

108TH CONGRESS
1ST SESSION

H. R. 2735

To protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2003

Mr. BARTON of Texas (for himself, Mr. TOWNS, Mr. ACEVEDO-VILÁ, Mr. AKIN, Mr. ANDREWS, Mr. BARTLETT of Maryland, Mr. BILIRAKIS, Ms. CORRINE BROWN of Florida, Ms. CARSON of Indiana, Mr. CLYBURN, Mr. DAVIS of Alabama, Mrs. JO ANN DAVIS of Virginia, Mr. DEAL of Georgia, Mr. DEFAZIO, Ms. DEGETTE, Ms. ESHOO, Mr. FORD, Mr. FRANKS of Arizona, Mr. GERLACH, Mr. GOODLATTE, Mr. GRAVES, Mr. GREENWOOD, Mr. HOLDEN, Mr. LATOURETTE, Ms. JACKSON-LEE of Texas, Mr. MANZULLO, Ms. MCCARTHY of Missouri, Mr. MCGOVERN, Mr. MEEHAN, Mr. GEORGE MILLER of California, Mr. MOORE, Mrs. MYRICK, Mr. NEAL of Massachusetts, Mr. OWENS, Mr. PAYNE, Mr. PETERSON of Minnesota, Mr. PETRI, Mr. PLATTS, Mr. PRICE of North Carolina, Mr. RUSH, Mr. SENSENBRENNER, Mr. SESSIONS, Mr. STENHOLM, Mr. TANCREDO, Mr. TANNER, Mr. THOMPSON of Mississippi, Mr. TOOMEY, Mr. WAMP, Mr. WAXMAN, Mr. WELDON of Florida, Mr. WEXLER, Mr. WILSON of South Carolina, Ms. WOOLSEY, and Mr. WYNN) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Motor Vehicle Owners’
3 Right to Repair Act of 2003”.

4 **SEC. 2. FINDINGS AND PURPOSES.**

5 (a) FINDINGS.—The Congress finds the following:

6 (1) The ability to diagnose, service, and repair
7 a motor vehicle in a timely, reliable, and affordable
8 manner is essential to the safety and well-being of
9 automotive consumers in the United States.

10 (2) Consumers are entitled to choose among
11 competing repair facilities for the convenient, reli-
12 able, and affordable repair of their motor vehicles.

13 (3) Increased competition among repair facili-
14 ties will benefit vehicle owners in the United States.

15 (4) Computers of various kinds are increasingly
16 being used in motor vehicle systems, such as pollu-
17 tion control, transmission, antilock brakes, electronic
18 and mechanical systems, heating and air-condi-
19 tioning, sound, and steering.

20 (5) The diagnosis, service, and repair of these
21 vehicle systems are essential to the safety and prop-
22 er operation of modern motor vehicles.

23 (6) In many instances, access codes prevent
24 owners from making, or having made, the necessary
25 diagnosis, service, and repair of their motor vehicles

1 in a timely, convenient, reliable, and affordable man-
2 ner.

3 (7) Consumers in the United States have bene-
4 fited from the availability of an aftermarket parts
5 supply, or parts and accessories used in the repair,
6 maintenance, or enhancement of a motor vehicle.
7 The American economy has also benefitted from the
8 availability of an aftermarket parts supply that pro-
9 vides jobs to over 5 million workers in 495,000 busi-
10 nesses, and generates \$200 billion in annual sales.

11 (8) Vehicle owners in the United States should
12 have the right—

13 (A) to all information necessary to allow
14 the diagnosis, service, and repair of their vehi-
15 cles;

16 (B) to choose between original parts and
17 aftermarket parts when repairing their motor
18 vehicles; and

19 (C) to make, or have made, repairs nec-
20 essary to keep their vehicles in reasonably good
21 and serviceable condition during the expected
22 vehicle life.

23 (9) The restriction of vehicle repair information
24 limits who can repair motor vehicles and what parts

1 may be used to repair those vehicles, which limits
2 consumer choice and thus limits competition.

3 (10) The Congress has provided the Federal
4 Trade Commission with broad authority to make
5 and enforce rules to foster competition, to prevent
6 unfair methods of competition in commerce, and to
7 protect consumers.

8 (b) PURPOSES.—The purposes of this Act are the fol-
9 lowing:

10 (1) To require the Federal Trade Commission
11 to prescribe and enforce rules necessary to ensure
12 the right of a motor vehicle owner to obtain all in-
13 formation required for the diagnosis, service, and re-
14 pair of the motor vehicle.

15 (2) To ensure the safety of all vehicle owners
16 by requiring disclosure of all information necessary
17 for the proper diagnosis, service, and repair of a ve-
18 hicle in a timely, affordable, and reliable manner.

19 (3) To encourage competition in the diagnosis,
20 service, and repair of motor vehicles.

21 **SEC. 3. MANUFACTURER DISCLOSURE REQUIREMENTS.**

22 (a) DUTY TO DISCLOSE.—In accordance with rules
23 prescribed by the Federal Trade Commission under sec-
24 tion 7, the manufacturer of a motor vehicle sold or intro-
25 duced into commerce in the United States shall promptly

1 provide to the vehicle owner, to a repair facility of the ve-
2 hicle, and to the Commission for use by any such vehicle
3 owner or repair facility, the information necessary to diag-
4 nose, service, or repair the vehicle. Such information shall
5 include—

6 (1) information necessary to integrate replace-
7 ment equipment into the vehicle; and

8 (2) other information of any kind used to diag-
9 nose, service, repair, activate, certify, or install any
10 motor vehicle equipment (including replacement
11 equipment) in a motor vehicle.

12 (b) PROTECTION OF TRADE SECRETS.—

13 (1) DETERMINATION BY FEDERAL TRADE COM-
14 MISSION.—The Federal Trade Commission may not
15 require a manufacturer to publicly disclose informa-
16 tion that, if made public, would divulge methods or
17 processes entitled to protection as trade secrets of
18 that manufacturer, but may require disclosure of
19 such information to the Commission for the purpose
20 of determining whether such information is entitled
21 to such protection. Such determination shall be
22 made on the record after an opportunity for an
23 agency hearing.

24 (2) PREVIOUSLY DISCLOSED INFORMATION.—

25 No such information may be withheld by a manufac-

1 turer if that information is provided (directly or in-
2 directly) to franchised dealers or other repair facili-
3 ties.

4 **SEC. 4. UNFAIR OR DECEPTIVE ACT OR PRACTICE.**

5 The failure by a manufacturer to provide the infor-
6 mation required by section 3(a) constitutes an unfair
7 method of competition and an unfair or deceptive act or
8 practice in or affecting commerce (within the meaning of
9 section 5(a)(1) of the Federal Trade Commission Act (15
10 U.S.C. 45(a)(1))). Violation of a rule prescribed under
11 section 6(a) constitutes violation of a rule defining an un-
12 fair or deceptive act or practice prescribed under section
13 18(a)(1)(B) of the Federal Trade Commission Act (15
14 U.S.C. 57a(a)(1)(B)).

15 **SEC. 5. PRIVATE RIGHT OF ACTION.**

16 A vehicle owner or repair facility may bring a civil
17 action to enjoin a violation of this Act and to recover the
18 costs of litigation (including reasonable attorney and ex-
19 pert witness fees). Such an action may be brought in the
20 district court of the United States for the district in which
21 such owner resides or such repair facility does business,
22 without regard to the amount in controversy or the citizen-
23 ship of the parties.

1 **SEC. 6. RULEMAKING.**

2 (a) IN GENERAL.—Not later than 180 days after the
3 date of enactment of this Act, the Federal Trade Commis-
4 sion shall prescribe rules setting forth a uniform method
5 by which a manufacturer shall provide the information re-
6 quired by section 3(a), including disclosure in writing, on
7 the Internet, or in any other manner, or under such terms,
8 as the Commission determines may be appropriate. Such
9 rules shall take effect for vehicles manufactured after
10 model year 1994.

11 (b) LIMITATION.—The Federal Trade Commission
12 may not prescribe rules that—

13 (1) interfere with the authority of the Adminis-
14 trator of the Environmental Protection Agency
15 under section 202(m) of the Clean Air Act (42
16 U.S.C. 7521(m)) with regard to motor vehicle emis-
17 sions control diagnostics systems; or

18 (2) conflict with rules prescribed by such Ad-
19 ministrator under such section.

20 **SEC. 7. DEFINITIONS.**

21 In this Act:

22 (1) The term “commerce” has the meaning
23 given that term in section 4 of the Federal Trade
24 Commission Act (15 U.S.C. 44).

25 (2) The terms “manufacturer”, “motor vehi-
26 cle”, and “motor vehicle equipment” have the mean-

1 ings given those terms in section 30102(a) of title
2 49, United States Code.

3 (3) The term “vehicle owner” means any per-
4 son who owns, leases, or otherwise has the legal
5 right to use and possess a motor vehicle, or the
6 agent of such person.

7 (4) The term “repair facility” means a person
8 engaged in the repair, diagnosing, or servicing of
9 motor vehicles or motor vehicle engines.

10 (5) The term “replacement equipment” has the
11 meaning given that term in section 30102(b)(1) of
12 title 49, United States Code.

13 (6) The term “model year” has the meaning
14 given that term in section 32901(a) of title 49,
15 United States Code.

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