shall, when a consumer requests a written
8 estimate, prepare a written estimate, inform the consumer that
9 the estimate is available, and upon the consumer's request,
10 give the estimate to the consumer before commencing the repair
11 or service.

12 Sec. 5. NEW SECTION. 537B.5 ALTERNATIVE FORM OF
13 COMPLIANCE -- BINDING FIVE-DAY WRITTEN ESTIMATE.

14 In lieu of complying with requirements of section 537B.3 or
15 537B.4, a supplier may provide a consumer, prior to the
16 commencement of any repair or service, with a written
17 quotation of the price at which the repair or service will be
18 performed, which shall indicate that the quotation is binding
19 upon the supplier for a period of no less than five days,
20 provided that the subject of the consumer transaction is made
21 available to the supplier for the repair or service within
22 that period. The cost of any additional, unforeseen, but
23 necessary repairs or services shall be performed for no
24 additional charge.

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

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

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

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

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

1 consumer.

394-2 4. Fail, if the anticipated cost of a repair or service is
3 less than twenty-five dollars and an estimate has not been
4 given to the consumer, to obtain oral or written authorization
5 from the consumer for the anticipated cost of any additional
6 unforeseen, but necessary repairs or services if the total
7 cost of the repairs or services, if performed, will exceed
8 twenty-five dollars.

394-9 5. Fail to disclose prior to acceptance of any motor
10 vehicle for inspection, repair, or service, that if the
11 consumer authorizes commencement but does not authorize
12 completion of a repair or service, that a charge will be
13 imposed for disassembly, reassembly, or partially completed
14 work. A charge so imposed must be directly related to the
15 actual amount of labor or parts involved in the inspection,
16 repair, or service.

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

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

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

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

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

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

394-34 12. Materially understate or misstate the estimated cost
35 of the repair or service.

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

7 14. Fail to tender to the consumer any replaced parts,
8 unless the parts are to be rebuilt or sold by the supplier, or
9 returned to the manufacturer in connection with warranted
10 repairs or services, and such intended reuse or return is made
11 known to the consumer prior to commencing any repair or
3194-12 service.

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

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

20 b. The name and signature of the supplier or a represen-
21 tative who actually accepts the motor vehicle or any part of
22 the motor vehicle.

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

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

3194-28 16. Fail at the time of the signing or initialing of any
29 document by a consumer, to provide the consumer with a copy of
30 the document.

3194-31 17. Fail to disclose to the consumer prior to the com-
32 mencement of any repair or service, that any part of the
33 repair or service will be performed by a person other than the
34 supplier or the supplier's employees, if the supplier
35 disclaims any warranty of the repair or service performed by

1 that person. In addition, the supplier shall disclose the
2 nature of the repair or service which that person will
3 perform, and if requested by the consumer, the identity of
4 that person.

5 Sec. 7. NEW SECTION. 537B.7 REQUIRED FORMS AND NOTICES.

6 1. Unless otherwise expressly provided, the forms and
7 notices required by sections 537B.3 and 537B.4 may be separate
8 or may be incorporated into another form used by the supplier
9 provided that the disclosures are easily legible and clearly
10 and conspicuously appear on the form. This section does not
11 preclude a supplier from incorporating into the same form
12 additional disclosures required by this chapter.

13 2. The sign or form required by section 537B.3 shall be
14 printed in such a size and manner so that the notice is easily
15 legible. Additional disclosures required by this chapter may
16 be incorporated in the sign or form so long as the language
17 required by section 537B.3 prominently appears as the first
18 listed disclosure. If a supplier gives written estimates to
19 consumers prior to the commencement of any repair or service
20 regardless of the anticipated cost of repairs or services, the
21 disclosures and notices required by this chapter may be
22 modified to disclose that fact.

23 Sec. 8. Section 714.16, subsection 2, Code 1989, is
24 amended by adding the following new lettered paragraph:

25 NEW LETTERED PARAGRAPH. k. It is an unlawful practice for
26 a supplier to commit a deceptive act or practice under chapter
27 537B.

28 EXPLANATION

29 This bill requires suppliers to consumers of repairs or
30 services for motor vehicles to provide certain notices and
31 follow certain required trade practices. Consumers are given
32 the statutory right to request and receive an oral or written
33 estimate of services or repairs to be performed on the
34 consumer's motor vehicle. A supplier's failure to comply with
35 the bill's requirements is made a deceptive trade act or

1 practice subject to the penalties contained in section 714.16
2 for consumer frauds.

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SENATE CLIP SHEET

MARCH 10, 1989

SENATE FILE 81

S-3194

1 Amend Senate File 81 as follows:

2 1. Page 1, line 11, by inserting after the figure
3 "321.1." the following: "However, "motor vehicle"
4 does not include a motor vehicle, as defined in
5 section 321.1, with a registered gross vehicle weight
6 rating of more than twelve thousand pounds."

7 2. Page 1, by striking lines 15 through 23, and
8 inserting the following:

9 "Sec. ____ . NEW SECTION. 537B.3 REQUIRED TRADE
10 PRACTICES.

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

18 ESTIMATE

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

24 INITIAL YOUR CHOICE:

25 _____ Written estimate.

26 _____ Oral estimate.

27 _____ No estimate.

28 _____ Call me if repairs and service will be more
29 than \$ _____.

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

32 3. By striking page 1, line 28, through page 4,
33 line 24, and inserting the following:

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

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

S-3194

Page 2

- 1 4. Page 4, line 34, by striking the words
- 2 "amounts to ten percent or more" and inserting the
- 3 following: "amount to more than ten percent".
- 4 5. Page 5, line 3, by striking the word "twenty-
- 5 five" and inserting the following: "fifty".
- 6 6. Page 5, line 8, by striking the word "twenty-
- 7 five" and inserting the following: "fifty".
- 8 7. Page 5, by striking lines 9 through 14, and
- 9 inserting the following:
- 10 "5. Fail to disclose prior to the commencement of
- 11 any repairs or service, that a charge will be made for
- 12 disassembly, reassembly, partially completed work, or
- 13 any other work not directly related to the actual
- 14 performance of the repairs or service. A charge so
- 15 imposed must be directly related to the".
- 16 8. Page 5, by striking lines 34 through 35, and
- 17 inserting the following:
- 18 "12. Materially and intentionally understate or
- 19 misstate the estimated cost of the repairs or
- 20 service."
- 21 9. Page 6, line 12, by inserting after the word
- 22 "service." the following: "However, this subsection
- 23 does not prohibit the supplier from retaining the
- 24 replaced parts if the consumer so requests."
- 25 10. Page 6, by striking lines 28 through 30.
- 26 11. By striking page 6, line 34, through page 7,
- 27 line 22, and inserting the following: "supplier or
- 28 the supplier's employees, if the consumer requests
- 29 that information."
- 30 12. By renumbering as necessary.

By COMMITTEE ON COMMERCE

WILLIAM D. PALMER, Chairperson

S-3194 FILED MARCH 9, 1989

Adopted 3-29-89 (p. 1058)

Abuse Small Bus + Commerce
D. Pass 1/29/90 (p. 231)

SENATE FILE 81
BY PALMER

(AS AMENDED AND PASSED BY THE SENATE MARCH 29, 1989)

- ~~_____~~ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date 2-9-90 (p. 456) Passed House, Date 2-6-90 (p. 313) *as further amended*
 Vote: Ayes 44 Nays 0 Vote: Ayes 89 Nays 3
 Approved March 1, 1990 (p. 834)
Motion to reconsider (p. 464)

A BILL FOR

1 An Act relating to consumer transactions involving the
 2 performance of repairs or service upon a motor vehicle, and
 3 imposing penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 81

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

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

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

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

7 1. "Consumer" means a person contracting for, or intending
8 to contract for, repairs or service upon a motor vehicle used
9 primarily for farm or personal use.

10 2. "Motor vehicle" means a motor vehicle as defined in
11 section 321.1. However, "motor vehicle" does not include a
12 motor vehicle, as defined in section 321.1, with a registered
13 gross vehicle weight rating of more than twelve thousand
14 pounds.

15 3. "Supplier" means a person offering to contract for
16 repairs or service upon a motor vehicle. Supplier includes an
17 employee or other representative of the supplier.

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

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

25 ESTIMATE

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

31 _____ Written estimate.

32 _____ Oral estimate.

33 _____ No estimate.

34 _____ Call me if repairs and service will be more than

35 \$ _____.

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

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

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

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

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23 Sec. 4. NEW SECTION. 537B.6 DECEPTIVE ACT OR PRACTICE.

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

- 25 1. Fail to comply with the requirements of section 537B.3.
- 26 2. Make the performance of any repair or service
- 27 contingent upon a consumer's waiver of any rights provided for
- 28 in this chapter.

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

35 4. Fail, if the anticipated cost of a repair or service is

1 less than fifty dollars and an estimate has not been given to
2 the consumer, to obtain oral or written authorization from the
3 consumer for the anticipated cost of any additional
4 unforeseen, but necessary repairs or services if the total
5 cost of the repairs or services, if performed, will exceed
6 fifty dollars.

7 5. Fail to disclose prior to the commencement of any
8 repairs or service, that a charge will be made for
9 disassembly, reassembly, partially completed work, or any
10 other work not directly related to the actual performance of
11 the repairs or service. A charge so imposed must be directly
12 related to the actual amount of labor or parts involved in the
13 inspection, repair, or service.

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

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

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

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

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

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

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

33 13. Fail to provide the consumer with an itemized list of
34 repairs performed or services rendered, including a list of
35 parts or materials and a statement of whether they are used,

1 remanufactured or rebuilt, if not new, and their cost to the
2 consumer, the amount charged for labor, and the identity of
3 the individual performing the repair or service.

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

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

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

19 b. The name and signature of the supplier or a represen-
20 tative who actually accepts the motor vehicle or any part of
21 the motor vehicle.

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

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

* 27 16. Fail to disclose to the consumer prior to the com-
28 mencement of any repair or service, that any part of the
29 repair or service will be performed by a person other than the
30 supplier or the supplier's employees, if the consumer requests
31 that information.

32 Sec. 5. Section 714.16, subsection 2, Code 1989, is
33 amended by adding the following new lettered paragraph:

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

1 537B.

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H-5081

1 Amend Senate File 81, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 22, the
4 following:

5 "Sec. ____ . NEW SECTION. 537B.4 AFTERMARKET
6 PARTS.

7 1. As used in this section:

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

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

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

24 2. A repair facility shall not use aftermarket
25 crash parts in the repair of a customer's motor
26 vehicle without disclosing the proposed use of such
27 parts in the estimate of repairs given to the customer
28 prior to the repair of the motor vehicle. The
29 estimate shall be in writing and shall clearly
30 identify each part proposed to be used which is an
31 aftermarket crash part. The following information
32 shall appear in ten point type, or larger, on or
33 attached to the estimate:

34 "This estimate has been prepared based on the use
35 of aftermarket crash parts supplied by a source other
36 than the manufacturer of your motor vehicle. Any
37 warranties applicable to these replacement parts are
38 provided by the manufacturer or distributor of these
39 parts rather than the manufacturer of your vehicle."

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

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

H-5081

Page 2

1 this section."

2 2. Page 4, line 33, by striking the word

3 "paragraph" and inserting the following:

4 "paragraphs".

5 3. Page 5, by inserting after line 1, the

6 following:

7 "NEW PARAGRAPH. 1. It is an unlawful practice for

8 a repair facility or manufacturer or distributor of

9 aftermarket crash parts, as defined in section 537B.4,

10 to commit a deceptive act or practice under chapter

11 537B."

12 4. By renumbering as necessary.

By BISIGNANO of Polk

KNAPP of Dubuque

H-5081 FILED FEBRUARY 5, 1990

Adopted 2/6 (p. 312)

HOUSE AMENDMENT TO
SENATE FILE 81

S-5072

1 Amend Senate File 81, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 22, the
4 following:

5 "Sec. ____ . NEW SECTION. 537B.4 AFTERMARKET
6 PARTS.

7 1. As used in this section:

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

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

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

24 2. A repair facility shall not use aftermarket
25 crash parts in the repair of a customer's motor
26 vehicle without disclosing the proposed use of such
27 parts in the estimate of repairs given to the customer
28 prior to the repair of the motor vehicle. The
29 estimate shall be in writing and shall clearly
30 identify each part proposed to be used which is an
31 aftermarket crash part. The following information
32 shall appear in ten point type, or larger, on or
33 attached to the estimate:

34 "This estimate has been prepared based on the use
35 of aftermarket crash parts supplied by a source other
36 than the manufacturer of your motor vehicle. Any
37 warranties applicable to these replacement parts are
38 provided by the manufacturer or distributor of these
39 parts rather than the manufacturer of your vehicle."

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

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

Page 2

1 this section."

2 2. Page 4, line 33, by striking the word

3 "paragraph" and inserting the following:

4 "paragraphs".

5 3. Page 5, by inserting after line 1, the

6 following:

7 "NEW PARAGRAPH. 1. It is an unlawful practice for

8 a repair facility or manufacturer or distributor of

9 aftermarket crash parts, as defined in section 537B.4,

10 to commit a deceptive act or practice under chapter

11 537B."

12 4. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-5072 FILED FEBRUARY 8, 1990

Senate concurred 2/9 (p. 456)

SENATE FILE 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. 1. 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.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 81, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved _____, 1990

TERRY E. BRANSTAD
Governor

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