

2016 Bill 203

Second Session, 29th Legislature, 65 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 203

**FAIR TRADING (MOTOR VEHICLE REPAIR PRICING
PROTECTION FOR CONSUMERS)
AMENDMENT ACT, 2016**

MR. CARSON

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

Bill 203
Mr. Carson

BILL 203

2016

FAIR TRADING (MOTOR VEHICLE REPAIR PRICING PROTECTION FOR CONSUMERS) AMENDMENT ACT, 2016

(Assented to , 2016)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Amends RSA 2000, c F-2

1 The *Fair Trading Act* is amended by this Act.

2 The following is added after section 57:

Part 8.1 Repairs to Motor Vehicles

Definitions

57.1 In this Part,

- (a) “estimate” means an estimate of the total cost of the work to be performed on and repairs to be done to the motor vehicle being repaired;
- (b) “motor vehicle” means a motor vehicle as defined in the *Traffic Safety Act*, or as that definition is amended by the regulations;
- (c) “repairer” means a person who performs work on or repairs motor vehicles, at a charge or price or for consideration, in the ordinary course of business.

Explanatory Notes

- 1** Amends chapter F-2 of the Revised Statutes of Alberta 2000.
- 2** New sections added concerning consumer protection.

Estimate

57.2(1) No repairer shall charge a consumer for any work performed on or repairs done to a motor vehicle unless the repairer first gives the consumer an estimate in accordance with any requirements which may be prescribed by the regulations.

- (2) Despite subsection (1), a repairer may charge a consumer for work or repairs without giving an estimate if
- (a) the repairer offers to give the consumer an estimate and the consumer declines the offer in accordance with the regulations, if any,
 - (b) the consumer specifically authorizes the maximum amount that he or she will pay the repairer to perform the work or do the repairs, and
 - (c) the cost charged for the work or repairs does not exceed the maximum amount authorized by the consumer.

Estimate fee

57.3(1) Subject to subsection (3), a repairer shall not charge a fee for an estimate unless

- (a) the consumer is advised in advance that a fee will be charged in accordance with any regulations that may be prescribed, and
 - (b) that fee does not exceed any maximum amount prescribed by the regulations.
- (2) A fee for an estimate shall be deemed to include the cost of diagnostic time, the cost of reassembling the motor vehicle, and the cost of the parts that will be damaged and must be replaced when reassembling if the work or repairs are not authorized by the consumer.
- (3) A repairer shall not charge a fee for an estimate if the work or repairs in question are authorized and carried out.
- (4) Despite subsection (3), a repairer may charge a fee for an estimate if the repairer is unable to obtain, without unreasonable delay, authorization to proceed with the work or repairs and the motor vehicle is reassembled before being worked on or repaired so that the motor vehicle can be moved in order to free repair space.

Authorization required

57.4 No repairer shall charge for any work or repairs unless the consumer authorizes the work or repairs.

Exceeding estimate restricted

57.5(1) No repairer shall charge, for work or repairs for which an estimate was given, an amount that exceeds the estimate by more than 10 per cent.

- (2)** If a repairer contravenes subsection (1),
- (a) the consumer is not liable for the excess, and
 - (b) the repairer must reimburse the consumer immediately, upon demand by the consumer or the Director, for that amount if the consumer has paid it.

Authorization not in writing

57.6 If an authorization required by sections 57.2, 57.3 or 57.4 is not given in writing, the authorization is not effective unless it is recorded in a manner as prescribed by the regulations.

Additional work

57.7 If, while performing work on or doing repairs to a motor vehicle, the need for work or repairs that are new or substantially different from the work or repairs that are covered by the estimate is identified by the repairer, the repairer must not charge for the additional work or repairs without first complying with sections 57.2, 57.3 and 57.4.

Posting signs

57.8 A repairer shall post signs containing the information and in the location prescribed by the regulations.

Return of parts

57.9(1) Every repairer shall offer to return to the consumer all parts removed in the course of work or repairs and shall return all such parts unless advised when the work or repairs are authorized that the consumer does not require their return.

- (2)** Every repairer shall
- (a) keep parts removed from the motor vehicle being repaired separate from any other motor vehicles being repaired, and
 - (b) return the parts in a clean container if their return is required under subsection (1).

(3) Subsections (1) and (2) do not apply to the following:

- (a) parts for which there has been no charge for the part or for work on or repairs to the part;
- (b) parts replaced under warranty, the return of which to the manufacturer or distributor is required;
- (c) parts exchanged for a retooled or reconditioned part used in the work performed on or repairs done to the motor vehicle.

Invoice

57.10 A repairer shall, on completion of the work or repairs, deliver to the consumer an invoice containing the information prescribed by the regulations.

Warranty

57.11(1) On the repair of a motor vehicle, a repairer is deemed to warrant all new or reconditioned parts installed and the labour required to install them for a minimum of 90 days or 5,000 kilometres, whichever comes first.

(2) For the purposes of subsection (1), the warranty begins on the date of delivery of the repaired motor vehicle to the consumer.

(3) The person having charge of a motor vehicle that becomes inoperable or unsafe to drive because of the failure or inadequacy of work or repairs to which a warranty under this section applies may, when it is not reasonable to return the vehicle to the original repairer, have the failure or inadequacy repaired at the closest facility available for the work or repairs.

(4) When work or repairs are made under subsection (3), the person entitled to a warranty under this section is entitled to recover from the original repairer the cost of the original work or repairs and reasonable towing charges.

(5) A consumer who subjects any motor vehicle part to misuse or abuse is not entitled to the benefit of the warranty on that part.

(6) No repairer shall refuse to reimburse a consumer because of the operation of subsection (5) unless the repairer has reasonable grounds to believe that the part under warranty was subjected to misuse or abuse.

(7) A consumer who is seeking reimbursement under this section shall return, upon the request and at the expense of the original repairer, the defective parts to the original repairer unless, in the

circumstances, it is not reasonably possible for the consumer to do so.

(8) An original repairer who is required to make a payment under this section is entitled to recover from the supplier of a defective part any amount paid to the consumer under subsection (4), where permitted by the regulations.

(9) If a repairer uses a subcontractor,

(a) the repairer and the subcontractor are jointly and severally liable with respect to the warranty, and

(b) the repairer must notify the consumer that it has used a subcontractor and provide the consumer with information about how to contact the subcontractor about the warranty.

Records to be kept

57.12 A repairer must make and maintain records, including records of all estimates given and authorizations received, in accordance with the regulations.

Regulations

57.13 The Lieutenant Governor in Council may make regulations

- (a) modifying the definition of “motor vehicle” as it applies to this Part;
- (b) for the purpose of section 57.2(2)(a), prescribing the manner in which a consumer may decline the offer of an estimate;
- (c) respecting a fee for an estimate that may be charged under section 57.3(1);
- (d) for the purposes of section 57.10, prescribing the information to be contained in an invoice to a consumer;
- (e) for the purposes of section 57.12, prescribing the creation of records and manner in which such records are to be kept;
- (f) exempting repairers or classes of repairers, repairs or classes of repairs, parts or classes of parts, or motor vehicles or classes of motor vehicles from the application of this Part or any provision of this Part or the regulations;
- (g) respecting any matter the Lieutenant Governor in Council considers necessary or advisable for the administration of this Part;

- (h) defining any term or expression not otherwise defined in this Part.

Remedies

57.14 Nothing in this Part restricts, limits or derogates from any remedy at common law or under any statute.

Transitional

57.15 This Part applies to all consumer agreements for work or repair of a motor vehicle that are entered into on or after the day this section is proclaimed in force.

3 The following is added after section 161(e):

- (e.1) in Part 8.1, sections 57.2(1), 57.3(1) and (3), 57.4, 57.5(1), 57.9(1) and (2) and 57.10.

4 This Act comes into force on Proclamation.

3 Section 161 presently reads in part:

161 Any person who contravenes any of the following provisions is guilty of an offence:

(e) *in Part 8, sections 55(2), 56(1), 57(1);*

(f) *in Part 9, sections 62, 64(1) and (2), 66(2), 68(3), 73(3), 78, 79(1), 80, 81, 85, 86, 87, 88;*

4 Coming into force.

Record of Debate

STAGE	DATE	MEMBER	FROM	TO	TOTAL	CUMULATIVE TOTAL