

CODE OF MASSACHUSETTS REGULATIONS

940 CMR: OFFICE OF THE ATTORNEY GENERAL

CHAPTER 5.00: MOTOR VEHICLE REGULATIONS

Section:

5.05: Repairs and Services

5.06: Severability

5.05: Repairs and Services

- (1) It is an unfair or deceptive act or practice for a repair shop to make or authorize to be made in any manner or by any means a statement which it knows to be or, in the exercise of reasonable care, should know to be untrue or misleading including, without limitation, the following types of statements:
 - (a) That repairs are necessary or desirable when such is not a fact;
 - (b) That a vehicle is in a dangerous condition or that a customer's continued use of a vehicle may be harmful to the customer or others when such is not a fact; or
 - (c) That repairs have been performed on a vehicle when such is not a fact.
- (2) It is an unfair or deceptive act or practice for a repair shop, prior to commencing repairs on a customer's vehicle, to fail to record in writing the following information:
 - (a) The name and address of the customer and a telephone number at which the customer may be reached;
 - (b) The date and approximate time the customer's vehicle was delivered to the repair shop;
 - (c) The year, make and registration number of the customer's vehicle;
 - (d) The odometer reading on the customer's vehicle; and
 - (e) The specific repairs requested by the customer, or, if the customer has not requested specific repairs, a brief description of the problems the customer has encountered with the vehicle which caused him to bring it to the repair shop.
- (3) It is an unfair or deceptive act or practice for a repair shop to charge a customer for any repairs on a customer's motor vehicle unless either:
 - (a) The repair shop has received written authorization signed by the customer listing the specific repairs to be performed and the total price to be paid for such repairs, including parts and labor; or
 - (b) The repair shop has received written authorization signed by the customer listing the specific repairs to be performed and the charges for such repairs, including parts and labor, are displayed in a clear and conspicuous manner on the premises of the repair shop; or
 - (c) If the repair shop is unable to obtain written authorization from the customer to perform specific repairs (as when the specific repairs to be performed on the vehicle are not known at the time the vehicle is

delivered to the repair shop), the repair shop notifies the customer, prior to commencing any repairs, of the specific repairs to be performed on the vehicle and the total price to be charged the customer for such repairs, including parts and labor, and obtains the customer's authorization to perform such repairs; or

- (d) The repair shop has obtained, prior to commencing repair of the vehicle, a written waiver, in the following form, executed by the customer in a knowing, voluntary and intelligent manner:

Waiver

I understand that I have the right to know before authorizing any repairs what the repairs to my car will be and what their cost will be. You need not obtain approval from me for repairs or inform me prior to performing repairs what the repairs are or their cost, if the total amount for repairs does not exceed \$ _____

signature

Such waiver may be included as part of a repair order provided, however, that such waiver is printed in clear and conspicuous type and that its execution may only be accomplished by the customer's signature separate from that appearing elsewhere on the order.

- (e) The provisions of 940 CMR 5.05(3) shall not be applicable if the customer brings his or her motor vehicle to the repair shop before or after its usual business hours, or, at the customer's request, repair services are rendered off the premises of the repair shop.
- (4) It is an unfair or deceptive act or practice for a repair shop to fail to inform a customer, prior to obtaining oral or written authorization to perform repairs on the customer's vehicle, of the following information:
- (a) The conditions under which the repair shop may impose storage charges and the daily or hourly amount of such charges;
 - (b) That the customer has a right to have any parts replaced by the repair shop returned to him or her at the completion of the repairs or to inspect such parts in the event the repair shop is required to return the replaced parts to the manufacturer or some other person under a warranty or rebuilding arrangement; and
 - (c) The amount of any charge to the customer for an estimate or diagnosis.

For purposes of 940 CMR 5.00, a repair shop shall be deemed to have informed its customers of the information contained in 940 CMR 5.05(4)(a) through (c) if the repair shop displays such information in a clear and conspicuous manner on the repair shop's premises.

- (5) It is an unfair or deceptive act or practice for a repair shop which receives any oral authorization from a customer (whether such authorization is to perform certain repairs, to proceed with repairs even at an increased cost, to extend the time during which repairs may be performed, or any other type of authorization) to fail to maintain written records containing the following information:
- (a) The date and time the authorization was received;
 - (b) The name of the repair shop employee receiving the oral authorization and the name of the person making the authorization;

- (c) A statement of the exact authorization received; and
 - (d) If the authorization was received over the telephone and the repair shop placed the call, the telephone number called.
- (6) It is an unfair or deceptive act or practice for a repair shop to fail to complete repairs on a motor vehicle on the day the vehicle is delivered to the repair shop by the customer unless the customer is informed of and consents to a further delay or the repair shop can show that the delay was caused by circumstances beyond its control and which could not have been reasonably anticipated.
- (7) It is an unfair or deceptive act or practice for a repair shop which discovers in the course of repairing a customer's vehicle that the vehicle needs repairs other than those authorized by the customer, or that the price for performing such repairs will exceed either the price authorized by the customer or the price noted on a posted schedule of repair charges by more than \$10.00, to fail to inform the customer of such fact and to obtain the customer's authorization to continue with the repair work before proceeding with the repairs.
- (8) It is an unfair or deceptive act or practice for a repair shop to fail to remedy promptly, at no charge to the customer, any repairs performed by it on the customer's vehicle which were not performed in a good and workmanlike manner in accordance with accepted trade standards.
- (9) It is an unfair or deceptive act or practice for a repair shop to fail to provide to a customer, at the completion of the repair work performed on the customer's vehicle, including warranty repair work, a dated written bill containing the following information:
- (a) The name and address of the customer and the repair shop;
 - (b) The date the customer's vehicle was delivered to the repair shop;
 - (c) The year, make and registration number of the customer's vehicle and the odometer reading of the vehicle on the date it was delivered to the repair shop;
 - (d) An itemized list of the repairs performed on the customer's vehicle;
 - (e) A list of the parts supplied to the customer by name and number, the price charged to the customer for each such part, and the total amount charged to the customer for parts;
 - (f) If any part supplied was not new, a statement as to whether it was used, reconditioned or rebuilt;
 - (g) The number of hours of labor charged for the repair work, a designation of such hours as actual hours worked or flat-rate hours, the price charged to the customer for each such hour and the total amount charged to the customer for labor; and
 - (h) The total amount charged to the customer for parts and labor.

If the price charged to the customer for the repair work is a flat charge for the particular repair which was included in a schedule of charges posted in a clear and conspicuous manner on the premises of the repair shop at the time the vehicle was delivered, the repair shop need not list the price of each part supplied, the number of hours charged or the charge for each hour of labor.

- (10) It is an unfair or deceptive act or practice for a repair shop to charge a customer for repairs which have not actually been performed.
- (11) It is an unfair or deceptive act or practice for a repair shop to fail or refuse to provide to a customer a copy of any document signed by the customer either at the time the document is signed or at the completion of the repair work.

- (12) It is an unfair or deceptive act or practice for a repair shop to use a customer's vehicle for any purpose other than a test drive or delivery to the customer unless the express written authorization of the customer has been obtained in advance.

5.06: Severability

If any provision of 940 CMR 5.00 or the application of such provision to any person or circumstance is held to be invalid, the validity of the remainder of 940 CMR 5.00 and the applicability of such provision to other persons or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

940 CMR 5.00: M. G. L. c. 93A, s. 2(C).