

Senate Fiscal Agency
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SFA**BILL ANALYSIS**

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Senate Bill 217 (as enrolled)
Sponsor: Senator Bill Bullard, Jr.
Committee: Local, Urban and State Affairs

Date Completed: 1-18-02

RATIONALE

According to an article in the *Detroit News* (8-16-01), the Attorney General's office launched an investigation after receiving repeated complaints about deceptive business practices against an appliance repair service company in Farmington Hills. The office learned that in the past 20 years, a consumer fraud investigator for the City of Detroit had heard over 2,000 complaints against the company. The article reports that three of the company's technicians were charged with misdemeanors for breaking good appliances and billing customers for service never performed. The three technicians allegedly were filmed breaking equipment, overcharging customers, and exaggerating the extent of the appliance problem. Many people believe that regulation of the appliance repair industry is necessary to protect consumers from such deceptive and unethical business practices.

CONTENT

The bill would create the "Appliance Repair Act" to require a service dealer to provide a written estimate approved by the customer before performing any repair, service, or maintenance on an appliance; require a service dealer to provide a 30-day labor warranty; and allow a customer to bring an action for damages against a service dealer resulting from a false statement or failure to comply with the bill's disclosure requirements. The bill would take effect June 1, 2002.

("Appliance" would mean a refrigerator, dehumidifier, freezer, oven, range, microwave oven, washer, dryer, dishwasher, trash compactor, or window room air conditioner.)
Estimate

The bill would require a service dealer to make a written estimate of the cost of the repair, service, or maintenance before repairing, servicing, or performing maintenance on an appliance. The customer would have to approve the estimate by signing it or verbally approving it via telephone, or by any other equivalent method. If the customer approved the estimate by a telephone call or an equivalent method, the service dealer would have to indicate that on the estimate and, if possible, obtain the customer's signature at a later time. A service dealer could not charge over 110% of the amount noted in the written estimate unless the service dealer received the customer's verbal or written permission.

A written estimate or attached documentation would have to provide all of the following:

- The service dealer's name, mailing address, and telephone number. If the mailing address were not a street address, then the estimate would have to include the dealer's street address.
- A description of the problem requiring service, repair, or maintenance or the maintenance procedure desired by the customer.
- Any charge for labor to be performed or parts to be installed, each stated separately. The estimate would have to state the hourly rate, if any, or flat rate, by which the labor charge was determined.
- The cost for removing the appliance from and returning it to the customer's premises, if applicable.

A service dealer could charge a fee, as indicated in the written estimate, for any labor performed in examining the appliance and diagnosing any problems. If the appliance

required dismantling as part of the diagnosis, the service dealer would have to include in the estimate the cost of dismantling and reassembling the appliance and the cost of any parts that would be destroyed or rendered inoperable by the dismantling and reassembly.

Final Bill

The final bill would have to state in writing the name and address of the service dealer, service call charges, labor charge, service dealer's labor warranty, parts charge (including whether the parts were new or used, and the actual part number and manufacturer), warranty provided by the supplier of the part (or the fact that there was no supplier's or manufacturer's warranty on the part or that the dealer knew of none), other charges, and the sales tax.

In addition, the final bill would have to include a statement that the customer, in order to enforce any warranty provided by the bill, would be required to notify the service dealer in writing by the time period of the warranty for the part or labor. The final bill also would have to state the right of a consumer to bring an action.

Warranty

A service dealer would have to provide a warranty for at least 30 days on the dealer's labor regarding the repair of the appliance. The bill states that this would not void, reduce, or supercede a warranty made by the manufacturer of the appliance and would not void any provisions of a service contract that covered it.

A warranty would require the service dealer to correct, at no cost to the customer, any failure of the warranted parts if the customer notified the service dealer in writing within the applicable warranty time period. A service dealer would have to make a warranted correction within 10 days after receiving the written notice of the failure, unless the dealer did not receive parts that had been ordered in a timely manner. The service dealer would have to make a written record of ordering those parts.

A service dealer could impose a labor charge upon receiving a written notice of failure from a customer after the 30-day labor warranty

described above. A warranty issued under the bill for service would be extended by any period of time the service dealer had possession of the appliance for work related to the warranty.

Violations

A service dealer who made a false statement of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of an appliance or who failed to comply substantially with the bill's disclosure requirements would be in violation of the bill.

A person could bring an action in a court of competent jurisdiction for damages resulting from a violation of the bill in the amount of his or her actual damages or \$250, whichever was greater, together with reasonable attorney fees. The court could award up to twice the amount of damages if it found that the violation was willful.

The bill states that it would not prohibit the Attorney General, a prosecuting attorney, or a person who had suffered a loss as a result of a violation of the bill from bringing an action pursuant to the Michigan Consumer Protection Act, for any act or omission relative to the bill.

The remedies under the bill would be cumulative and independent. The use of one remedy by a person or the Department of Attorney General would not bar the use of other lawful remedies, including injunctive relief, by that person or the Department.

Other Provisions

The bill states that it would not prohibit a service dealer from charging for a service call or combining a written estimate with the final bill into the same document.

A service dealer would have to return all parts removed from an appliance to the customer, unless the customer declined, in writing, to receive a removed part.

A service dealer could retain any part that had a core charge or exchange rate, or contained hazardous material or was returned to the manufacturer as required by the manufacturer's warranty, if the dealer gave the customer, at the completion of the repair,

service, or maintenance, a written statement on the final bill describing the reason for retaining the part.

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

By requiring appliance repair service dealers to provide certain performance guarantees such as detailed written estimates and 30-day labor warranties, as well as allowing a customer to bring an action for damages against a repair service dealer for false statements, the bill would ensure consumers greater protection from unscrupulous appliance repair service dealers. In addition, the bill would regulate the appliance repair industry practices to minimize deception and fraud within the industry.

Response: The bill would do little, if anything, to combat the “bad operators” in the appliance repair business. The proposed protections would be similar to those currently available under the Michigan Consumer Protection Act.

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have an indeterminate fiscal impact. The number of potential violations under the provisions of the bill cannot be estimated. The Department of Attorney General reports that in FY 1999-2000, there were 19 complaints filed with its Consumer Protection Division regarding appliance repair.

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.