

BILL ANALYSIS

C.S.H.B. 4526
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Business & Industry
Committee Report (Substituted)

BACKGROUND AND PURPOSE

C.S.H.B. 4526 aims to protect consumers from motor vehicle repair abuse. The intention of the bill is to bring transparency to the process by keeping the customer informed, while not being overly burdensome to legitimate car repair businesses.

C.S.H.B. 4526 requires a motor vehicle repair dealer to communicate to a customer the charge for making an estimate for repairs as well as towing and storage charges. The bill requires the dealer, if the customer wishes for the repairs to be made, to provide a written invoice of the repairs made. The bill authorizes a customer, after receiving an estimate of the repairs and the time necessary to complete them, to authorize the repairs or to request the return of the vehicle. The bill prohibits a repair dealer from charging an amount that exceeds the estimate by 10 percent, unless the dealer notifies the customer in writing, by telephone, or in another manner authorized by the customer and allows the customer to authorize the increase by telephone. The bill requires the dealer to notify the customer if the dealer is unable to complete the repair work in the time estimated. The bill requires the dealer to record work performed on an invoice for repair work greater than \$15 and requires one copy to be given to the customer.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4526 amends the Business & Commerce Code to require a motor vehicle repair dealer, before taking possession of a motor vehicle, to provide a customer with a written schedule of charges that includes the charge for making an estimate of repairs; the total estimated charge for releasing a motor vehicle to the customer in a disassembled state or in substantially the same condition as the vehicle was in when delivered to the dealer, if the dealer does not repair the vehicle; storage and towing charges; the posted labor rate; and an itemized list of all other charges, other than the charges to be included in a written estimate as required by these provisions. The bill requires the schedule of charges to include a written notice relating to unforeseen damage to the vehicle and sets forth the language of the notice. The bill prohibits a dealer from charging a customer for a service not listed on the schedule of charges or in the estimate unless the dealer notifies the customer in writing, by telephone, or in another manner authorized by the customer and the customer agrees to the charge. The bill requires a dealer to require the customer to sign the itemized schedule of charges to acknowledge that the customer has read the schedule. The bill also requires the dealer to provide the customer a copy of the signed schedule and to retain a copy of the signed schedule until the first anniversary of the date the customer signed the schedule. The bill requires a dealer who does not have an opportunity to provide the written schedule of charges to the customer before taking possession of a vehicle brought to the dealer by a towing service to provide the schedule not later than the time the dealer provides the customer the written estimate.

C.S.H.B. 4526 prohibits a motor vehicle repair dealer from performing repair work on a motor vehicle before the dealer provides to the customer a written estimate of the total charges for the repairs, not including any applicable tax, and of the time in which the repairs will be completed. The bill requires a dealer who must disassemble a major component of a vehicle to make an estimate to disclose that fact to the customer before the dealer disassembles the component. The bill authorizes a customer, after receiving the written estimate, to authorize the repairs or to request the return of the customer's vehicle in a disassembled state or in substantially the same condition as the vehicle was in when delivered to the dealer.

C.S.H.B. 4526 prohibits a motor vehicle repair dealer from charging an amount that exceeds the estimate by 10 percent unless the dealer notifies the customer in writing, by telephone, or in another manner authorized by the customer and the customer authorizes the increase. The bill requires the dealer, if the customer authorizes the increase, to note on the work order or invoice the manner of authorization, the date and time of the authorization, the name of the person giving the authorization, the telephone number called if the authorization was obtained by a telephone call made by the dealer to the customer, and the e-mail address or telephone number from which the communication originated if the authorization was obtained by electronic communication.

C.S.H.B. 4526 authorizes a consumer to waive receipt of the schedule of charges or the estimate, if the customer signs and provides to the motor vehicle repair dealer a written waiver, and sets forth the required style and language of the waivers. The bill prohibits a motor vehicle repair dealer from requiring a customer to sign a waiver as a condition of doing business with the customer or incentivizing, coercing, or harassing a customer to sign a waiver. The bill requires a dealer who is unable to complete the repair work in the time estimated to notify the customer and authorizes the customer to request the return of the vehicle in a disassembled state or in substantially the same condition as the vehicle was in when delivered to the dealer. The bill requires a dealer to return a vehicle to a customer at the customer's request at the earliest practicable commercially reasonable time after the customer requests the return. The bill authorizes the dealer to impose a charge for returning a vehicle only if the amount of the charge is included in the written schedule of charges.

C.S.H.B. 4526 authorizes a dealer to request that the customer authorize an additional charge for the repair or replacement of a damaged part if the part is damaged in the course of having an estimate of repair work made due to age, stress, heat, or a defect and if, because of the damaged part, it is no longer possible to return the vehicle in substantially the same condition as the vehicle was in when delivered to the motor vehicle repair dealer. The bill establishes that the dealer is not required to return the vehicle in substantially the same condition as the vehicle was in when delivered to the dealer if the customer does not authorize the additional charge, and authorizes the dealer to return the vehicle to the customer in a disassembled state.

C.S.H.B. 4526 requires a motor vehicle repair dealer to record work performed on an invoice that describes the repair work done with reasonable particularity; lists the name and exact charge for each part supplied and clearly discloses whether each part supplied was used, rebuilt, or reconditioned; and discloses the trade name, business address, and business telephone number of the dealer. The bill requires the dealer to provide one copy of the invoice to the customer and to retain one copy until the first anniversary of the date the repair work is completed. The bill requires a dealer to return a replaced part to the customer if requested by the customer when the invoice is given, and establishes that a dealer is not required to return a part that must be returned to the manufacturer or distributor under a warranty or for exchange. The bill exempts a dealer from providing a written schedule of charges or a written estimate if the dealer charges \$15 or less for the repair work.

C.S.H.B. 4526 makes a violation of these provisions a false, misleading or deceptive trade practice, and establishes that a remedy under the Deceptive Trade Practices–Consumer Protection Act is available for such a violation. The bill authorizes the attorney general to bring an action to enjoin a violation of those provisions. The bill makes a motor vehicle repair dealer

liable to the state for a civil penalty not to exceed \$500 for each violation and authorizes the attorney general to sue to collect the penalty. The bill defines "motor vehicle repair dealer."

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4526 differs from the original by specifying that the total charge for releasing a motor vehicle to the customer in a disassembled state or in substantially the same condition as the vehicle was in when delivered to the dealer that is required to be included in the written schedule of charges is the estimated total charge. The substitute differs from the original by including the posted labor rate in the information required to be included in a written schedule of charges. The substitute adds provisions not in the original requiring the schedule of charges to include a written notice relating to unforeseen damage. The substitute differs from the original by exempting from the prohibition on a dealer charging a customer for a service not listed in the schedule of charges or the estimate that the dealer notifies the customer in writing, by telephone, or in another manner authorized by the customer and the customer agrees to the charge.

C.S.H.B. 4526 differs from the original by requiring a dealer who does not have an opportunity to provide the written schedule of charges to the customer before taking possession of a vehicle brought to the dealer by a towing service to provide the schedule by a certain time, whereas the original authorizes such a dealer to provide the schedule. The substitute differs from the original by requiring the schedule to be provided not later than the time the dealer provides the customer the estimate, whereas the original requires the schedule to be provided at such time. The substitute adds language not in the original to clarify that the written estimate the dealer is required to provide before performing repair work on a motor vehicle is provided to the customer.

C.S.H.B. 4526 prohibits a dealer from charging an amount that exceeds the estimate by 10 percent, rather than by the greater of 10 percent or \$10 as in the original. The substitute adds language not in the original including the dealer's notification of the customer in a manner authorized by the customer as an exception to the prohibition on the dealer charging an amount that exceeds the estimate by 10 percent. The substitute differs from the original by requiring the dealer to make specified notes on the work order or invoice if the customer authorizes the increase, whereas the original requires the dealer to make such notes if the authorization is made by telephone. The substitute adds the manner of authorization and the e-mail address or telephone number from which the communication originated, if applicable, to the notes the dealer is required to make on the work order or invoice.

C.S.H.B. 4526 adds provisions not in the original authorizing a consumer to waive receipt of a schedule of charges or the estimate if the consumer signs and provides to the dealer a written waiver and prohibiting the dealer from engaging in specified conduct to compel the consumer to provide a waiver.

C.S.H.B. 4526 differs from the original by requiring a dealer to return a customer's vehicle at the customer's request at the earliest practicable commercially reasonable time after the customer requests the return, whereas the original requires the dealer to return the vehicle not later than the third working day after the customer requests the return. The substitute adds provisions not in the original authorizing a dealer to request that the customer authorize an additional charge for a part damaged in the course of having an estimate of repair work made. The substitute differs from the original by requiring a dealer to return a replaced part to the customer if requested by the customer when the invoice is given, rather than when the estimate is given.

C.S.H.B. 4526 adds provisions not in the original making a violation of the bill's provisions a false, misleading, or deceptive act or practice, establishing the available remedies, and authorizing the attorney general to bring an action to enjoin a violation.

C.S.H.B. 4526 differs from the original by defining a "motor vehicle repair dealer" as a person in the business of performing mechanical or nonmechanical repairs on motor vehicles, whereas the original defines the term as a person in the business of repairing motor vehicles. The substitute differs from the original in nonsubstantive ways by using language reflective of certain bill-drafting conventions.