



OFFICE OF CONSUMER PROTECTION

Isiah Leggett
County Executive

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Director

Dear Montgomery County Auto Repair Licensee:

Consumer trust is important to the automobile repair industry. Many of the fundamental requirements of the consumer laws governing the automobile repair industry foster communication and consumer trust. Complying with these laws will increase the trust consumers have in you and avoid potential problems.

For your reference, we enclose copies of the county and state automobile repair acts, which govern repair in the county. Although many shops are familiar with these laws, review is always helpful. In addition, we want to highlight the following key provisions of these and other applicable laws.

Return Replaced Parts - Both the County and State repair laws require that replaced parts be returned to consumers. Consumers do not have to ask to have their replaced parts returned; each is to be returned *unless* the customer expressly states that he or she does not want it. (Written proof of this waiver is best, and our enclosed sample invoice includes a space for the consumer to waive this right.) Obviously, good business practices dictate that dirty parts be appropriately packaged so they don't soil the consumer's car.

The only parts exempt from the return requirement are those that must be returned to a manufacturer or distributor under a warranty agreement. Core parts are not exempt from this requirement. When a core part is involved in a repair you should explain to the consumer how much money they can save if they let you retain the part. They may then opt to waive their right to the part. If they do waive their right to a core part, you should still make the old part available for inspection by the consumers or their representatives.

Of all your obligations to a customer, probably none is more important than returning replaced parts. In fact, the highest court in Maryland has held that when key parts in a repair job are not returned the customer is not obligated to pay for the repairs. Design & Funding v. Betz Garage, 292 Md. 265, 438 A.2d 1316 (1981.) We will be taking enforcement action when we find that a shop has violated this requirement.

Estimates - All shops in Montgomery County should know that consumers have a right to an estimate upon request and to a written estimate for repairs exceeding \$25.00 (You should have posted a sign stating this right. If not, we have them available for \$25 each.) But there are important requirements for estimates beyond these basics.

Charges for estimates must be disclosed - You may charge a reasonable fee for giving estimates but only if the fee is disclosed to the customer beforehand. This disclosure has to make it clear to consumers what they are getting into. If providing the estimate requires teardown, the disclosure must also state the cost of reassembly if the customer chooses not to have you proceed with the work. Similarly, if you have a minimum checkout fee, it must be disclosed ahead of time.

Recording Authorizations - Customers may not be charged for unauthorized work. If work was not originally authorized you may get the customer's additional authorization by oral permission, but county law requires that the shop document the additional authorization in writing. To help prevent later questions, it is best to get some type of personal ID, such as DOB-month/year or last four digits of driver's license number, or telephone number they are calling from the consumer at the time of the oral authorization and to include this on your documentation. If a complaint raises questions of authorization, we will be asking to see the hard copy documenting the authorization.

Similarly, as most shops know, if work is going to exceed an estimate by more than 10%, the consumer must authorize the new estimate beforehand. This is not a blanket authorization to exceed an estimate by up to 10%. There should be a documentable reason whenever an estimate is exceeded. We will be evaluating that explanation whenever a complaint involves an alleged increased estimate.

Body shops, before beginning work, also are required by the state Automotive Crash Parts Act to give the customer a list of the replacement parts it intends to use, specify whether they are "genuine" (OEM) or "aftermarket," and if any are aftermarket include the statement:

This estimate has been prepared based on the use of aftermarket crash parts that are not manufactured by the original manufacturer of the vehicle or by a manufacturer authorized by the original manufacturer to use its name or trademark.

The use of certain aftermarket crash parts may modify the original manufacturer's warranty on the crash parts being replaced. Upon request of the customer, the body shop shall provide, if available, a copy of any warranty for an aftermarket crash part used.

Disclosure of Charges

Labor Charges - We continue to get many complaints and questions about how labor is calculated. County law requires that the repair invoice disclose whether labor is charged by clock hour, flat rate manual or other flat rate measure. Many invoices just say "flat rate used" or similar language. This is not sufficient to make customers understand the system. The disclosure needs to be as specific and descriptive as possible. For example, our enclosed sample invoice says, "Unless otherwise specified, labor time billed is flat rate time estimated

for each job in industry manuals and not actual time spent.” We are not wedded to this language but we believe it is a much better description of the flat rate manual system.

If the lack of such a specific description is the only flaw in your invoice (see the “Invoices section of this letter) it may not be worth changing, but we are calling on every shop to make better disclosures of the labor billing system before the work is done. This should include signs posted where customers authorize repairs. If a shop has a night-drop system, a sign should also be by the night-drop box or the disclosure made on the night-drop slip. Our Auto Unit staff are available to give you assistance in wording these or any other disclosures.

Miscellaneous Charges -The customer must also have notice, before work is started, of any miscellaneous charges, such as shop supplies or hazardous waste disposal. The County Code considers a conspicuous sign to be evidence of notice, so these disclosures can be included on the same sign describing the labor billing system. The portion on miscellaneous charges must state that the charge will be made and the method of its computation. As with labor charges, there also need to be disclosures to give notice to customers making night drops.

Miscellaneous charges also should have some relationship to the work performed on a particular car. For example, if the work is a minor adjustment not involving any potential waste, a hazardous waste disposal charge is inappropriate and will surely generate consumer complaints.

Pass Along Parts Manufacturer’s Warranties - Most shops summarize their own parts and labor warranties on the invoice; but in many cases the parts are also warranted independently by the manufacturer, and we rarely see those warranties passed along. If the parts are warranted to the consumer by the parts manufacturer, it is the shop’s legal duty to pass along to the consumer a copy of that warranty. In many cases the manufacturer’s parts warranty is longer than the shop’s and gives the consumer additional rights, such as the right to get warranty work done at other authorized shops. If you have difficulty getting copies of the manufacturers’ warranties to pass along, please let us know as we consider this very important issue and will be happy to take it up with the supplier or manufacturer.

Vehicles Left On Lot - We receive a number of complaints arising from vehicles that are left on repair shops’ lots.

Storage Charges - Consumers must have notice of the shop’s storage charge policy before they can be imposed. Again, a conspicuous sign is evidence of notice. Even if you give notice, storage charges may not accrue until 24 hours from the notification to the consumer that services are completed, unless otherwise agreed.

Removal of a Vehicle - There are instances when a shop wants a vehicle off its lot. In the past, you might have just called towers to have the vehicle towed and impounded by them. Since the summer of 1990, however, the County has had in effect Chapter 30C of the Code, which regulates towing from private property without the consent of the vehicle owner. This Chapter applies to towing off of your lot and makes it more complicated than just calling a tow

truck. The main requirements of this law are: 1) A vehicle owner must have been warned by signs on the lot of the parking restrictions and towing. (For lots over 100 places, stickers may be attached to the vehicle.) 2) You must have a standing written contract with a tow to do such towing. 3) You ordinarily must specifically authorize each tow off your property. Clearly, if you are going to engage in this type of removal of vehicles you need to familiarize yourself with the law and take the necessary actions first.

An alternative for having vehicles removed from your premises is to proceed under the state Abandoned Vehicles Law. (Md. Transp. Code Ann. §§ 25-201 - 25-210.) If you believe a vehicle left on your property may qualify as “abandoned” you may contact the Vehicle Recovery Section (VRS) of the Montgomery County Police Department at 240-773-6411. VRS will give you more information on its procedures, including any costs, but ordinarily a consent form must be signed by the shop’s owner or manager and then the police will put a notice on the vehicle for 48 hours before removal. The Police will then have the vehicle removed and impounded. The VRS will also accept “cannibalized” vehicles but they are towed at the shop’s expense and a signed consent form is required. Again, contact the VRS for full information.

Invoices - There is a saying that “good paper work makes good friends”. Unfortunately, many repair shops give consumers repair orders/invoices that do not provide the legally required information necessary for good communication with the consumer. Enclosed are samples of a repair authorization form and a final invoice, which includes the key disclosures for repair authorizations and invoices (indicated by the black circles with letters) and, just as importantly, explains the requirements. As the samples note, repair authorizations and invoices do not have to be in this form, but the required disclosures must be made clearly and conspicuously on body shops forms as well as those of straight mechanical shops. Local affiliates of national or regional chains also must comply with these requirements.

But even the best invoice form is not enough if it is filled out haphazardly. Note, for example, that “O” on our sample invoice highlights that each final invoice is supposed to contain the customer’s instructions or description of the vehicle’s symptoms and the shop’s diagnosis of the problem. Many shops do not bother to do this on the final invoice, only listing what they did. This lack of communication must change. Perhaps even more important is the requirement noted in “P” on our sample that the shop’s owner, manager, or designee (other than the mechanic(s) doing the work) sign to verify that the vehicle was tested or test driven as necessary and the mechanic’s work was done satisfactorily. We see many repair invoices where this was not done. This reflects very poorly on quality control and puts the shop in an extremely poor position when faced with a comeback type of complaint.

We will be taking enforcement action against shops with invoices that fail to comply with basic legal requirements. It is your responsibility to review the enclosed materials and make the necessary changes in your forms and the way you fill them out. If you have non-complying forms, you do not necessarily have to throw them out; you can use rubber stamps or attach a second page with the necessary disclosures. If you have questions, feel free to contact the Auto Unit. If you wish, you may submit a copy of your invoice for our review and we will tell you what, if anything, needs to be changed. Many shops have already done this. If you are

moving on your own to change your forms, it is a good idea to run a sample by us before you invest too much in the project. We will work with you and be as flexible as possible but the required disclosures must be made. And please, remember that state law requires you to give the consumer an invoice any time you work on a car, even if there is no charge such as with warranty work.

Your Warranties - Our sample invoice reflects the requirement that the invoice specify any express warranty on parts and labor. We have used 90 days/4000 miles in our sample, but you may give a longer or shorter express warranty if you wish. In fact, you do not have to give any express warranty of your own (but as noted previously you do have to pass along the warranty of the parts manufacturer or supplier).

If you give your own express warranty, all limitations must be stated and it is advisable to be as specific as possible about what is covered and what you and the consumer are obligated to do if a problem arises. Many shops have chosen to do this in a separate warranty document that they give the consumer with the final invoice, or on the back of the invoice itself.

In addition to express warranties, there are implied warranties. In Maryland, whenever you sell a part to a consumer – even a used one – there is an implied (unstated) warranty that it is fit for ordinary use and will last a reasonable length of time. Maryland law does not allow implied warranties to be disclaimed or limited in any sale of goods or service to a consumer, so an invoice you give to a consumer should not contain language like “seller disclaims all warranties.” If you have questions about warranties, feel free to call the Auto Unit. In addition, “A Businessperson’s Guide to Federal Warranty Law” is available free from the Federal Trade Commission, on the internet at: <http://www.ftc.gov/bcp/online/pubs/buspubs/warranty.htm>.

Most of the items discussed in this letter are things that should be done merely as a matter of good business practices. In Montgomery County they are not only good business, they are also the law. Thank you for your attention and, again, please feel free to contact us if we can be of any assistance at (240) 777-3636.

Very truly yours,

Tracy D. Rezvani, Administrator
Office of Consumer Protection