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S. 2617

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

IN THE SENATE OF THE UNITED STATES

JUNE 13, 2002

Mr. WELLSTONE (for himself and Mr. DAYTON) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To protect the rights of American consumers to diagnose, service, and repair motor vehicles purchased 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 2001”.

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

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

1 (1) The ability to diagnose, service, and repair
2 a motor vehicle in a timely, reliable, and affordable
3 manner is essential to the safety and well-being of
4 automotive consumers in the United States.

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

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

10 (4) Computers of various kinds are increasingly
11 being used in motor vehicle systems, such as pollu-
12 tion control, transmission, antilock brakes, electronic
13 and mechanical systems, heating and air-condi-
14 tioning, sound, and steering.

15 (5) The diagnosis, service, and repair of vehicle
16 systems are essential to the safety and proper oper-
17 ation of modern motor vehicles.

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

23 (7) Consumers in the United States have bene-
24 fited from the availability of an aftermarket parts
25 supply, or parts and accessories used in the repair,

1 maintenance, or enhancement of a motor vehicle.
2 The American economy has also benefitted from the
3 availability of an aftermarket parts supply that pro-
4 vides jobs to over 5,000,000 workers in 495,000
5 businesses, and generates \$200,000,000,000 in an-
6 nual sales.

7 (8) It is appropriate for public policy to ensure
8 that vehicle owners in the United States have the
9 right—

10 (A) to obtain all information necessary to
11 allow the diagnosis, service, and repair of their
12 vehicles;

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

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

20 (9) The restriction of access to vehicle repair
21 information limits who can repair motor vehicles and
22 what parts may be used to repair motor vehicles,
23 which in turn limits consumer choice and thus limits
24 competition.

1 (10) Congress has provided the Federal Trade
2 Commission with broad authority to make and en-
3 force rules to foster competition, to prevent unfair
4 methods of competition in commerce, and to protect
5 consumers.

6 (b) PURPOSES.—The purposes of this Act are as fol-
7 lows:

8 (1) To require the Federal Trade Commission
9 to prescribe and enforce rules necessary to ensure
10 the right of a motor vehicle owner to obtain all in-
11 formation required for the diagnosis, service, and re-
12 pair of the motor vehicle.

13 (2) To ensure the safety of all vehicle owners
14 by requiring disclosure of all information necessary
15 for the proper diagnosis, service, and repair of a ve-
16 hicle in a timely, affordable, and reliable manner.

17 (3) To encourage competition in the diagnosis,
18 service, and repair of motor vehicles.

19 **SEC. 3. MANUFACTURER DISCLOSURE REQUIREMENTS.**

20 (a) DUTY TO DISCLOSE.—In accordance with rules
21 prescribed by the Federal Trade Commission under sec-
22 tion 6, the manufacturer of a motor vehicle sold or intro-
23 duced into commerce in the United States shall promptly
24 provide to the vehicle owner, to a repair facility of the ve-
25 hicle, and to the Commission for use by any such vehicle

1 owner or repair facility, the information necessary to diag-
2 nose, service, or repair the vehicle. Such information shall
3 include—

4 (1) information necessary to integrate replace-
5 ment equipment into the vehicle; and

6 (2) other information of any kind used to diag-
7 nose, service, repair, activate, certify, or install any
8 motor vehicle equipment (including replacement
9 equipment) in a motor vehicle.

10 (b) PROTECTION OF TRADE SECRETS.—

11 (1) DETERMINATION BY FEDERAL TRADE COM-
12 MISSION.—The Federal Trade Commission may not
13 require a manufacturer to publicly disclose informa-
14 tion that, if made public, would divulge methods or
15 processes entitled to protection as trade secrets of
16 that manufacturer, but may require disclosure of
17 such information to the Commission for the purpose
18 of determining whether such information is entitled
19 to such protection. Such determination shall be
20 made on the record after an opportunity for an
21 agency hearing.

22 (2) PREVIOUSLY DISCLOSED INFORMATION.—
23 No such information may be withheld by a manufac-
24 turer if that information is provided (directly or in-

1 directly) to franchised dealers or other repair facili-
2 ties.

3 **SEC. 4. UNFAIR OR DECEPTIVE ACT OR PRACTICE.**

4 The failure by a manufacturer to provide the infor-
5 mation required by section 3(a) constitutes an unfair
6 method of competition and an unfair or deceptive act or
7 practice in or affecting commerce (within the meaning of
8 section 5(a)(1) of the Federal Trade Commission Act (15
9 U.S.C. 45(a)(1))). Violation of a rule prescribed under
10 section 6(a) constitutes a violation of a rule defining an
11 unfair or deceptive act or practice prescribed under section
12 18(a)(1)(B) of the Federal Trade Commission Act (15
13 U.S.C. 57a(a)(1)(B)).

14 **SEC. 5. PRIVATE RIGHT OF ACTION.**

15 A vehicle owner or repair facility may bring a civil
16 action to enjoin a violation of this Act and to recover the
17 costs of litigation (including reasonable attorney and ex-
18 pert witness fees). Such an action may be brought in the
19 district court of the United States for the district in which
20 such owner resides or such repair facility does business,
21 without regard to the amount in controversy or the citizen-
22 ship of the parties.

23 **SEC. 6. RULEMAKING.**

24 (a) IN GENERAL.—Not later than 180 days after the
25 date of enactment of this Act, the Federal Trade Commis-

1 sion shall prescribe rules setting forth a uniform method
2 by which a manufacturer shall provide the information re-
3 quired by section 3(a), including disclosure in writing, on
4 the Internet, or in any other manner, or under such terms,
5 as the Commission determines may be appropriate. Such
6 rules shall take effect for vehicles manufactured after
7 model year 1994.

8 (b) LIMITATION.—The Federal Trade Commission
9 may not prescribe rules that—

10 (1) interfere with the authority of the Adminis-
11 trator of the Environmental Protection Agency
12 under section 202(m) of the Clean Air Act (42
13 U.S.C. 7521(m)) with regard to motor vehicle emis-
14 sions control diagnostics systems; or

15 (2) conflict with rules prescribed by such Ad-
16 ministrator under such section.

17 **SEC. 7. DEFINITIONS.**

18 In this Act:

19 (1) The term “commerce” has the meaning
20 given that term in section 4 of the Federal Trade
21 Commission Act (15 U.S.C. 44).

22 (2) The terms “manufacturer”, “motor vehi-
23 cle”, and “motor vehicle equipment” have the mean-
24 ings given those terms in section 30102(a) of title
25 49, United States Code.

1 (3) The term “vehicle owner” means any per-
2 son who owns, leases, or otherwise has the legal
3 right to use and possess a motor vehicle, or the
4 agent of such person.

5 (4) The term “repair facility” means a person
6 engaged in the repair, diagnosing, or servicing of
7 motor vehicles or motor vehicle engines.

8 (5) The term “replacement equipment” has the
9 meaning given that term in section 30102(b)(1) of
10 title 49, United States Code.

11 (6) The term “model year” has the meaning
12 given that term in section 32901(a) of title 49,
13 United States Code.

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