

Spring/Summer 2000  
Vol. 20, Issue 1

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Secretary of State*

**Internet home page**  
[www.michigan.gov/sos](http://www.michigan.gov/sos)

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## Invoice language may be deceptive practice

The Bureau of Automotive Regulation's legal advisors recently concluded that language which limits the consumer's right to remedies prescribed by law is considered an unfair and deceptive practice under Michigan law.

Using invoices which contain language such as "Disputes arising out of alleged breach of the repair order shall be settled by binding arbitration pursuant to the rules of the American Arbitration Association" or similar terminology, as well as "each party shall bear its own costs, including legal fees" is an unfair and deceptive practice.

Such arbitration language violates the Motor Vehicle Service and Repair Act and Administrative Rules on several grounds. Section 36 (MCL 257.1336) allows a customer to recover damages plus attorney fees and costs. Rule 31(1)(a) prohibits contracts which use a waiver to circumvent or evade the Motor Vehicle Service and Repair Act. Rule 31(2)(c) prohibits repair facilities from entering "into a contract which attempts to abrogate, disclaim, or disallow legal rights, obligations, or remedies of a customer." And Rule 31(2)(f) prohibits any "attempt to avoid or evade

the law through a contract or any provision thereof."

If your invoices contain such language (on the front or back), you should strike out the language or replace the invoices to avoid the issuance of violation notices. Most invoice suppliers have been notified that this type of language is illegal and have made modifications. Before ordering new invoices, contact your supplier to make sure such language is not printed on the form.

If you have questions regarding language used on your invoices, you may contact the Repair Program Section at (517) 373-9063. 

## Body shop inspections uncover misunderstanding of requirements about invoices, part record, etc.

Inspectors who perform body shop inspections are finding that many body shop owners and managers do not understand some of the basic requirements of the law. Most often issued violations include: improper invoices given to customers, failure to have/maintain a major component part record, and violation of the mechanic certification requirements.

### Invoices

Invoices must contain a signature from a representative of the facility which certifies that all repairs were performed properly. In the event repairs cannot be performed properly, the invoice must contain language

which clearly explains the inability to perform the repair properly. The name and certification number of the person performing the repair must be on the invoice as well. A complete list of invoice requirements can be found in the **Repair Facility Manual, Chapter 6, Section 6-1.2(g)**.

### Major Component Part Record

Since October 1, 1989, repair facilities doing body work have been required to maintain a **Major Component Part Record** if they acquire used, late model major component parts.

See "Body Shops," Page 2

# Body shops required to follow letter of law

Continued from Page 1

Late model major component parts are those parts which are removed from a vehicle manufactured in the current model year or in the five prior model years. Vehicles weighing more than 8,000 pounds are considered late model if manufactured in the current or 15 prior model years. Major component parts are identified as:

- Engine
- Transmission
- Front fender (left or right)
- Hood
- Doors
- Bumper (front or rear)
- Quarter panel (right or left)
- Deck lid, tail gate, or hatch back
- Trunk floor pan
- Cargo box of a pickup
- Frame, or if the vehicle has a unitized body, the structure that serves as the frame
- Cab of a truck
- Body of a passenger vehicle

## Here's a hint: post information

To avoid being issued violation notices, make sure required information is posted at your repair facility. BAR investigators and inspectors will routinely check for the **consumer information sign** and that the parts return information is posted on a sign or imprinted on your repair invoices. If you are not sure what signs are needed or the exact wording required, check your **Repair Facility Manual**. This information can be found in **Appendix A** and **Appendix C**. A list of businesses which furnish consumer information signs is available on the **BAR's web site**, [www.sos.state.mi.us/bar](http://www.sos.state.mi.us/bar), from Fax on Demand at (517) 335-4FAX, or by calling (517) 373-9063.

Remember, the major component part record, as well as other parts purchase invoices, repair invoices, and estimates, must be made available for inspection upon request. You are required to keep all repair records for five years from the transaction date.

### Mechanic Certification

Inspectors are also finding that mechanic certification requirements are often misunderstood, and even ignored in some cases. The law requires all persons performing major repairs on motor vehicles to be certified by the State of Michigan. The certification categories typically needed by most body shop employees (including persons who write estimates) are collision-related mechanical repair and unitized body structural repair.

Lack of proper mechanic certification is a serious violation which could lead to disciplinary action, including financial penalties being assessed against the repair facility.

Collision repair training and certification from private organizations for body shop technicians is excellent and highly regarded, but the law still requires technicians to pass the state test and become state-certified.

For those who may be unable to pass the certification test immediately, a person may make application to the Bureau of Automotive Regulation for a **Mechanic Trainee Permit**. A trainee may perform major repairs on motor vehicles if the work is supervised by a properly certified mechanic.

To obtain more information about certification, visit our web site at [www.michigan.gov/sos](http://www.michigan.gov/sos), or telephone (517) 373-9460. 

## Caution: Using slim jims with side airbags

Before using a "slim jim" to unlock your customer's vehicle, consider the information contained in the following article from MADA FAX FACTS (October 22, 1999, Vol. 2, No. 36): [Side Airbag & Slim Jims; A Possible Deadly Combination.](#)

"The Federal Bureau of Investigation has issued a warning about the use of 'slim jim' devices with vehicles that contain side-impact airbags:

DEA advises they have received officer safety alerts from various law enforcement agencies which indicate that at least three law enforcement officers were killed using 'slim jim' devices to enter locked vehicles with side-impact airbags. Inadvertent deployment of the airbag can cause the device to be launched upward with a force so great that it can penetrate the chin and become lodged in the brain.

As a result of this disturbing possibility, we should change the way we handle vehicle unlocks. Agents should now ask if the vehicle is equipped with side impact airbags and if the answer is 'yes' or there is any uncertainty, you should not attempt to unlock the vehicle. It is believed that 1996 is the earliest year vehicles were equipped with side impact airbags."

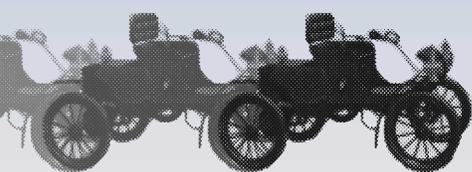


## Waivers: Method to comply with written estimate requirement

Michigan's Motor Vehicle Service and Repair Act requires a repair facility to give a customer a written estimate before performing any diagnosis or repair that will cost \$20 or more. All estimates must list the price for labor and parts, the parts that will be used, whether the parts are new, used or rebuilt, and the approximate number of hours needed to perform the work. A repair facility may not exceed the written estimate by more than \$10 or 10 percent (whichever is less) without getting the customer's authorization to do so.

At the option of the customer, a waiver of estimate may be used in place of the written estimate. The waiver must be in the form prescribed by law (see [Waivers, Chapter 4 of the Repair Facility Manual](#)), and be signed by the customer. A repair facility cannot make a waiver a condition of doing business.

A written estimate can be the most important aspect of a repair transaction. The estimate is an agreement or "contract" between the facility and the customer. The bureau's position in any complaint involving "no written estimate" is that the customer may be entitled to a refund of all monies paid over \$19.99.



## Garages must follow procedures when filing for a Garage Keepers Lien

Some garage owners have successfully used the Garage Keeper's Lien Act to obtain ownership of a vehicle when a repair bill has been unpaid. The Garage Keeper's Lien Act was enacted to provide an avenue for repair facility owners to collect delinquent repair bills.

If a dispute arises between a consumer and the garage owner and the consumer elects to file a complaint with BAR, it is possible that a block will be placed on the lien if a violation of the [Motor Vehicle Service and Repair Act](#) has been committed.

To prevent such an action, garage owners **must** follow the requirements of the Repair Act.

Current procedures include critical time constraints. If you do not follow the Garage Keeper's Lien (GKL) guidelines, your application cannot be processed. Also, the vehicle must be in the possession of the garage owner. If the customer has already retrieved the vehicle from the facility, the GKL application cannot be processed.

To file a garage keeper's lien, follow these steps:

1. Telephone **(517) 322-1473** to request the proper application from the Department of State, Bureau of Driver and Vehicle Records.
2. Return the application with an itemized repair bill and a check for \$10 to the address given. If your application is complete, a TR-42 (Certificate of Foreclosure of Garage Keeper's Lien and Bill of Sale) will be issued to you.
3. Send a certified letter to the owner(s) of record named by the Department of State on the TR-42. The letter must be addressed to all parties listed as owners, and must contain: 1) notice of claim against the vehicle; 2) vehicle identification number; 3) vehicle description; 4) copy of the invoice for repairs; and 5) time limit of 45 days to pay the bill.
4. On the same day the above letter is sent to the owner(s) of the vehicle, a copy must be sent to the Michigan Department of State, Bureau of Automotive Regulation, Lansing, MI 48918; and to any prior lienholder noted on the vehicle's title record.
5. Wait 45 days. Sale of the vehicle must be held not less than 20 days and not more than 60 days after the expiration of the 45-day period.
6. At least 30 days before the sale, send a certified letter to the owner(s) which specifies a sale date. A copy of this sale notice must be sent to any lienholder identified on the TR-42; an additional copy must be sent to the Michigan Department of State, Bureau of Driver and Vehicle Records, Out-of-State Resident Services Unit, 7064 Crowner Drive, Lansing, MI 48918. The sale notice must contain: 1) GKL case number; 2) VIN; 3) vehicle description; and 4) time, date, and place of sale.
7. Sell the vehicle at the time, date and place specified in the sale notice.
8. Complete the TR-42 and take it to a Secretary of State branch office to apply for a title.

Since the law states that the vehicle may be detained no more than 120 days, this must all be done within the 120-day limit, which begins the date repairs are completed. 

**Warning!** Do not alter documents when filing for a GKL. Changing dates or names on your invoices after finding that completion of the process within the 120-day time limit is not possible is against the law and could result in disciplinary as well as criminal action.

## Brake rotor specifications vary, cause confusion

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The Bureau of Automotive Regulation's (BAR) investigations of complaints involving brake repairs indicate that many technicians are confused regarding "**Machine to**" and "**Discard at**" specifications for rotors. Some rotors have specifications for both, while others do not. Following is information concerning both specifications.

When machining a rotor to provide a proper braking surface, the rotor may be cut to the "machine to" specification. If, while measuring a rotor, it measures below the "discard at" specification, the technician must recommend replacement. If the rotor measures somewhere between the two specifications and resurfacing is necessary, recommending replacement of the rotor is still appropriate because the rotor is beyond the machinable limit.

*What if the only specification given is the "discard at" specification?* This is often the cause of confusion. Auto manufacturers and suppliers of rotors have established a safe minimum thickness for their product. These specifications are based on the ability of the rotor to satisfactorily dissipate heat and stop the vehicle safely. When looking for the intended meaning of the term, we turn to the automobile manufacturers as well as experts in the repair industry. One of the most widely recognized groups of experts is an association called the Motorist Assurance Program (MAP). MAP is made up of over one hundred of the best known names in the auto manufacturing and repair industry.

MAP has determined that when no "**machine to**" specification is listed, a

rotor may be machined to the "**discard at**" specification. Some mechanics believe in adding an arbitrary measurement to a "discard at" specification and stopping the machining process at that point. This is unnecessary and inappropriate for several reasons. **First**, all rotors are not manufactured identically. Due to the vast difference in vehicle size, weight, manufacturer, etc., rotors differ drastically in size and weight. Therefore, the reserve needed for an Escort rotor will differ significantly from a Crown Victoria. **Second**, if you compare the difference in the "**machine to**" specification and the "**discard at**" specification for vehicles that have both specifications, the specification varies from .012 to .040 inches. Consequently, MAP does not recommend adding an arbitrary figure such as .030 to the "discard at" measurement.

*What about rotor refacing during a brake pad replacement?* When new pads are installed, some technicians reface the rotors to ensure a "fresh" braking surface. This practice is no longer recommended. Because technicians are dealing with composite rotors and their greater susceptibility to noise and pulsation complaints, manufacturers have concluded that rotors should not be refaced unless there is pulsation, surface corrosion or excessive grooving.

This topic has been addressed in various bulletins from the vehicle manufacturers over the last few years. Machining to clean up corrosion on the braking surface is okay, but not for superficial reasons. 

## Repair shops that buy, sell vehicles must have state dealer license

A motor vehicle repair facility is not authorized to buy and sell vehicles—not even rebuilt vehicles—simply because it is registered in Michigan, nor is a facility authorized to sell used, late model major component parts "over the counter," either at wholesale or retail. Only a state-licensed vehicle dealer may engage in these activities.

A repair facility may buy a vehicle to take apart and use its parts to repair other cars.

A facility need not be a licensed vehicle dealer if its sale of major component parts is only to make repairs on its customers' vehicles, but if the parts are sold separately (*not as part of a repair by the facility*), the facility must be a Class "C" used vehicle parts dealer.

For example, a body shop buys a salvaged vehicle and removes one or more major component parts, can the shop sell the remaining portion of the vehicle without being licensed as a vehicle dealer? Yes, if they sell it to: 1) a used vehicle parts dealer; 2) a distressed vehicle transporter; 3) another registered body shop; 4) a scrap metal processor; or 5) a foreign (*out-of-state*) salvage vehicle dealer.

A repair facility must be a licensed Class "B" used vehicle dealer to sell a whole salvage vehicle or a rebuilt vehicle. A "B" dealer must have all rebuilt vehicles inspected and titled as rebuilt before selling the vehicle.

To apply for either a used vehicle or used parts dealer license, contact BAR's Licensing Section at (517) 373-9460.

## Repair Program Section disciplinary actions

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Since the last issue of *B.A.R. News*, the bureau has taken disciplinary actions resulting in **one** repair facility license being suspended, **four** repair facilities entering into probation agreements, **three** mechanic licenses being suspended, and **one** mechanic entering into a probation agreement. In addition, the Attorney General took action against **nine** repair facilities that continued to operate without renewing their registrations.

### Repair Shop Actions

The following repair facilities, charged with violations of the law, were given penalties as noted:

**Lentz USA Service Center** (F114845), 2951 Stadium Drive, Kalamazoo, 24 month probation, \$5,500 penalty. **Charges:** performed unnecessary repairs, violated the terms of an Assurance of Discontinuance.

**G S Collision** (F136010), 3806 Arlene Avenue, Flint, suspension of license until Rescission Order received from court. **Charges:** Non-Compliance with the Support and Parenting Time Enforcement Act.

**Ultimate Warranty Company** (F148298), 33137 Groesbeck, Fraser, 24 month probation, \$625 penalty.

**Charges:** made written or oral untrue or misleading statement of a material fact (3 counts), performed repairs without a properly certified mechanic (2 counts).

**Kelly Buick Jeep Eagle GMC Truck, Inc.** (F105486), 445 N. Cedar, Mason, 18 month probation, \$2,300 penalty, \$433 restitution to consumer. **Charges:** performed unauthorized repairs or exceeded estimate without consumer authorization, failed to do repairs in promised or reasonable period of time, improper invoice (3 counts).

**Simon's Auto Service** (F146375), 27375 Eureka Rd., Taylor, entered into a 24-month probation, \$1,080 penalty. **Charges:** violated terms of Assurance of Discontinuance, performed repairs without properly certified mechanic, failed to reveal a material fact (2 counts), improper invoice (2 counts).

*During the same period, nine repair facilities signed Assurances of Discontinuance.*

### Mechanic Actions

The following mechanics, charged with violations of the law, were given penalties as noted:

**Marvin E. Foor** (M141951), 1333 Munger Rd., Munger, suspension of mechanic license until Rescission Order received from court. **Charges:** Non-compliance with the Support and Parenting Time Enforcement Act.

**Gordon R. Magness** (M205846), 3806 Arlene Avenue, Flint, suspension of mechanic license until Rescission Order received from court. **Charges:** Non-compliance with the Support and Parenting Time Enforcement Act.

**Dennis J. Kiroff** (M195980), 23303 Crystal Drive, Clinton Township, suspension of mechanic license until Rescission Order received from court. **Charges:** Non-compliance with the Support and Parenting Time Enforcement Act.

**Ali N. Baydoun** (M200759), 6345 Middlesex, Dearborn, entered into a 24-month probation, \$225 penalty. **Charges:** violated terms of Assurance of Discontinuance, performed or inspected and approved repairs without proper mechanic certification.

*During the same time period, four mechanics signed Assurances of Discontinuance.*

### Actions by Attorney General

The Bureau of Automotive Regulation and the Attorney General's Office have joined forces once again to bring unregistered repair facilities into

compliance with the law. The following facilities entered into Assurance of Discontinuance agreements and paid the penalties listed:

**Lou's Body Shop**, 15018 Houston Whitter, Detroit, \$800 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**D & G Auto Center**, 810 Gull Rd., Kalamazoo, \$500 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**M 82 Automotive**, 8878 E. 88th St., Howard City, \$275 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Michigan Rod & Custom**, 23100 Dequindre, Warren, \$537.50 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Corey's Enterprise LTD**, 5750 W. Jefferson, Trenton, \$487.50 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Cobra Car Care**, 28016 Groesbeck, Roseville, \$2,250 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Reno's Auto Service**, 1211 S. Monroe St., Monroe, \$800 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Muffler Man**, 12335 Elm Rd, Lake Odessa, \$1,800 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration.

**Lee's Auto & Truck Repairs**, 2403 Griswold St., Port Huron, \$1,925 registration renewal fees and penalties. **Charges:** continued to operate without renewing repair facility registration. 🏍️

## BAR provides Internet business options

Have you visited **BAR's web page**? The page has valuable information for **consumers, repair facilities and mechanics**.

Mechanics preparing for certification tests will find useful information under the headings "**Mechanic Study Guide Materials**" and "**Mechanic Reference Materials**." Individuals interested in becoming a **mechanic trainee** will find an application which can be printed.

The **Repair Facility Manual** and past issues of this **newsletter** are available on the web page. **Repair facility registration applications** are also available for businesses interested in registering to perform repairs on motor vehicles.

A new web page was recently introduced. It has an all-new look and additional information. The address is: **[www.michigan.gov/sos](http://www.michigan.gov/sos)**

## Low-speed vehicles allowed on some Michigan roadways under new law

Gov. John Engler recently signed into law bills that will permit low-speed electric vehicles to be operated on certain Michigan roadways with a 35 mph speed limit. The law takes effect July 1, 2000.

A low-speed electric vehicle is defined as an electrically-powered vehicle with a capacity of not more than four persons including the driver, weighing 2,200 pounds or less, and equipped with certain equipment, including: head lamps, front and rear turn signals, tail lamps, stop lamps, red reflex reflectors, driver side exterior mirror and either a passenger side exterior mirror or an interior mirror, parking brake, windshield, vehicle identification number, and a seat belt assembly for each designated seating position.

Persons riding in or driving a low-speed electric vehicle must wear a crash helmet unless the vehicle is equipped with a roof that meets or

exceeds standards for roof-crush resistance, as provided under federal law. These vehicles will be titled and registered for use on the highway like any other motor vehicle. Persons buying, selling, or brokering these vehicles must be licensed dealers and hold the appropriate franchise if selling new vehicles. These vehicles are also subject to the Motor Vehicle Service and Repair Act which requires facility registration and mechanic certification to perform major repairs. Persons driving low-speed electric vehicles must be licensed drivers and the vehicles must be covered by no-fault insurance. Drivers are subject to licensing sanctions including the new repeat offender registration denial sanctions for multiple alcohol violations.

Dealers are invited to telephone the Bureau of Automotive Regulation at (517) 373-9460 with questions about licenses required to buy, sell, or repair low-speed electric vehicles. 

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