

**13:45A-26C.2 Deceptive practices; automotive repairs**

(a) Without limiting the prosecution of any other practices which may be unlawful under the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq., the following acts or omissions shall be deceptive practices in the conduct of the business of an automotive repair dealer, whether such act or omission is done by the automotive repair dealer or by any mechanic, employee, partner, officer or member of the automotive repair dealer:

1. Making or authorizing in any manner or by any means whatever any statement, written or oral, which is untrue or misleading, and which is known, or by which the exercise of reasonable care should be known, to be untrue or misleading.

2. Commencing work for compensation without securing one of the following:

i. Specific written authorization from the customer, signed by the customer, which states the nature of the repair requested or problem presented and the odometer reading of the vehicle; or

ii. If the customer's vehicle is presented to the automotive repair dealer during other than normal working hours or by one other than the customer, oral authorization from the customer to proceed with the requested repair or problem presented, evidenced by a notation on the repair order and/or invoice of the repairs requested or problem presented, date, time, name of person granting such authorization, and the telephone number, if any, at which said person was contacted.

3. Commencing work for compensation without either:

i. One of the following:

(1) Providing the customer with a written estimated price to complete the repair, quoted in terms of a not-to-exceed figure; or

(2) Providing the customer with a written estimated price quoted as a detailed breakdown of parts and labor necessary to complete the repair. If the dealer makes a diagnostic examination, the dealer has the right to furnish such estimate within a reasonable period of time thereafter, and to charge the customer for the cost of diagnosis. Such diagnostic charge must be agreed to in advance by the customer. No cost of diagnosis which would have been incurred in accomplishing the repair shall be billed twice if the customer elects to have the dealer make the repair; or

(3) Providing the customer with a written estimated price to complete a specific repair, for example, "valve job"; or

(4) Obtaining from the customer a written authorization to proceed with repairs not in excess of a

specific dollar amount. For the purposes of this subchapter, said dollar amount shall be deemed the estimated price of repairs; or

(5) If the customer waives his right to a written estimate in a written statement, signed by the customer, obtaining from the customer oral approval of an estimated price of repairs, evidenced by a notation on the repair order or invoice of the estimated price of repairs, date, time, name of person approving such estimate, and the telephone number, if any, at which such person was contacted; or

ii. If the customer's vehicle is presented to the automotive repair dealer during other than normal working hours or by one other than the customer, obtaining from the customer either:

(1) A written authorization to proceed with repairs not in excess of a specific dollar amount. For the purposes of this subchapter, said dollar amount shall be deemed the estimated price of repairs; or

(2) Oral approval of an estimated price of repairs evidenced by a notation on the repair order or invoice of the estimated price of repairs, date, time, name of person approving such estimate, and the telephone number, if any, at which such person was contacted.

4. Failure to provide a customer with a copy of any receipt or document signed by him, when he signs it.

5. Making deceptive or misleading statements or false promises of a character likely to influence, persuade or induce a customer to authorize the repair, service or maintenance of a motor vehicle.

6. Charging the customer for work done or parts supplied in excess of any estimated price given, without the oral or written consent of the customer, which shall be obtained after it is determined that the estimated price is insufficient and before the work not estimated is done or the parts not estimated are supplied. If such consent is oral, the dealer shall make a notation on the repair order and on the invoice of the date, time, name of person authorizing the additional repairs and the telephone number called, if any, together with a specification of the additional parts and labor and the total additional cost.

7. Failure to return replaced parts to the customer at the time of completion of the work provided that the customer, before work is commenced, requests such return, and provided that the parts by virtue of their size, weight, or other similar factors are not impractical to return. Those parts and components that are replaced and that are sold on an exchange basis, and those parts that are required to be returned by the automotive repair dealer to the manufacturer or distributor, are exempt from the provisions of this section.

8. Failure to record on an invoice all repair work performed by an automotive repair dealer for a customer,

itemizing separately the charges for parts and labor, and clearly stating whether any new, rebuilt, reconditioned or used parts have been supplied. A legible copy shall be given to the customer.

9. The failure to deliver to the customer, with the invoice, a legible written copy of all guarantees, itemizing the parts, components and labor represented to be covered by such guaranty, or in the alternative, delivery to the customer of a guaranty covering all parts, components and labor supplied pursuant to a particular repair order. A guaranty shall be deemed false and misleading unless it conspicuously and clearly discloses in writing the following:

i. The nature and extent of the guaranty including a description of all parts, characteristics or properties covered by or excluded from the guaranty, the duration of the guaranty and what must be done by a claimant before the guarantor will fulfill his obligation (such as returning the product and paying service or labor charges);

ii. The manner in which the guarantor will perform. The guarantor shall state all conditions and limitations and exactly what the guarantor will do under the guaranty, such as repair, replacement or refund. If the guarantor or recipient has an option as to what may satisfy the guaranty, this must be clearly stated;

iii. The guarantor's identity and address shall be clearly revealed in any documents evidencing the guaranty.

10. Failure to clearly and conspicuously disclose the fact that a guaranty provides for adjustment on a pro rata basis, and the basis on which the guaranty will be prorated; that is, the time or mileage the part, component or item repaired has been used and in what manner the guarantor will perform. If adjustments are based on a price other than that paid by the customer, clear disclosure must be made of the amount. However, a fictitious price must not be used even where the sum is adequately disclosed.

11. Failure to post, in a conspicuous place, a sign informing the customer that the automotive repair dealer is obliged to provide a written estimate when the customer physically presents his motor vehicle to the automotive repair dealer during normal working hours and, in any event, before work is commenced. In addition, copies of any receipt or document signed by the customer, a detailed invoice, a written copy of any guaranty and the return of any replaced parts that have been requested must be provided. The sign is to read as follows:

**"A CUSTOMER OF THIS ESTABLISHMENT IS ENTITLED TO:**

1. When a motor vehicle is physically presented during normal working hours and, in any event before work begins, a written estimated price stated either:

(A) PRICE NOT TO EXCEED \$ . . . , and given without charge; or

(B) As an exact figure broken down as to parts and labor. This establishment has the right to charge you for this diagnostic service, although if you then have the repair done here, you will not be charged twice for any part of such charge necessary to make the repair.

(C) As an exact figure to complete a specific repair.

2. For your protection, you may waive your right to an estimate only by signing a written waiver.

3. Require that this establishment not start work on your vehicle until you sign an authorization stating the nature of the repair or problem and the odometer reading of your vehicle if you physically present the vehicle here during normal working hours.

4. A detailed invoice stating charges for parts and labor separately and whether any new, rebuilt, reconditioned or used parts have been supplied.

5. The replaced parts, if requested before work is commenced, unless their size, weight or similar factors make return of the parts impractical.

6. A written copy of the guaranty."

12. Nothing in this section shall be construed as requiring an automotive repair dealer to provide a written estimate if the dealer does not agree to perform the requested repair.

13. Any other unconscionable commercial practice prohibited pursuant to N.J.S.A. 56:8-1 et seq.

As amended, R.1979 d.402, eff. October 12, 1979.

See: 11 N.J.R. 255(a), 11 N.J.R. 581(a).

Recodified from 13:45A-7.2 and amended by R.1995 d.618, effective December 4, 1995.

See: 27 N.J.R. 3566(a), 27 N.J.R. 4899(b).

#### Case Notes

Regulation upheld. *Levin v. Lewis*, 179 N.J.Super. 193, 431 A.2d 157 (App.Div.1981).

Finding of violation noted in beginning work without written authorization and estimate; Consumer Fraud Act mandates treble damages and attorney fees in a private action. *Skeer v. EMK Motors, Inc.*, 187 N.J.Super. 465, 455 A.2d 508 (App.Div.1982).

Violation found for failure to provide written estimate, obtain estimate waiver or repair authorization, and supplying and charging for work and parts in excess of verbal estimates without consent (also cited as N.J.A.C. 13:45A-7.1). *Levin v. Lewis*, 6 N.J.A.R. 85 (1980) affirmed 179 N.J.Super. 193, 431 A.2d 157.

## SUBCHAPTER 26D. TIRE DISTRIBUTORS AND DEALERS

### 13:45A-26D.1 General provisions

(a) For purposes of this rule, all terms that are defined in the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. section 1402 (1970), as may be amended from time to time, are used as defined therein.