

MOTOR VEHICLE REPAIR ACT SUMMARY

Colorado state law requires dealers (and others who operate motor vehicle repair facilities) to obtain written consent or a waiver (oral or written) before making any repairs to a vehicle. Customers must also receive a repair estimate orally or in writing. The estimate and work order must contain certain disclosures. Penalties for failing to comply can include criminal fines, treble damages and attorney's fees. The following is a review of the existing law which requires BOTH authorization from the consumer to repair the vehicle AND a written estimate (unless waived orally or in writing).

Historical: During the 1997 session of the Colorado General Assembly, a number of changes were made to prior law. One of the major changes allowed consumers to file an action under the Consumer Protection Act with its \$10,000 penalties and attorney's fees. *Provisions from the 1997 legislative amendments to the law are capitalized.*

Customer Authorization for Repairs

- Customer must give written consent before any repairs are performed on the vehicle unless the written consent is waived.
- The required written consent is waived by the customer IF the vehicle was left by the customer at the repair facility outside normal business hours OR towed to the repair facility OR if the customer waives the authorization for repairs---either in writing or orally.
- If the vehicle is left at the dealership outside normal business hours or towed to the dealership, the maximum for all labor and parts that can be charged is \$100.
- An authorization for repairs IS A SEPARATE DOCUMENT referred to as a "WORK ORDER" which is defined as "A DOCUMENT THAT A CUSTOMER SIGNS TO AUTHORIZE REPAIRS. THE "WORK ORDER" MAY INCLUDE AN ESTIMATE.
- The work order must conspicuously state the following:

"Except for body shop repair parts and except for exchanged or warranty parts that shall only be presented to the customer for examination and not returned, the customer is entitled to the return of the replaced parts if the customer so requests at the time of consenting to or authorizing the repairs."
- If the customer has not given written consent to perform repairs, no repairs can be made until the dealer orally communicates a written estimate of the total cost of the repairs and the customer consents to the repairs. The dealer must write on the WORK ORDER the customer's consent which includes the date, time, manner of consent, telephone number called (if any) and the name(s) of persons giving and receiving such consent. IF THERE IS MORE THAN ONE COMMUNICATION TO THE SAME PHONE NUMBER, THE NUMBER DOES NOT HAVE TO BE WRITTEN DOWN EACH TIME.

- WORK ORDERS, OR A LEGIBLE COPY, MUST BE RETAINED BY THE REPAIR FACILITY FOR THREE YEARS.

Written Estimate

- The new law defines the word "estimate" as a "WRITTEN OR ORAL ASSESSMENT THAT DESCRIBES STRUCTURAL DAMAGE TO OR MECHANICAL NEEDS OF A MOTOR VEHICLE."
- All estimates must include the following:
 - "TOTAL ESTIMATED COSTS OF REPAIR, EXCLUDING SALES TAXES AND TOWING CHARGES, TOGETHER WITH A STATEMENT AS TO WHETHER ANY PARTS TO BE INSTALLED ARE NEW ORIGINAL EQUIPMENT MANUFACTURER, NEW NONORIGINAL EQUIPMENT MANUFACTURER, USED, RECONDITIONED OR REBUILT."
- The customer must consent before any NEW ORIGINAL EQUIPMENT MANUFACTURER, NEW NONORIGINAL EQUIPMENT MANUFACTURER, used, reconditioned or rebuilt parts are installed. Consent to the use of such parts may be written or oral. Oral consent must comply with the waiver estimate provisions including noting the required information for an oral authorization from the customer (i.e. date, time, manner of consent, phone number called (if any) and name of person giving and receiving the consent). The same phone number need not be recorded more than once.
- The Dealer must adjust an original estimate for new parts to reflect the altered cost if used, reconditioned, or rebuilt parts are authorized and installed.
- The written estimate must include the expected completion date of repairs.
- A COPY OF THE COMPLETED ESTIMATE OF THE TOTAL COST OF REPAIR MUST BE PROVIDED THE CUSTOMER.
- No estimate is required if the Dealer does not agree to perform the repairs.

Customer's Waiver of Estimate

- An estimate may be waived if the waiver is signed by the customer and dated below a statement, in bold type, which reads, "**I DO NOT WISH TO RECEIVE ANY ESTIMATE, EITHER WRITTEN OR ORAL, TO WHICH I AM ENTITLED BY LAW, BEFORE REPAIRS ARE AUTHORIZED**".
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- A waiver is NOT authorization for repairs. An authorization for repairs is a separate statement usually set forth on the "work order". The customer may waive the authorization for repairs by written or oral consent.
- The new law uses the term "WORK ORDER" which is defined as "A DOCUMENT THAT A CUSTOMER SIGNS TO AUTHORIZE REPAIRS." THE "WORK ORDER"

MAY INCLUDE AN ESTIMATE.

- Without the customer's written consent for repairs, no repairs can be made until the dealer communicates the total cost of the repairs to the customer and the customer consents. The dealer must make a record on the "WORK ORDER" of the consent and include the date, time, manner of consent, telephone number called (if any) and the name(s) of persons giving and receiving consent. IF THERE ARE MORE THAN ONE COMMUNICATION TO THE SAME PHONE NUMBER, THE NUMBER DOES NOT HAVE TO BE WRITTEN DOWN EACH TIME.
- Towing charges are excluded from the written/oral estimate and consent requirements.
- Except where an estimate has been waived (either orally or in writing), no charge can be made for labor and parts in excess of the estimate plus ten percent or \$25.00 whichever is less without the customer's consent to the additional charges. Consent to the additional charges may be written or oral. A record of the consent must be made on the Work Order. Oral consent must comply with the waiver estimate provisions including noting the required information for an oral authorization from the customer. The same phone number need not be written down more than once.

Completion Date for Repairs

- The Dealer must make a record of the notice of completion to the customer on the Work Order. The record must include the date and time of the notice, the manner of communication of the notice, the telephone number called (if any) and the name of the person receiving and giving the notice.
- A customer must be notified of any change in the completion date as well as the new completion date for repairs. The notice may be given orally within 24 hours of the original date exclusive of Saturday, Sunday and any legal holiday. THE CUSTOMER MUST CONSENT TO THE NEW DATE. The change must also be written on the work order.
- Consent to the new completion date may be written or oral. Oral consent must comply with the waiver estimate provisions including noting the required information for an oral authorization from the customer. The same phone number need not be recorded more than once.
- If the dealer fails to notify the customer of a new completion date or the customer refuses to consent, either party may cancel the repair order. If the contract is cancelled, the dealer must reassemble the vehicle in substantially the same condition in which it was delivered without cost to the customer. The customer is required to pay for repairs already completed so long as the charge does not exceed the original estimate or any subsequent estimate for repairs already performed.

- **The dealer does not have to reassemble the vehicle if the garage previously informed the customer that such reassembly would be impractical.**
- If the customer requests return of the vehicle after cancelling previously approved repairs, the customer shall specify whether the vehicle should be reassembled in substantially the same condition in which it was delivered OR in a lesser condition as designated by the customer. Reassembly must be completed within three (3) days of the customer's request, excluding Saturday, Sunday, any legal holiday AND ANY DAYS THE REPAIR FACILITY IS CLOSED FOR BUSINESS.

Payment for authorized repairs

- If the customer cancels previously authorized repairs prior to completion, the Dealer may charge for repairs, including labor and parts, already performed. The charge may not exceed the original or subsequent estimate.

Disassembly of Vehicle or Parts

- If a motor vehicle or a motor vehicle part must be disassembled (entirely or partially), the written estimate must show the cost of reassembly in the event the customer elects not to proceed with the repairs of the vehicle or motor vehicle part. The estimate must also include the total cost of labor and parts to replace expendable items that are normally destroyed by such disassembly.
- No act of disassembly that would prevent restoration to the vehicle's former condition may be undertaken UNLESS the Dealer has fully informed the customer of that fact in writing on the WORK ORDER and the customer consents to the disassembly.
- Disassembly estimates must comply with the waiver estimate provisions including noting the required information for an oral authorization from the customer. The same phone number need not be recorded more than once.

Storage Charges

- The prior law set a maximum storage charge of \$10.00 per day. THAT IS NO LONGER THE CASE.
- Storage charges must be conspicuously printed on a SEPARATE written AUTHORIZATION.
- Storage charges may only accrue PURSUANT TO A WRITTEN AGREEMENT WHICH MUST BE A SEPARATE WRITTEN AUTHORIZATION.
- The separate agreement must state, in bold type, the following:

STORAGE FEE POLICY

A storage fee MAY NOT BE CHARGED UNLESS A WRITTEN AGREEMENT, SEPARATE FROM ANY OTHER REPAIR DOCUMENT, FOR AN AMOUNT IS REACHED. A STORAGE FEE MAY BE CHARGED beginning on the fourth day, if a motor vehicle is not removed within three days, after the customer is notified that repairs have been completed, excluding Saturdays, Sundays, LEGAL HOLIDAYS, AND ANY DAYS THE REPAIR FACILITY IS CLOSED FOR BUSINESS.

- Storage charges may also be charged if the customer fails to authorize repairs to be performed within three days, excluding Saturdays, Sundays, LEGAL HOLIDAYS, AND ANY DAYS THE REPAIR FACILITY IS CLOSED FOR BUSINESS, after communication of the estimate.

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Invoices to Customer

- The term "INVOICE" is defined as "THE FINAL STATEMENT FOR SERVICES RENDERED".
- Customers must receive a legible copy of the invoice when the vehicle is returned which will include an identification of any repairs subcontracted, legible initials of the person filling out any portion of the invoice AND A COPY OF ANY WARRANTY TERMS AND CONDITIONS. THE ORIGINAL OF THE INVOICE (OR A LEGIBLE COPY) MUST BE RETAINED BY THE DEALER FOR AT LEAST THREE (3) YEARS.

Repair Warranties

- IF A WARRANTY IS ISSUED WITH THE REPAIR WORK, THE WARRANTY MUST APPEAR WITH THE INVOICE AND SET FORTH ALL TERMS AND CONDITIONS OF THE WARRANTY. THE FACILITY WARRANTY IS LIMITED TO THE TERMS AND CONDITIONS SET FORTH IN THE WORK ORDER.
- If a vehicle is returned under a warranty issued by the dealer, the Dealer shall give the customer written notice that specifies the work is under warranty and provide a completion date for the repair.

Return of Replaced Parts

- Except for body shop repair parts and parts which must be returned to the manufacturer or distributor under a MANUFACTURER's warranty or exchange agreement, the Dealer must return replaced parts to the customer at the time of completion of repairs IF the customer makes a request at the time of consenting to or authorizing repairs.

Prohibited Acts

- It is prohibited to require a customer to sign a work order that does not state the repairs requested.

- IT IS PROHIBITED TO FAIL TO STATE THE MOTOR VEHICLE'S ODOMETER READING UNLESS SUCH READING IS UNFEASIBLE DUE TO THE CONDITION OF THE ODOMETER.

Criminal Penalties

- Any Dealer or any employee who FAILS TO PROVIDE A COMPLETED WRITTEN OR ORAL WRITTEN ESTIMATE or an invoice is subject to conviction of a misdemeanor with fines of between \$500 and \$2000 per violation. No portion of the maximum fine can be suspended FOR REPEAT OFFENDERS.
- Any Dealer or any employee who REQUIRES A CUSTOMER TO SIGN A WORK ORDER THAT DOES NOT STATE THE REPAIRS REQUESTED or FAILS TO STATE THE ODOMETER READING is subject to conviction of a misdemeanor with fines of between \$500 and \$1000 per violation. No portion of the maximum fine can be suspended FOR REPEAT OFFENDERS.
- Any Dealer or any employee who violates any other provision of the law is subject to conviction of a misdemeanor and a fine of \$500 per violation.

Consumer Protection Act

- ANY VIOLATION OF THE MOTOR VEHICLE REPAIR ACT IS ALSO A VIOLATION OF THE COLORADO CONSUMER PROTECTION ACT WHICH PROVIDES FOR DAMAGES, ATTORNEYS FEES, AND IN SOME CASES CIVIL PENALTIES OF \$10,000 PER OFFENSE. *Under prior law, there had to be three convictions under the Motor Vehicle Act before the Consumer Protection Act applied. That is no longer true.*

Civil Action by Consumers for Damages

- CUSTOMERS CAN RECOVER TREBLE DAMAGES AGAINST DEALERS OR THEIR EMPLOYEES WHO FAIL TO COMPLY (EXCEPT FOR CLERICAL ERRORS OR OMISSIONS), BUT IN NO EVENT LESS THAN \$250 IN DAMAGES AS WELL AS ATTORNEYS FEES.
- CUSTOMERS MUST FIRST MAKE A WRITTEN DEMAND FOR DAMAGES BY CERTIFIED MAIL AT LEAST TEN (10) DAYS PRIOR TO FILING AN ACTION, EXCLUSIVE OF SATURDAY, SUNDAY OR ANY LEGAL HOLIDAY.

See C.R.S., Title 42, Article 9, Sections 101 to 113.

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