



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

SB3827

Introduced 2/11/2010, by Sen. Linda Holmes

#### SYNOPSIS AS INTRODUCED:

New Act  
815 ILCS 505/2Z

from Ch. 121 1/2, par. 262Z

Creates the Motor Vehicle Owners Right To Repair Act and amends the Consumer Fraud and Deceptive Business Practices Act. Provides that the manufacturer of any motor vehicle that is sold in this State shall promptly, upon request, provide to any independent motor vehicle repair facility in this State and to any motor vehicle owner all information related to the proper and complete diagnosis, service, maintenance, activation, certification, and repair of the vehicle, including all non-emission-related service information or training information. Requires a motor vehicle manufacturer to promptly, upon request, permit independent motor vehicle repair facilities to acquire necessary diagnostic tools; requires such a manufacturer to promptly, upon request, provide aftermarket tool companies with information that will allow them to manufacture tools with the same functional characteristics as those tools made available by the manufacturer to authorized dealers and authorized motor vehicle repair facilities. Provides that the Motor Vehicle Owners Right To Repair Act applies to all motor vehicles manufactured after model year 1994. Provides that nothing in the Motor Vehicle Owners Right To Repair Act requires a motor vehicle manufacturer to divulge information that is a trade secret. Provides for a civil action by a person who suffers actual damage as a result of a violation of the Motor Vehicle Owners Right To Repair Act. Provides for penalties for violations of the Motor Vehicle Owners Right To Repair Act; also provides that a violation of the Motor Vehicle Owners Right To Repair Act is an unlawful practice under the Consumer Fraud and Deceptive Business Practices Act. Effective immediately.

LRB096 20317 DRJ 36170 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Motor  
5 Vehicle Owners Right To Repair Act.

6 Section 5. Definitions. In this Act, unless the content  
7 clearly requires otherwise:

8 "Authorized dealer" means a person selling and  
9 distributing new motor vehicles or motor vehicle equipment  
10 primarily to purchasers that in good faith purchase the  
11 vehicles or equipment other than for resale.

12 "Authorized motor vehicle repair facility" means a person  
13 or business that is associated with an authorized dealer or  
14 manufacturer and that is engaged in the diagnosis, service,  
15 maintenance, or repair of motor vehicles or motor vehicle  
16 engines.

17 "Independent motor vehicle repair facility" means a person  
18 or business that is not associated with a manufacturer's  
19 authorized dealer of motor vehicles and that is engaged in the  
20 diagnosis, service, maintenance, or repair of motor vehicles or  
21 motor vehicle engines.

22 "Manufacturer" means a person engaged in the business of  
23 manufacturing, assembling, or distributing motor vehicles, who

1 will, under normal business conditions during the year,  
2 manufacture, assemble, or distribute to authorized dealers new  
3 motor vehicles.

4 "Model year" means: (i) the annual production period of a  
5 manufacturer, that includes January 1st of the calendar year;  
6 or (ii) the specific calendar year if the manufacturer does not  
7 have an annual production period.

8 "Motor vehicle owner" means any person who owns, leases, or  
9 otherwise has the legal right to use and possess a motor  
10 vehicle, or the agent of such a person.

11 "Trade secret" means information, including, but not  
12 limited to, technical or non-technical data, a formula,  
13 pattern, compilation, program, device, method, technique,  
14 drawing, or process, financial data, or a list of actual or  
15 potential customers or suppliers, that:

16 (1) is sufficiently secret to derive economic value,  
17 actual or potential, from not being generally known to  
18 other persons who can obtain economic value from its  
19 disclosure or use; and

20 (2) is the subject of efforts that are reasonable under  
21 the circumstances to maintain its secrecy or  
22 confidentiality.

23 Section 10. Applicability. This Act applies to all motor  
24 vehicles manufactured after model year 1994.

1           Section 15. Disclosure of information; permission to  
2 acquire tools.

3           (a) The manufacturer of any motor vehicle that is sold in  
4 this State shall promptly, upon request, provide to any  
5 independent motor vehicle repair facility in this State and to  
6 any motor vehicle owner all information related to the proper  
7 and complete diagnosis, service, maintenance, activation,  
8 certification, and repair of the vehicle, including all  
9 non-emission-related service information or training  
10 information.

11           (b) The manufacturer of any motor vehicle that is sold in  
12 this State shall promptly, upon request, permit any independent  
13 motor vehicle repair facility in this State to acquire any  
14 diagnostic tools relating to the proper and complete diagnosis,  
15 service, maintenance, activation, certification, and repair of  
16 the vehicle on a non-discriminatory basis, from a manufacturer  
17 of the tools that is similar to the manufacturer of similar  
18 tools made available to an authorized dealer or authorized  
19 motor vehicle repair facility of the manufacturer, and at a  
20 cost that is similar to the cost charged to an authorized  
21 dealer or authorized motor vehicle repair facility of the  
22 manufacturer.

23           (c) The manufacturer of any motor vehicle that is sold in  
24 this State shall promptly, upon request, provide aftermarket  
25 tool companies with diagnosis, service, maintenance,  
26 activation, certification, and repair information that will

1 allow them to manufacture tools with the same functional  
2 characteristics as those tools made available by the  
3 manufacturer to an authorized dealer or authorized motor  
4 vehicle repair facility.

5 (d) The information that a manufacturer shall promptly,  
6 upon request, provide to any motor vehicle owner or independent  
7 motor vehicle repair facility shall include, but need not be  
8 limited to, the following:

9 (1) The same information relating to the diagnosis,  
10 service, maintenance, activation, certification, or repair  
11 of any motor vehicle sold in this State by the manufacturer  
12 that the manufacturer makes available to an authorized  
13 dealer or authorized motor vehicle repair facility. This  
14 information must be made available in the same form and in  
15 the same manner as it is made available to the repair  
16 facilities of an authorized dealer or authorized motor  
17 vehicle repair facility and must include all applicable  
18 information, including any diagnostic codes used to  
19 activate all controls that must be activated by the repair  
20 facility in order to diagnose, service, and repair the  
21 motor vehicle.

22 (2) The same diagnostic tools and software  
23 capabilities, including wireless capabilities, related to  
24 the diagnosis and repair of a motor vehicle that the  
25 manufacturer makes available to an authorized dealer or  
26 authorized motor vehicle repair facility. All diagnostic

1 tools, wireless capabilities, and software capabilities  
2 must be made available for purchase at a reasonable and  
3 non-discriminatory price.

4 (3) Information necessary to integrate replacement  
5 equipment into the vehicle.

6 (4) Information about safety alerts, recalls, service  
7 bulletins, and the need for adjustments to maintain vehicle  
8 efficiency, safety, and convenience.

9 (5) Other information that is used to diagnose,  
10 service, repair, activate, certify, or install any  
11 equipment in a motor vehicle.

12 Section 20. Exemptions. Nothing in this Act requires a  
13 motor vehicle manufacturer to divulge information that is a  
14 trade secret. No information may be withheld by a manufacturer  
15 on the ground that it is a trade secret if that information is  
16 provided, either directly or indirectly, to an authorized  
17 dealer or authorized motor vehicle repair facility.

18 Section 25. Civil remedies.

19 (a) A person who suffers actual damage as a result of any  
20 violation of any provision of this Act may bring a civil action  
21 against the person committing the violation in accordance with  
22 the Consumer Fraud and Deceptive Business Practices Act to  
23 enforce that provision. The action may be commenced in the  
24 county in which the person against whom it is brought resides,

1 has his or her principal place of business, or is doing  
2 business, or in the county where the transaction or any  
3 substantial portion thereof occurred. All remedies and rights  
4 granted to a consumer by the Consumer Fraud and Deceptive  
5 Business Practices Act shall be available to the consumer  
6 bringing such an action. The remedies and rights provided for  
7 in this Act are not exclusive, but cumulative, and all other  
8 applicable claims, including, but not limited to, those brought  
9 under the doctrine of equitable mortgage, are specifically  
10 preserved.

11 (b) Any person who violates this Act, in addition to any  
12 other penalty provided by law, is liable for a penalty of not  
13 more than \$10,000 for the first offense and not more than  
14 \$20,000 for each subsequent offense, plus attorney's fees.

15 (c) A violation of any provision of this Act constitutes an  
16 unlawful practice under the Consumer Fraud and Deceptive  
17 Business Practices Act. All remedies, penalties, and authority  
18 granted to the Attorney General or a State's Attorney by the  
19 Consumer Fraud and Deceptive Business Practices Act shall be  
20 available to him or her for the enforcement of this Act.

21 Section 30. The Consumer Fraud and Deceptive Business  
22 Practices Act is amended by changing Section 2Z as follows:

23 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

24 Sec. 2Z. Violations of other Acts. Any person who knowingly

1 violates the Automotive Repair Act, the Automotive Collision  
2 Repair Act, the Home Repair and Remodeling Act, the Dance  
3 Studio Act, the Physical Fitness Services Act, the Hearing  
4 Instrument Consumer Protection Act, the Illinois Union Label  
5 Act, the Job Referral and Job Listing Services Consumer  
6 Protection Act, the Travel Promotion Consumer Protection Act,  
7 the Credit Services Organizations Act, the Automatic Telephone  
8 Dialers Act, the Pay-Per-Call Services Consumer Protection  
9 Act, the Telephone Solicitations Act, the Illinois Funeral or  
10 Burial Funds Act, the Cemetery Oversight Act, the Cemetery Care  
11 Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery Sales  
12 Act, the High Risk Home Loan Act, the Payday Loan Reform Act,  
13 the Mortgage Rescue Fraud Act, subsection (a) or (b) of Section  
14 3-10 of the Cigarette Tax Act, subsection (a) or (b) of Section  
15 3-10 of the Cigarette Use Tax Act, the Electronic Mail Act, the  
16 Internet Caller Identification Act, paragraph (6) of  
17 subsection (k) of Section 6-305 of the Illinois Vehicle Code,  
18 Section 18d-115, 18d-120, 18d-125, 18d-135, or 18d-150 of the  
19 Illinois Vehicle Code, Article 3 of the Residential Real  
20 Property Disclosure Act, the Automatic Contract Renewal Act, ~~or~~  
21 the Personal Information Protection Act, or the Motor Vehicle  
22 Owners Right To Repair Act commits an unlawful practice within  
23 the meaning of this Act.

24 (Source: P.A. 95-413, eff. 1-1-08; 95-562, eff. 7-1-08; 95-876,  
25 eff. 8-21-08; 96-863, eff. 1-19-10.)

26 Section 99. Effective date. This Act takes effect upon



1 becoming law.