

HOUSE No. 285

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to protect the rights of consumer to diagnose, service, and repair, or have repaired for them, motor vehicles in the Commonwealth..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This Act may be cited as “The Massachusetts Motor Vehicle Owners’
2 Right to Repair Act of 2009.”

3 SECTION 2. The Legislature finds and declares that:

4 The ability to diagnose, service, and repair a motor vehicle in a timely, reliable, and
5 affordable manner is essential to the safety and well-being of consumers in this Commonwealth.

6 Consumers are entitled to choose among competing repair facilities for the convenient,
7 reliable, and affordable repair of their motor vehicles.

8 Increased competition among repair facilities will benefit vehicle owners in this
9 Commonwealth.

10 Computers of various kinds are commonly being used in motor vehicle systems, such as
11 pollution control, transmission, anti-lock brakes, electronic and mechanical systems, heating and
12 air conditioning, mobile electronics, airbags, and steering.

13 The diagnosis, service, and repair of these vehicle systems are essential to the safe and
14 proper operation of motor vehicles.

15 In many instances, access codes prevent owners from making, or having made, the
16 necessary diagnosis, service, and repair of their motor vehicles in a timely, convenient, reliable,
17 and affordable manner.

18 Vehicle owners in the Commonwealth of Massachusetts must have the right:
19 to obtain all information necessary to provide for the diagnosis, service, and repair of
20 their vehicles;

21 to choose between original parts and aftermarket parts when repairing their motor
22 vehicles; and

23 to make, or have made, repairs necessary to keep their vehicles in reasonably good and
24 serviceable condition during the life of the vehicle.

25 The restriction of access to vehicle repair information inherently limits who can repair
26 motor vehicles and what brands of parts may be used to repair those vehicles, which limits
27 consumer choice, and impedes competition.

28 SECTION 3. The purposes of this Act are:

29 to ensure the safety of all vehicle owners in the Commonwealth of Massachusetts by
30 requiring disclosure of all information necessary for the proper diagnosis, service, and repair of a
31 motor vehicle in a timely, reliable, and affordable manner.

to encourage competition in the diagnosis, service, and repair of motor vehicles in the Commonwealth of Massachusetts.

SECTION 4. Notwithstanding any General or special law, or any rule or regulation, to the contrary, all manufacturers of motor vehicles sold in the Commonwealth of Massachusetts must:

Promptly provide to the vehicle owner, or to a repair facility of the motor vehicle owner's choosing, the information necessary to diagnose, service, or repair the vehicle. The motor vehicle manufacturer must make available all non-emission-related service information, training information, and diagnostic tools on a non-discriminatory basis to any repair facility of the owner's choosing, and must not limit such information to those repair facilities that are within the manufacturers' approved network. The information to be made available must include the following:

the same service and training information related to vehicle repair must be made available to all independent vehicle repair facilities in the same manner and extent as it is made available to franchised dealerships, and must include all information needed to activate all controls that can be activated by a franchised dealership.

the same diagnostic tools and capabilities related to vehicle repair that are made available to franchised dealerships must be made available to independent vehicle repair facilities. These diagnostic tools and capabilities must be made available for purchase by motor vehicle owners or their agents through reasonable business means. The service and training information and manufacturer diagnostic capabilities must be available to independent vehicle repair facilities,

53 and to the companies from which they normally purchase diagnostic tools, without the need for
54 the motor vehicle owner to return to a franchised dealership.

55 Protection of Trade Secrets.

56 Nothing in this Act shall be deemed to require the disclosure of trade secrets, nor the
57 public disclosure of any information related exclusively to the design and manufacturer of motor
58 vehicle parts. No information necessary to repair a motor vehicle shall be withheld by a
59 manufacturer if such information is provided, either directly or indirectly by such manufacturer,
60 to franchised dealerships or other vehicle repair facilities.

61 SECTION 5. Not later than one year after the date of enactment of this Act, the Office
62 of Consumer Affairs and Business Regulation shall prescribe regulations setting forth an
63 appropriate and uniform method by which motor vehicle manufacturers must provide the
64 information required by Section 4 of this Act, including disclosure in writing, on the Internet, or
65 in any other manner, or under such terms as the Office of Consumer Affairs and Business
66 Regulation shall deem appropriate. These regulations shall take effect upon final issuance of
67 such regulations and shall apply to vehicles manufactured after the 1994 model year.

68 SECTION 6. Notwithstanding any General or special law, or any rule or regulation, to
69 the contrary, the Office of Consumer Affairs and Business Regulation may not prescribe any
70 regulations that:

71 interfere with the authority of the Administrator of the Environmental Protection Agency
72 under section 202(m) of the Clean Air Act (42 U.S.C. 7521(m)) with regard to motor vehicle
73 emissions control diagnostic systems; or

74 conflict with any rules and/or regulations prescribed by the Administrator of the
75 Environmental Protection Agency under that section.

76 SECTION 7. Notwithstanding any General or special law, or any rule or regulation, to
77 the contrary any violation of any of the provisions of this Act committed by any manufacturer of
78 a motor vehicle offered for sale in the Commonwealth, in addition to any other penalty provided
79 by law, shall be subject to a penalty of not more than \$10,000.00 for the first offense and not
80 more than \$20,000.00 for the second and each subsequent offense. In the event of ongoing non-
81 compliance with this Act, such manufacturer shall be subject to a penalty of not more than
82 \$20,000.00 after each period of sixty days of ongoing non-compliance. A vehicle owner or a
83 repair facility may bring a civil action to enjoin a violation of this Act, and to recover all
84 economic damages arising from such violation(s), and all costs of litigation, including reasonable
85 attorney and expert witness fees