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Court: Car repair shops must get customer consent

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MADISON, Wis.

Wisconsin customers must give car repair shops advance authorization for repairs or they do not have to pay, an appeals court ruled Wednesday.

If drivers do pay for unapproved repairs, they can then sue shops for double the cost plus attorney's fees, the District 2 Court of Appeals ruled.

Consumer advocates said the ruling was a victory for anyone who's been ripped off by a repair shop that performed work without their approval or at an unexpectedly high cost.

"This is a tremendous decision for every single person who owns a car and drives a car or ever takes a car into a shop," said attorney Vince Megna, who represented the consumer in this case. "It sends a message to every consumer: We have a right to know how much it's going to cost. That's the bottom line."

He said the decision "puts teeth" in a state consumer protection law designed to protect consumers from unscrupulous repair shops.

Republican Attorney General J.B. Van Hollen and the consumer law litigation clinic at University of Wisconsin-Madison also praised the decision.

Clinic director Sarah Orr said it would help low-income consumers the most.

The clinic recently represented a family victimized by a Madison shop that performed "repair after repair" without pre-authorization or estimates, she said. The family could not pay the bills, and the shop would not release the car, which caused the husband to lose his job because of the lack of transportation, she said.

The Wisconsin Auto and Truck Dealers Association had argued that customers should not be allowed to sue for unauthorized work as long as the repairs fixed their vehicles and were done at a reasonable price. In those cases, the customers received value for their money and did not suffer any losses, it argued.

The appeals court rejected that argument, saying the customer's losses are the amount they paid for work they did not approve. Megna said the rejection is significant because that argument is commonly raised in disputes over repairs.

Paul Norman, a lawyer who filed a friend-of-the-court brief for the auto association, said the decision will make dealers be extra careful in ensuring repairs are authorized in writing before they perform them. The caution will likely slow down repairs in some cases where customers are only able to provide authorization over the phone, he said.

"The risk of proceeding without authorization is greatly enhanced here," he said.

The decision will provide some customers with a windfall at the expense of the shops and other car owners because of technical violations of the law, he added.

"If it becomes well-known, customers will say 'Hey, I can get a free repair job out of this,' he said. "Ultimately, this means increased costs to everyone. In my view, it's not a total win for the customers."

The decision came in a case involving Randy Kaskin, 43, of Bassett, whose new Chevrolet Silverado truck developed engine problems shortly after he bought it in 2006. Kaskin claims he took the car to John Lynch Chevrolet Pontiac Sales, Inc., and was given an estimate of "one penny" because the shop believed the problems would be covered under his warranty.

Kaskin said he received a call a week later from the dealership saying the good news was the problem was fixed, the bad news was that it cost \$5,000. He protested but eventually paid because the dealer would not give him the truck back otherwise.

A Racine County judge had dismissed his case, saying he did not suffer any losses. Wednesday's decision reinstates his lawsuit and sets up a trial over whether Kaskin authorized the work. The dealership claims he did.

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