



**House
Legislative
Analysis
Section**

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REGULATE APPLIANCE SERVICE DEALERS

House Bill 5833

Sponsor: Rep. Lyn Bankes

Committee: Regulatory Affairs

Complete to 9-6-96

A SUMMARY OF HOUSE BILL 5833 AS INTRODUCED 5-1-96

The bill would create a new act to regulate appliance service dealers, who would be defined as those repairing, servicing, or maintaining appliances for compensation. Under the bill, an "appliance" would mean a refrigerator, freezer, oven, range, microwave oven, washer, dryer, dishwasher, trash compactor, room air conditioner, or other similar device normally used or sold for personal, family, or household use. The bill would establish regulations for, among other things, written estimates, warranties, advertisements, penalties for violations of the bill, and civil actions by consumers and the Michigan attorney general. Specifically, the bill would do the following:

Unless prior approval from the customer had been obtained, the bill would prohibit a person other than a service dealer from doing any work on an appliance. All parts removed from an appliance would have to be returned to the customer. However, a repair person could keep parts that had a core charge, exchange rate, or that contained hazardous material as long as the customer was provided with a written statement on the final bill describing the reason the part was not returned. A dealer utilizing used parts would have to state that fact to a customer. In addition, service and repair records, including each record of parts and purchase order, would have to be kept by the dealer for one year. Copies would have to be provided to customers upon request and payment of a reasonable copy charge.

A service dealer would have to display a sign in a conspicuous place in his or her shop stating the rights of customers under the bill. The sign would have to include at least the following information:

- *The right to a written estimate.
- *The right to not pay for repairs that were not requested and to inspect replaced parts.
- *The right to a detailed bill stating the price of parts and labor and the existence of warranties.
- *The right to a warranty from the service dealer on parts and labor.

Written estimates. Before accepting an appliance for repair, maintenance, or service, a service dealer would have to make a written estimate of the cost that would include a breakdown of parts and labor. A customer could approve the estimate by signing it. Approvals made by telephone would have to be noted on the estimate and if possible, a signature would have to be obtained later. A dealer would be prohibited from charging a higher price than estimated for parts and labor unless he or she had obtained the oral or written permission of the customer. Any

modification of the estimated charges would also have to be approved orally or in writing, and would have to be noted on the estimate and the bill.

An estimate would have to provide the following:

*A description of the problem or the maintenance procedure desired by the customer.

*Any charge for labor or parts relating to the examination or diagnosis of the problem. (The bill would permit a repair person to charge a reasonable fee for any labor performed in examining the appliance and diagnosing any problems. If the appliance had to be dismantled in order to diagnose the problem, the written estimate would have to include the cost of dismantling and reassembling the appliance as well as the cost of any parts that would be destroyed or rendered inoperable by the procedure.)

*A description of any repair that deviated from industry standards or what was indicated in the owner's manual.

*The cost of work performed by a person other than the service dealer.

*The cost of removing and returning the appliance from and to the customer's premises.

*A description of the method of computing the labor charge. For flat rates, the estimate would have to indicate the source of the calculation and the estimated time of completing the repair or service.

Claim checks. Claim checks would have to be given at any time an appliance was removed from a customer's premises or dropped off at the dealer's place of business. Claim checks would have to include the business name, address, and telephone number and the place the repair or service would occur; the name of the person receiving the appliance to be repaired and the date; the model and serial numbers and a description of the appliance; the customer's name, address, and telephone number; and the name of the person removing the appliance and the charge for removal or installation, if any. The claim check would also have to include a statement in 12-point boldfaced type that substantially conformed to the following:

A written estimate shall be given to the customer by the service dealer. The service dealer shall not charge for work done or parts supplied in excess of the estimate without the prior written or oral consent of the customer.

The claim check could be combined with the estimate as long as all required information was contained on the document.

Warranties. The bill would require repair persons to give warranties of 90 days on labor and 120 days on parts. Warranties would have to be in writing and given to the customer along with or as part of the final bill. Provisions in the bill would not void, reduce, or supersede a service contract or manufacturer's warranty. If a customer notified a service dealer in writing within the warranty period, the dealer would have to correct the initial repair without charge. This subsequent repair would have to be made within 10 days of notification by the customer unless any needed parts were not received in time. The dealer would have to record the date the parts were ordered.

A warranty could be honored by reimbursing the customer for the service or repairs. Warranties would be extended by any period of time that the dealer had possession of the appliance to do work covered by the warranty. Warranties would exclude damage caused by abuse, negligence, theft, vandalism, fire, or other casualty loss.

Advertising. Advertisements would have to contain the business name, address, and telephone number as listed in the local telephone directory. Ads also would have to contain certain representations made by the business as specified in the bill. A business advertising 24-hour service would have to provide such service; an answering service that relayed messages for scheduling service calls at a later time would be excluded.

Final bill. The final bill would have to identify which parts used in the repair were new and which were used. Any warranty by the supplier of a part or appliance manufacturer would have to be listed on the final bill. If the existence of a warranty was not known by the repair person, he or she would have to record that on the bill, too. Also, the final bill would have to detail in writing the final total charge and the breakdown of the following charges:

*Service call charges.

*Time spent and the hourly rate for charges for in-home service calls and labor in the repair shop.

*Parts charge, whether the parts were new or used, and OEM number of the parts. [Note: "OEM" is not defined in the bill.]

*Other charges, stated in detail.

*Sales tax.

Employee compensation. A service dealer would be prohibited from compensating an employee, partner, or officer based on the value, cost, quantity, or type of parts replaced; the part or component serviced; or the cost of labor charged to the customer.

Penalties. The following would be prohibited and subject to civil actions:

*Knowingly (or that should be known by reasonable care) making untrue or misleading statements or advertisements.

*Making a false promise that would be likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of an appliance.

*In a transaction, acting for more than one customer without the knowledge or consent of all parties.

*Committing a fraudulent or dishonest act that includes, but would not be limited to, replacing a part that was not broken or defective or falsely representing that parts had been replaced or labor had been performed.

*Providing services in an incompetent or negligent manner.

*Willfully departing from or disregarding accepted trade standards for good and workmanlike repair.

*Failing to comply with the bill's requirements in a material respect.

Remedies. The bill would allow a person to bring a civil suit against a service dealer to enforce the bill's provisions. The court would have to award twice the amount of damages if it found that the violation had been willful. A person could also seek relief through an injunction to require the repair person to comply with the bill's requirements. Attorney fees would be awarded to the person if he or she prevailed in a lawsuit or was successful in an action to obtain an injunction.

In addition, the attorney general could bring an action under provisions of the Michigan Consumer Protection Act (MCL 445.901 to 445.922) for any willful act or omission that he or she considered to be an unfair, unconscionable, or deceptive method, act, or practice in the conduct of trade or commerce as defined in that act. Further, remedies under the bill would be cumulative and independent; the bill would specify that a person or the department of attorney general could use more than one remedy to seek relief.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.