

109TH CONGRESS  
1ST SESSION

# H. R. 2048

To protect the rights of consumers to diagnose, service, and repair motor vehicles in the United States, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 3, 2005

Mr. BARTON of Texas (for himself, Mr. TOWNS, and Mr. ISSA) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To protect the rights of consumers to diagnose, service, and repair motor vehicles in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Motor Vehicle Owners’  
5 Right to Repair Act of 2005”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds the following:

8 (1) The ability to diagnose, service, and repair  
9 a motor vehicle in a timely, reliable, and affordable

1 manner is essential to the safety and well-being of  
2 automotive consumers in the United States.

3 (2) Consumers are entitled to choose among  
4 competing repair facilities for the convenient, reli-  
5 able, and affordable repair of their motor vehicles.

6 (3) Increased competition among repair facili-  
7 ties will benefit vehicle owners in the United States.

8 (4) Computers of various kinds are increasingly  
9 being used in motor vehicle systems, such as pollu-  
10 tion control, transmission, anti-lock brakes, elec-  
11 tronic and mechanical systems, heating and air-con-  
12 ditioning, mobile electronics, airbags, and steering.

13 (5) The diagnosis, service, and repair of these  
14 vehicle systems are essential to the safety and prop-  
15 er operation of modern motor vehicles.

16 (6) In many instances, access codes prevent  
17 owners from making, or having made, the necessary  
18 diagnosis, service, and repair of their motor vehicles  
19 in a timely, convenient, reliable, and affordable man-  
20 ner.

21 (7) Automobile manufacturers have restricted  
22 access to the information motor vehicle owners need  
23 in order to diagnose, service, and repair their vehi-  
24 cles, in a manner that has hindered open competi-  
25 tion among repair facilities.

1           (8) Consumers in the United States have bene-  
2           fited from the availability of a competitive  
3           aftermarket industry, or parts and accessories used  
4           in the repair, maintenance, or enhancement of a  
5           motor vehicle. The American economy has also bene-  
6           fited from the availability of a competitive  
7           aftermarket industry that provides jobs to over 5  
8           million workers in over 495,000 businesses, and gen-  
9           erates \$200 billion in annual sales.

10           (9) Vehicle owners in the United States should  
11           have the right—

12                   (A) to all information necessary to allow  
13                   the diagnosis, service, and repair of their vehi-  
14                   cles;

15                   (B) to choose between original parts and  
16                   aftermarket parts when repairing their motor  
17                   vehicles; and

18                   (C) to make, or have made, repairs nec-  
19                   essary to keep their vehicles in reasonably good  
20                   and serviceable condition during the life of the  
21                   vehicle.

22           (10) The restriction of vehicle repair informa-  
23           tion and tools limits who can repair motor vehicles  
24           and what parts may be used to repair those vehicles,  
25           which limits consumer choice, impedes competition,

1 and increases the costs of vehicle repair for con-  
2 sumers.

3 (b) PURPOSES.—The purposes of this Act are:

4 (1) To ensure the safety of all vehicle owners  
5 by requiring disclosure of all information necessary  
6 for the proper diagnosis, service, and repair of a ve-  
7 hicle in a timely, affordable, and reliable manner.

8 (2) To encourage competition in the diagnosis,  
9 service, and repair of motor vehicles.

10 **SEC. 3. MANUFACTURER DISCLOSURE REQUIREMENTS.**

11 (a) DUTY TO DISCLOSE.—The manufacturer of a  
12 motor vehicle sold or introduced into commerce in the  
13 United States shall promptly provide to the vehicle owner,  
14 or to a repair facility of the motor vehicle owner's choos-  
15 ing, the information necessary to diagnose, service, or re-  
16 pair the vehicle. The motor vehicle manufacturer shall  
17 make available all non-emission-related service informa-  
18 tion, training information, and diagnostic tools on a non-  
19 discriminatory basis to any repair facility of the owner's  
20 choosing, and shall not not limit such information to those  
21 repair facilities within the manufacturers' approved net-  
22 work. The information to be made available shall include  
23 the following:

24 (1) The same service and training information  
25 related to vehicle repair shall be made available to

1 all independent repair facilities in the same manner  
2 and extent as it is made available to franchised deal-  
3 erships, and shall include all information needed to  
4 activate all controls that can be activated by a fran-  
5 chised dealership.

6 (2) The same diagnostic tools and capabilities  
7 related to vehicle repair that are made available to  
8 franchised dealerships shall be made available to  
9 independent repair facilities. These diagnostic tools  
10 and capabilities shall be made available for purchase  
11 by motor vehicle owners or their agents through rea-  
12 sonable business means. The service and training in-  
13 formation and manufacturer diagnostic capabilities  
14 shall be available to independent repair facilities,  
15 and to the companies from which they normally pur-  
16 chase diagnostic tools, without the need for the  
17 motor vehicle owner to return to a franchised dealer-  
18 ship.

19 (b) PROTECTION OF TRADE SECRETS.—Nothing in  
20 this Act shall be deemed to require the disclosure of trade  
21 secrets, nor the public disclosure of any information re-  
22 lated exclusively to the design and manufacture of motor  
23 vehicle parts. No information necessary to repair a vehicle  
24 shall be withheld by a manufacturer if such information

1 is provided (directly or indirectly) to franchised dealer-  
2 ships or other repair facilities.

3 **SEC. 4. REGULATIONS.**

4 (a) IN GENERAL.—Not later than 1 year after the  
5 date of enactment of this Act, the Federal Trade Commis-  
6 sion shall prescribe regulations setting forth an appro-  
7 priate method by which manufacturers shall provide the  
8 information required by section 3, including disclosure in  
9 writing, via the Internet, or under such terms as the Com-  
10 mission determines appropriate. The regulations shall take  
11 effect upon final issuance of such regulations and shall  
12 apply to vehicles manufactured after model year 1994.

13 (b) LIMITATION.—The Federal Trade Commission  
14 may not prescribe rules that interfere with the authority  
15 of, or conflict with rules prescribed by, the Administrator  
16 of the Environmental Protection Agency under section  
17 202(m) of the Clean Air Act (42 U.S.C. 7521(m)) with  
18 regard to motor vehicle emissions control diagnostics sys-  
19 tems.

20 **SEC. 5. ENFORCEMENT.**

21 (a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The  
22 failure by a manufacturer to comply with section 3(a) or  
23 the regulations prescribed under section 4 shall be treated  
24 as an unfair method of competition and an unfair or de-  
25 ceptive act or practice in or affecting commerce (within

1 the meaning of section 5(a)(1) of the Federal Trade Com-  
2 mission Act (15 U.S.C. 45(a)(1))). A violation of this Act  
3 shall be treated as a violation of a rule defining an unfair  
4 or deceptive act or practice prescribed under section  
5 18(a)(1)(B) of the Federal Trade Commission Act (15  
6 U.S.C. 57a(a)(1)(B)).

7 (b) ACTIONS BY THE FEDERAL TRADE COMMIS-  
8 SION.—The Federal Trade Commission shall enforce this  
9 Act in the same manner, by the same means, and with  
10 the same jurisdiction, powers, and duties as though all ap-  
11 plicable terms and provisions of the Federal Trade Com-  
12 mission Act (15 U.S.C. 41 et seq.) were incorporated into  
13 and made a part of this Act. Any entity that violates this  
14 Act shall be subject to the penalties and entitled to the  
15 privileges and immunities provided in the Federal Trade  
16 Commission Act in the same manner, by the same means,  
17 and with the same jurisdiction, power, and duties as  
18 though all applicable terms and provisions of the Federal  
19 Trade Commission Act were incorporated into and made  
20 a part of this Act.

21 (c) EFFECT ON OTHER LAWS.—Nothing contained in  
22 this Act shall be construed to limit the authority of the  
23 Federal Trade Commission under any other provisions of  
24 law.

1 **SEC. 6. DEFINITIONS.**

2 In this Act:

3 (1) The terms “manufacturer”, “motor vehi-  
4 cle”, and “motor vehicle equipment” have the mean-  
5 ings given those terms in section 30102(a) of title  
6 49, United States Code.

7 (2) The term “motor vehicle owner” or “vehicle  
8 owner” means any person who owns, leases, or oth-  
9 erwise has the legal right to use and possess a motor  
10 vehicle.

11 (3) The term “repair facility” means a facility  
12 maintained by a person engaged in the repair, diag-  
13 nosing, or servicing of motor vehicles or motor vehi-  
14 cle engines.

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