

By: Villarreal

H.B. No. 4526

Substitute the following for H.B. No. 4526:

By: England

C.S.H.B. No. 4526

A BILL TO BE ENTITLED

AN ACT

relating to the disclosure of charges for motor vehicle repairs;
providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Business & Commerce Code, is amended by
adding Chapter 22 to read as follows:

CHAPTER 22. DISCLOSURE OF MOTOR VEHICLE REPAIR CHARGES

Sec. 22.01. DEFINITION. In this chapter, "motor vehicle
repair dealer" means a person in the business of performing
mechanical or nonmechanical repairs on motor vehicles.

Sec. 22.02. SCHEDULE OF CHARGES. (a) Before taking
possession of a motor vehicle, a motor vehicle repair dealer shall
provide a customer with a written schedule of charges that
includes:

(1) the charge for making an estimate of repairs;

(2) the total estimated charge for releasing a motor
vehicle to the customer in a disassembled state, if the dealer does
not repair the vehicle;

(3) the total estimated charge for releasing a motor
vehicle to the customer in substantially the same condition as the
vehicle was in when delivered to the dealer, if the dealer does not
repair the vehicle;

(4) storage charges;

(5) towing charges;

1 (6) the posted labor rate; and

2 (7) an itemized list of all other foreseeable charges,
3 other than the charges to be included in the estimate under Section
4 22.04.

5 (b) The schedule of charges must include a written notice in
6 substantially the following form:

7 "NOTICE: UNFORESEEN DAMAGE. In the course of having an
8 estimate made, a part of your vehicle may be damaged due to age,
9 stress, heat, or a defect, and it may not be possible to return the
10 vehicle to substantially the same condition as the vehicle was in
11 when delivered to the motor vehicle repair dealer without repairing
12 or replacing that part. If this occurs, the motor vehicle repair
13 dealer may request additional charges above the amount in the
14 schedule of charges for the purpose of repairing or replacing the
15 part. If you do not authorize the additional charges, the motor
16 vehicle repair dealer is not required to return the vehicle to you
17 in substantially the same condition as the vehicle was in when
18 delivered to the repair dealer, and may release the vehicle to you
19 in a disassembled state."

20 (c) A motor vehicle repair dealer may not charge a customer
21 for a service not listed on the schedule of charges or the estimate
22 under Section 22.04, unless the dealer notifies the customer in
23 writing, by telephone, or in another manner authorized by the
24 customer, and the customer agrees to the charge.

25 (d) A motor vehicle repair dealer shall require the customer
26 to sign the itemized schedule of charges to acknowledge that the
27 customer has read the schedule. A motor vehicle repair dealer shall

1 provide a customer a copy of the signed schedule, and shall retain a
2 copy of the signed schedule until the first anniversary of the date
3 the customer signed the schedule.

4 Sec. 22.03. PROVISION OF SCHEDULE OF CHARGES IF VEHICLE IS
5 TOWED. If a customer's motor vehicle is brought to the motor
6 vehicle repair dealer by a towing service and the dealer does not
7 have an opportunity to provide the written schedule of charges to
8 the customer before taking possession of the vehicle, the dealer
9 shall provide the schedule of charges not later than the time the
10 dealer provides the customer the estimate under Section 22.04.

11 Sec. 22.04. WRITTEN ESTIMATE. (a) A motor vehicle repair
12 dealer may not perform repair work on a motor vehicle before the
13 dealer provides to the customer a written estimate of:

14 (1) the total charges for the repairs, not including
15 any applicable tax; and

16 (2) the time in which the repairs will be completed.

17 (b) If the motor vehicle repair dealer must disassemble a
18 major component of a vehicle to make an estimate, the dealer shall
19 disclose that fact to the customer before the dealer disassembles
20 the component.

21 (c) After receiving an estimate under this section, a
22 customer may authorize the repairs or may request the return of the
23 customer's vehicle in a disassembled state or in substantially the
24 same condition as the vehicle was in when delivered to the dealer.

25 (d) A motor vehicle repair dealer may not charge an amount
26 that exceeds the estimate by 10 percent, unless the dealer notifies
27 the customer in writing, by telephone, or in another manner

1 authorized by the customer and the customer authorizes the
2 increase. If the customer authorizes the increase, the dealer
3 shall note on the work order or invoice:

- 4 (1) the manner of authorization;
5 (2) the date and time of the authorization;
6 (3) the name of the person giving the authorization;
7 (4) if the authorization was obtained by a telephone
8 call made by the motor vehicle repair dealer to the customer, the
9 telephone number called; and

10 (5) if the authorization was obtained by electronic
11 communication, the e-mail address or telephone number from which
12 the communication originated, if applicable.

13 (e) If the motor vehicle repair dealer is unable to complete
14 the repair work in the time estimated, the dealer shall notify the
15 customer, and the customer may request the return of the vehicle in
16 a disassembled state or in substantially the same condition as the
17 vehicle was in when delivered to the dealer.

18 Sec. 22.05. WAIVER. (a) A consumer may waive receipt of
19 the schedule of charges or the estimate if the consumer signs and
20 provides to the motor vehicle repair dealer a written waiver as
21 provided by this section that must be:

22 (1) conspicuous and in boldface type of at least
23 10-point size; and

24 (2) identified by the heading "Waiver of Consumer
25 Rights" or words of similar meaning.

26 (b) A waiver of the right to receive the schedule of charges
27 under Section 22.02 must be in substantially the following form:

1 "I waive my rights under Chapter 22, Business & Commerce
2 Code, to receive a written schedule of charges from a motor vehicle
3 repair dealer for making an estimate of the cost of repairs to my
4 motor vehicle. I understand that I am waiving the right to an
5 itemized list of charges involved in making the estimate, including
6 towing and storage charges and the cost associated with the return
7 of my vehicle in substantially the same condition as the vehicle was
8 in when delivered to the dealer or in a disassembled state. I
9 voluntarily consent to this waiver."

10 (c) A waiver of the right to receive an estimate under
11 Section 22.04 must be in substantially the following form:

12 "I waive my rights under Chapter 22, Business & Commerce
13 Code, to receive a written estimate from a motor vehicle repair
14 dealer for the cost of repairing my motor vehicle and the time by
15 which the repairs will be completed. I voluntarily consent to this
16 waiver."

17 (d) A motor vehicle repair dealer may not:

18 (1) require a customer to sign a waiver as a condition
19 of doing business with the customer; or

20 (2) incentivize, coerce, or harass a customer to sign
21 a waiver.

22 Sec. 22.06. RETURN OF VEHICLE. (a) If a customer requests
23 the return of the customer's vehicle under Section 22.04(c) or (e),
24 the motor vehicle repair dealer shall return the vehicle to the
25 customer at the earliest practicable commercially reasonable time
26 after the customer requests the return. The dealer may impose a
27 charge for returning a vehicle only if the amount of the charge is

1 included in the schedule under Section 22.02.

2 (b) Notwithstanding Subsection (a), if, in the course of
3 having an estimate of repair work made, a part is damaged due to
4 age, stress, heat, or a defect, and because of the damaged part it
5 is no longer possible to return the vehicle in substantially the
6 same condition as the vehicle was in when delivered to the motor
7 vehicle repair dealer, the dealer may request that the customer
8 authorize an additional charge for the repair or replacement of the
9 part. If the customer does not authorize the additional charge, the
10 dealer is not required to return the vehicle in substantially the
11 same condition as the vehicle was in when delivered to the dealer
12 and may return the vehicle to the customer in a disassembled state.

13 Sec. 22.07. PROVISION OF DETAILED INVOICE. (a) A motor
14 vehicle repair dealer shall record work performed on an invoice
15 that:

16 (1) describes the repair work done with reasonable
17 particularity;

18 (2) lists the name and exact charge for each part
19 supplied and clearly discloses whether each part supplied was used,
20 rebuilt, or reconditioned; and

21 (3) discloses the trade name, business address, and
22 business telephone number of the dealer.

23 (b) The motor vehicle repair dealer shall provide one copy
24 of the invoice to the customer and shall retain one copy until the
25 first anniversary of the date the repair work is completed.

26 Sec. 22.08. RETURN OF REPLACED PART. A motor vehicle repair
27 dealer shall return a replaced part to the customer if requested by

1 the customer when the invoice is given. A dealer is not required to
2 return a part that must be returned to the manufacturer or
3 distributor under a warranty or for exchange.

4 Sec. 22.09. EXCEPTION. A motor vehicle repair dealer is not
5 required to provide a written schedule or estimate under this
6 chapter if the dealer charges \$15 or less for the repair work.

7 Sec. 22.10. DECEPTIVE TRADE PRACTICE. A violation of this
8 chapter is a false, misleading, or deceptive act or practice as
9 defined by Section 17.46(b), and a remedy under Subchapter E,
10 Chapter 17, is available for a violation of this chapter.

11 Sec. 22.11. INJUNCTION. The attorney general may bring an
12 action to enjoin a violation of this chapter.

13 Sec. 22.12. CIVIL PENALTY. (a) A motor vehicle repair
14 dealer is liable to the state for a civil penalty not to exceed \$500
15 for each violation.

16 (b) The attorney general may sue to collect the penalty.

17 SECTION 2. This Act takes effect September 1, 2009.