

SENATE BILL NO. 379—SENATOR HARDY

MARCH 19, 2007

Referred to Committee on Transportation and Homeland Security

SUMMARY—Enacts the Motor Vehicle Owners’ Right to Repair Act. (BDR 52-1320)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets **[omitted material]** is material to be omitted.

AN ACT relating to motor vehicles; requiring a manufacturer of motor vehicles to provide to an owner of a motor vehicle, a garage and the Commissioner of Consumer Affairs information that is required to diagnose, service or repair a motor vehicle manufactured after a certain date; authorizing an owner of a motor vehicle or a garage to bring an action to enjoin a violation of the bill; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 **Section 11** of this bill requires a manufacturer of motor vehicles to provide to
2 owners of motor vehicles, garages and the Commissioner of Consumer Affairs
3 information required to diagnose, service or repair a motor vehicle manufactured
4 after the model year 1994. **Section 11** also requires the manufacturer to provide
5 information that is necessary to integrate replacement equipment into the motor
6 vehicle and to provide any other information the Commissioner determines is
7 necessary to diagnose, service, repair, activate, certify or install any equipment in
8 the motor vehicle, and provides that any violation of the section is a misdemeanor.
9 **Section 12** of this bill requires the Commissioner to adopt regulations to carry out
10 the provisions of this bill. **Section 13** of this bill authorizes an owner of a motor
11 vehicle or a garage to bring an action to enjoin any violation of **section 11** and
12 authorizes a court to award to a prevailing plaintiff the costs of litigation, including
13 court costs and a reasonable attorney’s fee.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 597 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this act.

Sec. 2. *The provisions of sections 2 to 13, inclusive, of this act may be cited as the Motor Vehicle Owners' Right to Repair Act.*

Sec. 3. *As used in sections 2 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 9, inclusive, of this act, have the meanings ascribed to them in those sections.*

Sec. 4. "Commissioner" means the Commissioner of Consumer Affairs.

Sec. 5. "Equipment" means:

1. Any system, part or component of a motor vehicle as originally manufactured;

2. Any similar part or component manufactured or sold for replacement or improvement of a system, part or component of a motor vehicle or as an accessory or addition to a motor vehicle; and

3. Any device or article of apparel which is not a system, part or component of a motor vehicle and which is manufactured, sold, delivered, offered or intended to be used only to protect persons who use motor vehicles from accident, injury or death.

Sec. 6. "Garage" has the meaning ascribed to it in NRS 487.540.

Sec. 7. "Model year" means:

1. The annual period of production of a manufacturer that includes January 1 of a calendar year; or

2. The specific calendar year if the manufacturer does not have an annual period of production.

Sec. 8. "Motor vehicle" has the meaning ascribed to it in NRS 597.480.

Sec. 9. "Trade secret" has the meaning ascribed to it in NRS 600A.030.

Sec. 10. The Legislature hereby finds and declares that:

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

2. Consumers are entitled to choose among garages for the convenient, reliable and affordable repair of their motor vehicles;

3. Increased competition among garages will benefit owners of motor vehicles in this State;



4. Computers are increasingly being used in motor vehicle systems, including the pollution control, transmission, antilock brake, electrical, mechanical, heating, air-conditioning, sound and steering systems;

5. The diagnosis, service and repair of those systems are essential to the safe and proper operation of a motor vehicle;

6. In many cases access codes prevent owners of motor vehicles from making or causing to be made the diagnosis, service and repair of their motor vehicles in a timely, reliable and affordable manner;

7. The owners of motor vehicles in this State are entitled to:

(a) Obtain information required for the diagnosis, service and repair of their motor vehicles;

(b) Choose between original parts and aftermarket parts for use in the repair of their motor vehicles; and

(c) Make or cause to be made the repairs required to maintain their motor vehicles in a serviceable condition during the expected life of their motor vehicles; and

8. Limiting access to information required to repair a motor vehicle restricts the choice of consumers and limits competition among garages.

Sec. 11. 1. Except as otherwise provided in subsection 2, the manufacturer of a motor vehicle shall provide to the owner of a motor vehicle, a garage and the Commissioner for use by the owner or garage the information required to diagnose, service or repair a motor vehicle manufactured after model year 1994. The information must include:

(a) The information required to integrate replacement equipment into the motor vehicle; and

(b) Any other information, as determined by the Commissioner, that is used to diagnose, service, repair, activate, certify or install any equipment in a motor vehicle.

2. A manufacturer is not required to provide information that is entitled to protection as a trade secret, except that a manufacturer may be required to provide that information to the Commissioner to determine whether that information is entitled to protection as a trade secret.

3. A manufacturer shall not refuse to provide any information pursuant to this section that the manufacturer provides to any garage or its franchised dealers.

4. A person who violates any provision of this section is guilty of a misdemeanor.

5. In addition to any criminal penalty imposed pursuant to subsection 4, a person who violates any provision of this section is subject to a civil penalty in an amount not to exceed \$10,000 for



1 *the first offense, and not to exceed \$20,000 for a second or*
2 *subsequent offense.*

3 *6. The Attorney General, the Commissioner or any district*
4 *attorney of this State may recover the civil penalty in a civil action*
5 *brought in the name of the State of Nevada in any court of*
6 *competent jurisdiction. Any money collected must be deposited in*
7 *the State Treasury for credit to the State General Fund.*

8 **Sec. 12.** *The Commissioner shall adopt regulations to carry*
9 *out the provisions of sections 2 to 13, inclusive, of this act.*

10 **Sec. 13.** *An owner of a motor vehicle or a garage may*
11 *commence an action in any district court in this State to enjoin*
12 *any violation of the provisions of sections 2 to 13, inclusive, of this*
13 *act. If the court determines that a violation has occurred, it may*
14 *award to the plaintiff the costs of the action, including court costs*
15 *and a reasonable attorney's fee.*

