

HOUSE No. 285

By Mr. Pedone of Worcester, a petition (accompanied by bill, House, No. 285) of Vincent A. Pedone and others for legislation to protect the rights of consumers in motor vehicle repair transactions. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Vincent A. Pedone	15th Worcester
James M. Murphy	4th Norfolk
Viriato Manuel deMacedo	1st Plymouth
Christine E. Canavan	10th Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and 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' Right to Repair
2 Act of 2009."
- 3 **SECTION 2.** The Legislature finds and declares that:
- 4 a) The ability to diagnose, service, and repair a motor vehicle in a timely, reliable, and affordable
5 manner is essential to the safety and well-being of consumers in this Commonwealth.
- 6 b) Consumers are entitled to choose among competing repair facilities for the convenient, reliable,
7 and affordable repair of their motor vehicles.
- 8 c) Increased competition among repair facilities will benefit vehicle owners in this Commonwealth.
- 9 d) Computers of various kinds are commonly being used in motor vehicle systems, such as pollution
10 control, transmission, anti-lock brakes, electronic and mechanical systems, heating and air
11 conditioning, mobile electronics, airbags, and steering.
- 12 e) The diagnosis, service, and repair of these vehicle systems are essential to the safe and proper
13 operation of motor vehicles.
- 14 f) In many instances, access codes prevent owners from making, or having made, the necessary
15 diagnosis, service, and repair of their motor vehicles in a timely, convenient, reliable, and
16 affordable manner.
- 17 g) Vehicle owners in the Commonwealth of Massachusetts must have the right:
- 18 (1) to obtain all information necessary to provide for the diagnosis, service, and
19 repair of their vehicles;
- 20 (2) to choose between original parts and aftermarket parts when repairing their
21 motor vehicles; and
- 22 (3) to make, or have made, repairs necessary to keep their vehicles in reasonably
23 good and serviceable condition during the life of the vehicle.
- 24 h) The restriction of access to vehicle repair information inherently limits who can repair motor
25 vehicles and what brands of parts may be used to repair those vehicles, which limits consumer
26 choice, and impedes competition.
- 27 **SECTION 3.** The purposes of this Act are:

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

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

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

- 42 (1) the same service and training information related to vehicle repair must be
43 made available to all independent vehicle repair facilities in the same manner
44 and extent as it is made available to franchised dealerships, and must include
45 all information needed to activate all controls that can be activated by a
46 franchised dealership.
47 (2) the same diagnostic tools and capabilities related to vehicle repair that are
48 made available to franchised dealerships must be made available to
49 independent vehicle repair facilities. These diagnostic tools and capabilities
50 must be made available for purchase by motor vehicle owners or their agents
51 through reasonable business means. The service and training information and
52 manufacturer diagnostic capabilities must be available to independent vehicle
53 repair facilities, and to the companies from which they normally purchase
54 diagnostic tools, without the need for the motor vehicle owner to return to a
55 franchised dealership.

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

62 **SECTION 5.** Not later than one year after the date of enactment of this Act, the Office of Consumer Affairs and
63 Business Regulation shall prescribe regulations setting forth an appropriate and uniform method by which motor
64 vehicle manufacturers must provide the information required by Section 4 of this Act, including disclosure in
65 writing, on the Internet, or 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 such regulations and
67 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 the contrary, the Office
69 of Consumer Affairs and Business Regulation may not prescribe any regulations that:

- 70 a) interfere with the authority of the Administrator of the Environmental Protection Agency under
71 section 202(m) of the Clean Air Act (42 U.S.C. 7521(m)) with regard to motor vehicle emissions
72 control diagnostic systems; or
73 b) conflict with any rules and/or regulations prescribed by the Administrator of the Environmental
74 Protection Agency under that section.

75 **SECTION 7.** Notwithstanding any General or special law, or any rule or regulation, to the contrary any
76 violation of any of the provisions of this Act committed by any manufacturer of a motor vehicle offered for sale in
77 the Commonwealth, in addition to any other penalty provided by law, shall be subject to a penalty of not more than

78 \$10,000.00 for the first offense and not more than \$20,000.00 for the second and each subsequent offense. In the
79 event of ongoing non-compliance with this Act, such manufacturer shall be subject to a penalty of not more than
80 \$20,000.00 after each period of sixty days of ongoing non-compliance. A vehicle owner or a repair facility may
81 bring a civil action to enjoin a violation of this Act, and to recover all economic damages arising from such
82 violation(s), and all costs of litigation, including reasonable attorney and expert witness fees