

By Mr. Sullivan of Norwood, petition of Gregory William Sullivan for legislation to establish a board of automobile repair. Government Regulations.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT ESTABLISHING A BOARD OF AUTOMOTIVE REPAIR.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 6A of the General Laws is hereby amended by adding  
2 after section 9B the following sections: —

3 Section 9C.

4 1. Definitions.

5 The following terms as used in this chapter have the meaning  
6 expressed in this section.

7 (a) "Automotive repair dealer" means a person who, for  
8 compensation, engages in the business of repairing or diagnosing  
9 malfunctions of motor vehicles.

10 (b) "Board" means the Advisory Board, Bureau of Automotive  
11 Repair.

12 (c) "Chief" means the Chief of the Bureau of Automotive  
13 Repair.

14 (d) "Bureau" means the Bureau of Automotive Repair.

15 (e) "Motor vehicle" means a passenger vehicle required to be  
16 registered with the Registry of Motor Vehicles and all motor-  
17 cycles whether or not required to be registered by the Registry of  
18 Motor Vehicles.

19 (f) "Repair of motor vehicles" means all maintenance of and  
20 repairs to motor vehicles performed by an automotive repair  
21 dealer, but excluding repairing tires, changing tires, lubricating  
22 vehicles, installing light bulbs, batteries, windshield wiper blades,  
23 and other minor accessories, cleaning, adjusting, and replacing  
24 spark plugs, replacing fan belts, oil, and air filters, and other  
25 minor services, which the director, by regulation, determines are  
26 customarily performed by gasoline service stations.

27 No service shall be designated as minor, for purposes of this  
28 section, if the director finds that performance of the service  
29 requires mechanical expertise, has given rise to a high incidence  
30 of fraud or deceptive practices, or involves a part of the vehicle  
31 essential to its safe operation.

32 (g) "Person" includes firm, partnership, association, or cor-  
33 poration.

34 (h) A "mechanic" is an employee of an automotive repair dealer  
35 or is such dealer, if the employer or dealer repairs motor vehicles  
36 and who for salary or wage performs maintenance, repair,  
37 removal, or installation of any integral component part of an  
38 engine, driveline, chassis or body of any vehicle, but excluding  
39 repairing tires, changing tires, lubricating vehicles, installing light  
40 bulbs, batteries, windshield wiper blades, and other minor  
41 accessories; cleaning, replacing fan belts, oil and air filters; and  
42 other minor services which the director, by regulation, determines  
43 are customarily performed by a gasoline service station.

44 (i) "Director" means the Secretary of Consumer Affairs.

45 The following persons are exempt from the requirement of  
46 registration:

47 (a) Any employee of an automotive repair dealer if the  
48 employee repairs motor vehicles only as an employee.

49 (b) Any person who solely engages in the business of repairing  
50 the motor vehicles of a single commercial, industrial, or  
51 governmental establishment, or two or more establishments  
52 related by common ownership or corporate affiliation.

53 (3) There is in the Executive Office of Consumer Affairs a  
54 Bureau of Automotive Repair under the supervision and control  
55 of the director. The duty of enforcing and administering this  
56 chapter is vested in the chief and he is responsible to the director  
57 therefor. The director may adopt and enforce such rules and  
58 regulations as he determines are reasonably necessary to carry out  
59 the purposes of this chapter and declaring the policy of the  
60 bureau.

61 (4) The director shall keep a complete record of all registered  
62 automotive repair dealers showing the names and addresses of all  
63 such dealers. A copy of the roster shall be made available to any  
64 person requesting it upon the payment of such sum as shall be  
65 established by the chief as sufficient to cover the costs thereof.

66 The bureau shall send to registered automotive repair dealers, at  
67 least twice a year, a newsletter which may describe recently  
68 adopted regulations, proposed regulations, disciplinary hearings,  
69 and any other information that the director shall determine will  
70 assist the bureau in its enforcement program.

71 (5) The director shall on his own initiative or in response to  
72 complaints, investigate on a continuous basis and gather evidence  
73 of violations of this chapter and of any regulation adopted  
74 pursuant to this chapter, by any automotive repair dealer or  
75 mechanic, whether registered or not, and by any employee,  
76 partner, officer, or member of any automotive repair dealer. The  
77 director shall establish procedures for accepting complaints from  
78 the public against any dealer or mechanic. The director may  
79 suggest measures that, in the director's judgment, would  
80 compensate for any damages suffered as a result of an alleged  
81 violation. If the dealer accepts the suggestions and performs  
82 accordingly, such fact shall be given due consideration in any  
83 subsequent disciplinary proceeding.

84 (6) Every automotive repair dealer shall pay the fee required by  
85 this chapter for each place of business operated by him in this  
86 state and shall register with the director upon forms prescribed by  
87 the director.

88 (7) Upon receipt of the form properly filled out and receipt of  
89 the required fee, the director shall validate the registration and  
90 send a proof of such validation to the automotive repair dealer.  
91 The director shall by regulation prescribe conditions, which he  
92 determines are necessary to insure future compliance with this  
93 chapter, upon which a person, whose registration has previously  
94 been invalidated or has previously been refused validation or who  
95 has committed acts prohibited by Section 10 while an automotive  
96 repair dealer or mechanic or while an employee, partner, officer  
97 or member of an automotive repair dealer, may have his  
98 registration validated.

99 (8) Every registration shall cease to be valid on June 30 of each  
100 year unless the automotive repair dealer has paid the renewal fee  
101 required by this chapter.

102 (9) On or after June 30, 1976, it shall be unlawful for any  
103 person to be an automotive repair dealer unless such person has  
104 registered in accordance with the provisions of this chapter and  
105 unless such registration is currently valid.

106 (10) The director, where the automotive repair dealer cannot  
107 show there was a bona fide error, may refuse to validate, or may  
108 invalidate temporarily or permanently, the registration of an  
109 automotive repair dealer for any of the following acts or  
110 omissions related to the conduct of the business of the automotive  
111 repair dealer, which are done by the automotive repair dealer or  
112 any mechanic, employee, partner, officer, or member of the  
113 automotive repair dealer.

114 (a) Making or authorizing in any manner or by any means  
115 whatever any statement written or oral which is untrue or  
116 misleading, and which is known, or which by the exercise of  
117 reasonable care should be known, to be untrue or misleading.

118 (b) Causing or allowing a customer to sign any work order  
119 which does not state the repairs requested by the customer or the  
120 automobile's odometer reading at the time of repair.

121 (c) Failing or refusing to give to a customer a copy of any  
122 document requiring his signature, as soon as the customer signs  
123 such document.

124 (d) Any other conduct which constitutes fraud.

125 (e) Conduct constituting gross negligence.

126 (f) Failure in any material respect to comply with the  
127 provisions of this chapter or regulations adopted pursuant to it.

128 (g) Any willful departure from or disregard of accepted trade  
129 standards for good and workmanlike repair in any material  
130 respect, which is prejudicial to another without consent of the  
131 owner or his duly authorized representative.

132 (h) Making false promises of a character likely to influence,  
133 persuade, or induce a customer to authorize the repair, service or  
134 maintenance of automobiles.

135 (i) Having repair work done by someone other than the dealer  
136 or his employees without the knowledge or consent of the  
137 customer unless the dealer can demonstrate that the customer  
138 could not reasonably have been notified.

139 Upon refusal to validate a registration, the director shall notify  
140 the applicant thereof, in writing, by personal service or mail  
141 addressed to the address of the applicant set forth in the  
142 application, and the applicant shall be given a hearing if, within  
143 60 days thereafter, he files with the bureau a written request for  
144 hearing, otherwise the refusal is deemed affirmed.

145 (B) Except as provided for in subdivision (C), where an  
146 automotive repair dealer operates more than one place of  
147 business in this state, the director pursuant to subdivision (A)  
148 shall only refuse to validate, or shall only invalidate temporarily  
149 or permanently the registration of the specific place of business  
150 which has violated any of the provisions of this chapter. Such  
151 violation, or such action by the director, shall not affect in any  
152 manner the right of such automotive repair dealer to operate his  
153 other places of business.

154 (C) Notwithstanding the provisions of subdivision (B), the  
155 director may refuse to validate, or may invalidate temporarily or  
156 permanently, the registration for all places of business operated in  
157 this state by an automotive repair dealer upon a finding that such  
158 automotive repair dealer has, or is, engaged in a course of  
159 repeated and willful violations of this chapter, or regulations  
160 adopted pursuant to it.

161 (11) All work done by an automotive repair dealer, including  
162 all warranty work, shall be recorded on an invoice and shall  
163 describe all service work done and parts supplied. Service work  
164 and parts shall be listed separately on the invoice, which shall also  
165 state separately the subtotal prices for service work and for parts,  
166 not including sales tax, and shall state separately the sales tax, if  
167 any, applicable to each. If any used, rebuilt, or reconditioned  
168 parts are supplied the invoice shall clearly state that fact. If a part  
169 of a component system is composed of new and used, rebuilt or  
170 reconditioned parts, such invoice shall clearly state that fact. One  
171 copy shall be given to the customer and one copy shall be retained  
172 by the automotive repair dealer.

173 (12) The automotive repair dealer shall give to the customer a  
174 written estimated price for labor and parts necessary for a specific  
175 job and shall not charge for work done or parts supplied in excess  
176 of the estimated price without the oral or written consent of the  
177 customer which shall be obtained at some time after it is  
178 determined that the estimated price is insufficient and before the  
179 work not estimated is done or the parts not estimated are  
180 supplied. Nothing in this section shall be construed as requiring  
181 an automotive repair dealer to give a written estimated price if the  
182 dealer does not agree to perform the requested repair.

183 (13) Upon request of the customer at the time the work order is  
184 taken, the automotive repair dealer shall return replaced parts to  
185 the customer at the time of the completion of work excepting  
186 such parts as may be exempt because of size, weight, or other  
187 similar factors from this requirement by regulations of the  
188 department and excepting such parts as the automotive repair  
189 dealer is required to return to the manufacturer or distributor  
190 under a warranty arrangement. If such parts must be returned to  
191 the manufacturer or distributor, the dealer at the time the work  
192 order is taken shall offer to show, and upon acceptance of such  
193 offer or request shall show, such parts to the customer upon  
194 completion of the work, except that the dealer shall not be  
195 required to show a replaced part when no charge is being made  
196 for the replacement part.

197 (14) Each automotive repair dealer shall maintain such records  
198 as are required by regulations adopted to carry out the provisions  
199 of this chapter. Such records shall be open for reasonable  
200 inspection by the chief or other law enforcement officials. All  
201 such records shall be maintained for at least two years.

202 (15) The director may file charges with the district attorney or  
203 city attorney against any automotive repair dealer who violates  
204 the provisions of this chapter or any regulation made pursuant to  
205 this chapter.

206 (16) No person required to have a valid registration under the  
207 provisions of this chapter shall have the benefit of any lien for  
208 labor or materials or the right to sue on a contract for motor  
209 vehicle repairs done by him unless he has such a valid  
210 registration.

211 (17) The bureau shall design and approve of a sign which shall  
212 be placed in all automobile repair dealer locations in a place and  
213 manner conspicuous to the public. Such sign shall give notice that  
214 inquiries concerning service may be made to the bureau and shall  
215 contain the telephone number of the bureau. Such sign shall also  
216 give notice that the customer is entitled to a return of replaced  
217 parts upon his request therefor at the time the work order is  
218 taken.

219 (18) Nothing in the provisions of this chapter shall prohibit the  
220 bringing of a civil action against an automotive repair dealer by  
221 an individual.



