

## CHAPTER 155

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**MOTOR VEHICLES AND TRAFFIC REGULATION**

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**HOUSE BILL 95-1285**

BY REPRESENTATIVES Congrove, Prinzler, Berry, Grampsas, and Musgrave;  
also SENATORS Alexander and Thiebaut.

**AN ACT****CONCERNING MOTOR VEHICLE REPAIRS CONDUCTED BY MOTOR VEHICLE REPAIR GARAGES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** 42-9-104 (1) (b) and (2) (a), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

**42-9-104. When consent and estimate required - original transaction - disassembly.** (1) (b) The required written consent ~~may be~~ IS waived by the customer only when the motor vehicle has been towed to the motor vehicle repair garage or the customer has left the motor vehicle with the motor vehicle repair garage outside of normal business hours or when the customer has signed a waiver in compliance with paragraph (b) of subsection (2) of this section. THE WAIVER ESTABLISHED BY THIS PARAGRAPH (b) FOR ANY VEHICLE THAT IS TOWED TO A MOTOR VEHICLE REPAIR GARAGE OR LEFT WITH THE MOTOR VEHICLE REPAIR GARAGE OUTSIDE OF NORMAL BUSINESS HOURS IS LIMITED TO A MAXIMUM OF ONE HUNDRED DOLLARS IN LABOR AND PARTS.

(2) (a) (I) Except as provided in paragraph (b) of this subsection (2), no repairs shall be performed by a motor vehicle repair garage unless said garage first submits in writing or, where allowed by this section, orally communicates to the customer an estimate of the total cost of any such repairs, not including any applicable sales tax. The written estimate shall include the expected completion date of such repairs. ~~and~~  
~~the~~

(II) (A) EXCEPT AS PROVIDED IN SUB-SUBPARAGRAPH (B) OF THIS SUBPARAGRAPH (II), storage charges ~~which shall~~ OF NOT MORE THAN TEN DOLLARS PER DAY MAY accrue, BEGINNING ON THE FOURTH DAY, if the customer has not picked up the motor

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

vehicle within three days, exclusive of Saturday, Sunday, and any legal holiday, after notification of the completion of authorized repairs or if the customer failed to authorize repairs to be performed within three days, exclusive of Saturday, Sunday, and any legal holiday, after the date of communication of an estimate.

(B) STORAGE CHARGES SHALL BE ASSESSED IN ACCORDANCE WITH SECTION 38-20-109, C.R.S., IF THE GARAGE CHOOSES TO SELL THE CUSTOMER'S PROPERTY IN ACCORDANCE WITH ARTICLE 20 OF TITLE 38, C.R.S.

(C) THE AMOUNTS THAT A CUSTOMER MAY BE CHARGED FOR STORAGE CHARGES SHALL BE CONSPICUOUSLY PRINTED ON THE WRITTEN ESTIMATE PROVIDED TO THE CUSTOMER.

(III) The estimate provided to the customer shall state conspicuously that, except for body shop repair parts and except for exchanged or warranty parts which 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.

(IV) The estimate shall be recorded on or attached to the invoice required by section 42-9-108.

**SECTION 2.** 42-9-105 (2) (a) and (2) (c), Colorado Revised Statutes, 1993 Repl. Vol., as amended, are amended to read:

**42-9-105. When consent and estimate required - additional repairs - changed completion date.** (2) (a) The customer shall be notified in writing on the invoice of any changes in the expected completion date of the repairs and of the new expected completion date. Such notification may be communicated to the customer orally, but such communication, written or oral, ~~must~~ SHALL be made no more than ~~three days~~ TWENTY-FOUR HOURS after the original completion date, exclusive of Saturday, Sunday, and any legal holiday. If communicated orally, a record of such communication shall be made on the invoice by the motor vehicle repair garage and shall include the date, time, telephone number called, if any, and names of the persons giving and receiving such communication.

(c) If the motor vehicle repair garage fails to notify the customer of the change in the completion date or if the customer refuses to consent to an additional change in the completion date, the contract may be cancelled at the option of either the customer or the motor vehicle repair garage. Once the contract has been cancelled in this manner, the motor vehicle repair garage shall be required to reassemble the motor vehicle in substantially the same condition in which it was delivered to the motor vehicle repair garage without cost to the customer UNLESS THE CUSTOMER HAS BEEN PREVIOUSLY NOTIFIED AS TO THE IMPRACTICALITY OF SUCH REASSEMBLY; except that the customer shall be required to pay for any repairs already completed as specified in section 42-9-106 (3) (a).

**SECTION 3.** 42-9-106 (2), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-9-106. Amounts over estimate - storage charges - cancellation of**

**authorized repairs.** (2) No charge shall be made for storage of the motor vehicle unless the motor vehicle is not picked up by the customer within three days, exclusive of Saturday, Sunday, and legal holidays, after the customer is notified that the repairs have been completed, and the customer was notified, as required by section 42-9-104 (2) (a), that such storage charges would accrue. THE WRITTEN ESTIMATE, IN BOLD TYPE, SHALL STATE THE FOLLOWING:

**A STORAGE FEE OF NOT MORE THAN TEN DOLLARS PER DAY, BEGINNING ON THE FOURTH DAY, MAY BE CHARGED IF A MOTOR VEHICLE IS NOT REMOVED WITHIN THREE DAYS AFTER THE CUSTOMER IS NOTIFIED THAT REPAIRS HAVE BEEN COMPLETED, EXCLUDING SATURDAYS, SUNDAYS, AND LEGAL HOLIDAYS.**

THE MOTOR VEHICLE REPAIR GARAGE SHALL MAKE A RECORD OF THE NOTICE OF COMPLETION ON THE INVOICE. THE RECORD SHALL INCLUDE THE DATE AND TIME OF THE NOTICE OF COMPLETION, THE MANNER OF COMMUNICATION OF THE NOTICE, THE TELEPHONE NUMBER CALLED, IF ANY, AND THE NAME OF THE PERSON RECEIVING THE NOTICE.

**SECTION 4.** 42-9-107, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-9-107. Used, reconditioned, or rebuilt parts.** The motor vehicle repair garage shall SPECIFY IN THE ORIGINAL ESTIMATE WHETHER ANY PARTS TO BE INSTALLED ARE NEW, USED, RECONDITIONED, OR REBUILT AND THEN SHALL obtain the consent of the customer before any used, reconditioned, or rebuilt parts are installed in the motor vehicle. If such consent is oral, the motor vehicle repair garage shall make a record of such consent on the invoice and shall include the date, time, manner of consent, telephone number called, if any, and names of persons giving and receiving such consent. The motor vehicle repair garage shall adjust the original estimate for new parts to reflect the altered cost if used, reconditioned, or rebuilt parts are authorized and installed.

**SECTION 5.** Article 9 of title 42, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW SECTION to read:

**42-9-108.5. Warranty completion date.** WHEN A MOTOR VEHICLE IS RETURNED UNDER A WARRANTY ISSUED BY THE REPAIR GARAGE, THE GARAGE SHALL GIVE THE CUSTOMER A WRITTEN NOTICE THAT SPECIFIES THAT THE WORK IS UNDER WARRANTY AND THAT PROVIDES THE CUSTOMER WITH A COMPLETION DATE FOR THE REPAIR, AS REQUIRED BY SECTION 42-9-104.

**SECTION 6.** 42-9-111 (1), Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS to read:

**42-9-111. Prohibited acts.** (1) No motor vehicle repair garage or any employee or contract laborer of such garage shall knowingly:

(f) FAIL TO ISSUE AN INVOICE AS REQUIRED BY SECTION 42-9-108;

(g) FAIL TO GIVE NOTICE AS REQUIRED BY SECTION 42-9-105;

(h) REQUIRE A CUSTOMER TO SIGN A WORK ORDER THAT DOES NOT STATE THE REPAIRS THAT ARE REQUESTED BY THE CUSTOMER OR DOES NOT STATE THE MOTOR VEHICLE ODOMETER READING.

**SECTION 7.** 42-9-112, Colorado Revised Statutes, 1993 Repl. Vol., as amended, is amended to read:

**42-9-112. Penalties - civil action.** (1) Except as provided in subsection (2) of this section, any motor vehicle repair garage or any employee of such garage not providing a written or oral estimate as required under section 42-9-104 (2), or an invoice as required under section 42-9-108, ~~commits a class 2 petty offense~~ IS GUILTY OF A MISDEMEANOR and, upon conviction thereof, shall be punished by a fine of not less than ~~two hundred fifty~~ FIVE HUNDRED dollars nor more than ~~one thousand~~ TWO THOUSAND dollars per violation. No portion of the minimum fine shall be suspended.

(2) Any motor vehicle repair garage or any employee of such garage who violates section 42-9-111 ~~commits a class 2~~ IS GUILTY OF A misdemeanor and, upon conviction thereof, shall be punished as ~~provided in section 18-1-106, C.R.S.~~ BY A FINE OF NOT LESS THAN FIVE HUNDRED DOLLARS NOR MORE THAN ONE THOUSAND DOLLARS PER VIOLATION. NO PORTION OF THE MINIMUM FINE SHALL BE SUSPENDED.

(2.5) ANY MOTOR VEHICLE REPAIR GARAGE OR ANY EMPLOYEE OF SUCH GARAGE WHO VIOLATES ANY PROVISION OF THIS ARTICLE OTHER THAN THE PROVISIONS FOR WHICH PENALTIES ARE PROVIDED IN SUBSECTIONS (1) AND (2) OF THIS SECTION IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION THEREOF, SHALL BE PUNISHED BY A FINE OF FIVE HUNDRED DOLLARS PER VIOLATION.

(2.7) UPON A THIRD CONVICTION OF A VIOLATION OF SECTION 42-9-111, THE MOTOR VEHICLE REPAIR GARAGE MAY BE SUBJECT TO THE PROVISIONS OF THE "COLORADO CONSUMER PROTECTION ACT", ARTICLE 1 OF TITLE 6, C.R.S., INCLUDING, BUT NOT LIMITED TO, TEMPORARY RESTRAINING ORDERS AND OTHER INJUNCTIVE RELIEF.

(3) In any civil action for the enforcement of this article, the court may award reasonable attorney fees and costs to the prevailing party, and a customer shall be entitled to treble damages for failure of any motor vehicle repair garage or any employee of such garage to comply with this article, except for clerical errors or omissions; but in no event shall such damages be less than ~~one hundred fifty~~ THREE HUNDRED dollars. The customer shall first MAKE WRITTEN demand FOR THE CUSTOMER'S damages from the motor vehicle repair garage BY CERTIFIED MAIL at least ten days prior to the filing of any such action, exclusive of Saturday, Sunday, and any legal holiday. Such action shall be brought within the time period prescribed in section 13-80-103, C.R.S.

**SECTION 8. Effective date - applicability.** This act shall take effect January 1, 1996, and shall apply to any offense committed on or after said date.

**SECTION 9. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 22, 1995