

By Mr. Raposa of Somerset, petition of Manuel Raposa, Jr., for legislation to establish a bureau of automotive repairs. Government Regulations.

The Commonwealth of Massachusetts

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

AN ACT ESTABLISHING A BUREAU OF AUTOMOTIVE REPAIRS.

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

The General Laws are hereby amended by inserting after chapter 22 the following new chapter: —

CHAPTER 22A.

1 *Section 1.* In this chapter, the following words shall have the
2 following meanings: Bureau, means bureau of automotive repair
3 within the executive office of consumer affairs. Director, means
4 the director of the bureau of automotive repairs. Motor vehicle,
5 means motor vehicle as defined by section one of chapter ninety.
6 Repair of Motor vehicles means all maintenance of and repairs to
7 motor vehicles performed by an automotive repair shop, but
8 excluding such services as the director, by regulation, determines
9 to be minor. No service shall be designated as minor for purposes
10 of this chapter if the director finds that performance of the service
11 requires mechanical expertise, has given rise to a high incidence of
12 fraud or deceptive practices, or involves a part of the vehicle
13 essential to its safe operation. Automotive repair shop and
14 automotive repair dealer, means a shop or person engaged in the
15 business of repairing motor vehicles.

16 *Section 2.* The following persons are exempt from the require-
17 ment of being licensed:

18 (a) Any person repairing or maintaining his own automobile; the
19 commonwealth of Massachusetts, or any agency, department or
20 political subdivisions thereof; the united states government or any

21 agency or department thereof; or any industrial or commercial
22 establishment maintaining vehicles for their own use.

23 *Section 3.* There shall be in the executive office of consumer
24 affairs a bureau of automotive repair. Such bureau shall be
25 appointed by the governor for a term coterminous with his own
26 and shall consist of five members two of whom shall be
27 representatives of the public with no prior or present interest in the
28 automotive repair industry. The chief executive and administrative
29 officer of the bureau shall be the director who shall be responsible
30 to the secretary of consumer affairs. The secretary of consumer
31 affairs shall appoint the director, subject to the approval of the
32 governor and at a salary determined by the secretary and approved
33 by the director of personnel. The position of the director of the
34 bureau shall not be subject to the provisions of chapter thirty-one.

35 The director shall prepare and promulgate rules and regulations
36 and from time to time as he deems necessary shall amend said
37 regulations.

38 The director shall keep a complete record of all licensees, their
39 names and addresses. Such information shall be made available on
40 request to the public upon payment of such fees as determined by
41 the director to sufficiently cover the cost thereof. The bureau shall
42 publish any change in its policy or regulations.

43 The director shall, on his own initiative or in response to
44 complaints received by him, investigate on a continuous basis and
45 secure evidence of violations of this chapter, and of any rules or
46 regulations adopted pursuant to it, by any automotive repair
47 dealer or any employee, partner, officer or member of any
48 automotive repair dealer. The director may suggest measures that,
49 in the director's judgement, would compensate for any damages
50 suffered as a result of any alleged violations of this chapter.

51 The director may appoint such clerical, legal inspection,
52 investigation and auditing personnel as may be necessary to carry
53 out the provisions of this chapter. All such personnel shall perform
54 their respective duties under the supervision of the director. All
55 employees of the bureau, except the director, shall be subject to the
56 provisions of chapter 31 of the General Laws, except as specifical-
57 ly exempted by the director with the approval of the personnel
58 administrator.

59 *Section 4.* The bureau shall meet at least twice each year. A
60 quorum shall consist of three members. Additional meetings may
61 be called by the director or upon the written request of any three
62 members of the bureau. Except for the director, each member of
63 the board shall be paid fifty dollars for each day spent at a meeting
64 of the bureau, not to exceed one thousand dollars in any fiscal year,
65 and shall be reimbursed for expenses actually and necessarily
66 incurred in the discharge of his duties.

67 *Section 5.* The duties of the bureau shall include, but not be
68 limited to the following: —

69 (a) advise and make recommendations to the director and the
70 secretary regarding the operation and administration of the
71 bureau.

72 (b) recommend to the director amending, repealing or
73 supplementing the rules and regulations which he has
74 promulgated.

75 *Section 6.* Every automotive repair shop shall pay the fee re-
76 quired by this act for each place of business and shall register with
77 the director upon forms prescribed by the bureau.

78 Such forms shall set forth such facts as the bureau may prescribe
79 in order to sufficiently identify the owner of the repair shop,
80 whether a sole proprietorship, partnership or corporation and its
81 location. In such case, fees shall be paid for each location. Upon
82 receipt of forms properly filled out and after satisfactory
83 investigation, the director shall validate the license. Each license
84 shall expire one year from date of issue and shall be renewed upon
85 payment of the annual fee. It shall be unlawful for any person or
86 persons to operate an automotive repair shop within the
87 commonwealth unless such a shop is licensed in accordance with
88 the provisions of this chapter.

89 *Section 7.* All repairs and other work, including all warranty
90 work, shall be recorded on an invoice and shall describe all service
91 work done and parts supplied. If any used, rebuilt, or recon-
92 ditioned parts are supplied, the invoice shall clearly state that fact.
93 If any part of a component system is composed of new and used,
94 rebuilt or reconditioned parts, such invoice shall clearly state that
95 fact. One copy shall be given to the customer, and one copy shall be
96 retained.

97 Licensees shall give to the customer a written estimated price for
98 labor and parts necessary for a specific job and shall not charge for
99 work done or parts supplied in excess of the estimated price
100 without the oral or written consent of the customer. Nothing in this
101 section shall be construed as requiring a licensee to give a written
102 estimated price if the licensee does not agree to perform the
103 requested repair.

104 Upon request of the customer, when the invoice is presented, the
105 licensee shall return removed parts to the customer at the
106 completion of the work except such parts as may be exempt
107 because of size, weight, or other similar factors from this
108 requirement by regulations of the bureau and excepting such parts
109 as the automotive repair shop is required to return to the
110 manufacturer, distributor, or supplier the shop, at the time the
111 work order is taken, shall offer to show such parts to the customer
112 upon completion of the work.

113 Each automotive repair shop shall maintain such records as are
114 required by regulations adopted to carry out the provisions of this
115 act. Each record of repair shall be maintained for at least four
116 years, and shall be open for inspection by the bureau.

117 The expiration of a valid license shall not deprive the director
118 from proceeding with an investigation or disciplinary proceeding
119 against an automotive repair shop.

120 The bureau shall design and approve of a sign which shall be
121 placed in all automotive repair shops, in a place and manner
122 conspicuous to the public. Such a sign shall give the telephone
123 number and other information required by the bureau. Each
124 automotive repair shop must also publicly display their particular
125 license which clearly indicates the type of license of said shop.

126 *Section 8.* The Director may, and upon the verified complaint
127 in writing of an aggrieved person shall, investigate the action of any
128 licensee of applicant for a license, who in addition to any grounds
129 hereinbefore enumerated, may deny such application, revoke,
130 suspend or refuse to renew any license which he has found to have
131 been obtained by false or fraudulent representation. The director
132 may deny an application, suspend, revoke, or refuse to renew any
133 license, when he has found as a fact that the applicant or licensee, in

134 performing or attempting to perform any act relating to such
135 application or license, has:

136 (1) Written or authorized to be written any statement which is
137 shown to be either untrue or misleading.

138 (2) Allowed or caused customer to sign any order which did not
139 state the repairs requested by the customer and the automobile's
140 odometer reading at the time of repair.

141 (3) Failed or refused to present to the customer a copy of any
142 document requiring his signature, as soon as the customer signed
143 each document.

144 (4) Performed any act which constitutes fraud or gross
145 negligence.

146 (5) Failed in any material respect to comply with the provisions
147 of this chapter or regulations adopted pursuant to it.

148 (6) Made false promises likely to influence, persuade, or induce a
149 customer to authorize the repair, service, or maintenance of
150 automobiles.

151 (7) Caused repair work to be done by someone other than the
152 shop employees without the oral or written consent of the
153 customer.

154 If any automotive repair shop owner operates more than one
155 place of business in this state, the director shall only refuse to
156 validate or shall only invalidate temporarily or permanently the
157 license of the specific place of business which has violated any of
158 the provisions of this chapter.

159 (8) Violated any regulations promulgated pursuant to Chapter
160 93A of the General Laws.

161 The director may refuse to validate or may temporarily
162 invalidate the registration for all places of business operated in this
163 state by an automotive repair dealer who has, or is, engaged in a
164 pattern of repeated and willful violations of this chapter or any
165 rules and regulations adopted pursuant to it.

166 *Section 9.* No application for a license shall be denied, nor shall
167 any license be revoked or suspended except after a hearing held by
168 the director after ten days notice in writing to the applicant or li-
169 censee stating the time and place of the hearing and the grounds of

170 his intended action. Any party shall have the right to be
171 represented by counsel with right of cross examination and to
172 attendance of witnesses on his behalf upon designating to the
173 board the name and address of any witness to be summoned.

174 The decision of the director to grant or deny an application for a
175 license or to suspend or revoke the same, shall not become final for
176 a period of thirty days from the date thereof, during which time any
177 person aggrieved, may appeal from the decision of the director to
178 the superior court of the county in which the applicant or licensee
179 resides or has his usual place of business. Said party shall send by
180 registered mail to the director a copy of his appeal within three
181 days from the date of filing thereof. The court shall hear all
182 pertinent evidence and determine the facts, and upon the facts so
183 determined, annul such decision if found to exceed the authority of
184 the director or make such order as it shall deem just and equitable.
185 If the issues involved were first presented to the director by a
186 complaint filed with him, the complainant may appeal from the
187 decision of the director in the same manner as hereinbefore
188 prescribed. The foregoing remedy shall be exclusive, but the
189 parties shall have all rights of appeal and exception as in other
190 equity cases.

191 *Section 10.* A violation of any of the provisions of this chapter
192 or of any rules or regulations adopted pursuant thereto shall
193 constitute a violation of clause (a) of section 2 of chapter 93A of the
194 General Laws.

195 *Section 11.* Nothing in the provision of this chapter shall
196 prohibit the bringing of a civil action against an automotive repair
197 dealer by an individual.

198 *Section 12.* There is hereby created the automotive repair fund
199 to which all fees and revenues collected pursuant to this chapter
200 shall be deposited. The director shall report to the state
201 comptroller at the beginning of each month and amount and
202 source of all fees and revenues received by the bureau pursuant to
203 this chapter, and at that time shall pay the entire amount of such
204 fees and revenues into the state treasury for credit to the
205 automotive repair fund.

206 The fees prescribed by this chapter shall be set forth by the
207 bureau in an amount estimated to provide for the administration

208 of this act within the limits of the following schedule:

209 (a) The automotive repair dealer license fee is not less than
210 twenty-five dollars, nor more than fifty dollars, for each place of
211 business in this state.

212 (b) The annual renewal fee for an automotive repair dealer
213 license shall not be more than fifty dollars for each place of
214 business in this state, if renewed prior to its expiration date.

215 All salaries, expenses or costs incurred or sustained pursuant to
216 this chapter shall be payable only out of the automotive repair
217 fund.

218 *Section 13.* The director shall issue rules and regulations for a
219 statewide voluntary certification testing program of auto
220 mechanics. The director will establish this certification program as
221 a pilot program and will issue a report on the effectiveness of the
222 program to the general court one year after its inception prior to its
223 acceptance on a statewide basis.

224 *Section 14.* The director shall conduct a study of the feasibility
225 and cost of establishing state controlled auto repair diagnostic
226 centers and shall report the results of this study to the general court
227 within one year of the creation of this bureau.

228 *Section 15.* Failure to properly register in accord with the
229 section six of this chapter shall be prima facie evidence of violation
230 of such provisions and shall subject the automotive repair dealer to
231 a civil penalty of not less than five hundred dollars, nor more than
232 one thousand dollars.

233 Any person who fails to comply with sections seven, eight, or ten
234 of this chapter is guilty of a misdemeanor and punishable by a fine
235 not exceeding one thousand dollars or by imprisonment not
236 exceeding six months, or both.

237 *Section 16.* If any provisions of this chapter of the application
238 thereof to any person or circumstance is held invalid, the
239 invalidity shall not affect other provisions or applications of the
240 chapter which can be given effect without the invalid provisions or
241 applications, and to this end the provisions of this chapter are
242 severable.

