[Similar Matter Filed During Past Session — See House No. 4512 of 1980]

SENATE . . . . . No. 547

By Mr. Rotondi, a petition (accompanied by bill, Senate, No. 547) of Samuel Rotondi for legislation to establish registration of automotive repair shops. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-one.

AN ACT TO ESTABLISH REGISTRATION OF AUTOMOTIVE REPAIR SHOPS.

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

1 SECTION 1. The General Laws are hereby amended by in-
2 serting after Chapter 22 the following new chapter: —

3 CHAPTER 22A

4 *Section 1.* In this chapter the following words shall have
5 the following meaning: —

6 "Board" — the board of registration of automotive repair
7 within the executive office of consumer affairs.

8 "Director" — The director of the board of automotive repair
9 shops.

10 "Motor Vehicle" — As defined in section one of chapter 90.

11 "Repair of Motor Vehicle" — All maintenance of and re-
12 pairs to motor vehicles performed by an automotive repair
13 shop and auto body repair shop, but excluding repairing tires,
14 changing tires, lubricating vehicles, installing light bulbs, bat-
15 teries, windshield wiper blades, and other minor accessories,
16 cleaning, adjusting and replacing spark plugs, replacing fan
17 belts, and other minor services which are customarily per-
18 formed by gasoline stations.

19 "Automotive repair shop" — A shop which engages in the
20 repair of motor vehicles as defined in this section.

21 *Section 2.* The following persons are exempt from the re-
22 quirements of being registered pursuant to the provisions of
23 this chapter: —

24 (1) Any employee of an automotive repair dealer if the em-
25 ployee repairs motor vehicles only as an employee.

26 (2) Any person requiring or maintaining his own auto-
27 mobile; repairing fewer than ten automobiles a year; any in-
28 stitution of higher learning and state, municipal or vocational
29 collaborative repairing automobiles; the Commonwealth of
30 Massachusetts, or any agency, department or political subdi-
31 vision thereof; the United States Government or any agency
32 or department thereof; or any individual establishment main-
33 taining vehicles for their own use.
34 *Section 3.* The board of registration of automotive repair
35 shall consist of five members. Two shall be appointed by the
36 governor; two shall be appointed by the attorney general; one
37 shall be appointed by the Secretary of Consumer Affairs as a
38 public member. One of the governor's appointees shall be
39 chosen from a list of names submitted by the Massachusetts
40 consumer's council and one shall have at least five years' ex-
41 perience in the automotive repair industry. One of the At-
42 torney General's appointees shall be himself or his designee.
43 The term of office of each member of the board shall be three
44 years, except that of the members of the first board. Two
45 members appointed by the governor shall be appointed for a
46 term of two years; two members appointed by the attorney
47 general shall be appointed for three years; the member ap-
48 pointed by the Secretary of Consumer Affairs shall be ap-
49 pointed for two years.
50 The members of the board shall be compensated at a rate
51 to be determined by the Secretary of Consumer Affairs with
52 the approval of the Joint Ways and Means Committee.
53 Any member of the Board may be removed by the appoint-
54 ing authority for neglect of duty, misconduct, malfeasance or
55 misfeasance in office after being given a written statement of
56 the charges against him and sufficient opportunity to be heard
57 thereon.
58 The members of the board shall appoint the director of the
59 board, subject to the approval of the governor and at a sal-
60 ary determined by the governor and approved by the director
61 of personnel. The position of the director shall not be sub-
62 ject to the provisions of chapter 31. The director of the board
63 may appoint an "acting director" who shall perform all duties
64 of the director in the director's absence.

65 *Section 4.* The director, with the approval of the board, may
66 appoint such clerical, legal, inspection, investigation and audit-
67 ing and other personnel as may be necessary to carry out
68 the provisions of this Chapter including mechanic/investiga-
69 tors. The mechanic/investigators must have at least two
70 years' experience in motor vehicle repair or in investigation
71 and must be certified in auto repair classification in which
72 they inspect by the National Institute of Automotive Service
73 Excellence auto mechanic exam or any other motor vehicle re-
74 pair exam, as approved by the board. These positions shall
75 not be subject to the provisions of chapter 31.
76 The board shall keep a complete record of all registration
77 holders and their names and current addresses. Such informa-
78 tion shall be made available on request to the public upon pay-
79 ment of such fees as determined by the director to sufficiently
80 cover the cost thereof. The board shall publish any change
81 in its administrative policy.
82 The director and board shall receive individual complaints
83 from the public regarding automotive repair problems.
84 The director and board may establish three regional or
85 branch offices in the Commonwealth to handle consumer com-
86 plaints.
87 The director, board or its employees, on its own initiative
88 or on the initiative of the attorney general, or in response to
89 their complaints or inquiries, shall investigate registration
90 holders and the automotive repair business on a continuous
91 basis and shall gather evidence of any violations of this chap-
92 ter by an automotive repair shop.
93 *Section 5.* The duties of the director and the board shall
94 be to systematically investigate the policies and practices of
95 the auto repair business in the commonwealth to determine
96 all violations of chapter 93A as they relate to this chapter
97 and the regulations of the attorney general.
98 The director and board shall adopt all definitions, rules and
99 regulations from the attorney general's motor vehicle reg-
100 ulations. Any changes in these rules and regulations shall in-
101 itiate from the attorney general's office.
102 The board shall advise and make recommendations to the di-
103 rector regarding the administration and operations of the

104 board.

105 The board shall make periodic on-site inspections of the
106 auto repair shops to determine any violations of this act.

107 *Section 6.* The board, director and its employees shall
108 gather evidence of all violations of this chapter. The board
109 shall report all denials of applications, suspensions and revo-
110 cations of registrations to the office of the attorney general on
111 a monthly basis. The board shall resolve complaints infor-
112 mally whenever possible.

113 The director shall also report on a monthly basis the names
114 of any repair shop that has received a total of five or more
115 complaints during the previous calendar year to the office of
116 the attorney general.

117 The board shall make all records available to the attorney
118 general in such form as the attorney general shall prescribe.

119 *Section 7.* The board may deny an application, suspend, re-
120 voke or refuse to renew any registration when they have
121 found as a fact that the applicant or registrant has acted in
122 violation of the regulations and rules promulgated by the at-
123 torney general pursuant to chapter 93A for which the com-
124 plaining consumer has been uncompensated or for repeated
125 violations of such rules and regulations.

126 The director shall notify a registrant of his intention to
127 bring action to deny an application, suspend, revoke or refuse
128 to renew any registration. The repair shop shall be notified
129 in writing of the time and place of the hearing to be held with-
130 in 10 business days of receiving notice. Any registrant shall
131 have the right to be represented by counsel with the right of
132 cross examination and to attendance of witnesses on his be-
133 half of designating to the board the name and address of any
134 witness to be summoned in accordance with the Administra-
135 tive Procedures Act and all administrative hearings are to be
136 held in accordance with the standard of adjudicatory proce-
137 dures.

138 The director and board may accept offers in compromise in
139 lieu of suspension upon the condition that said offers include a
140 waiver of appeal and judicial review and a certified check in
141 the amount designated by the board.

142 The director shall make its recommendations to the board
143 as to whether to deny an application, suspend, revoke or re-
144 fuse to renew any registration pertaining to the findings of
145 the hearings.

146 The board shall review all recommendations made by the
147 director within ten days of the hearing. The board may mod-
148 ify the decision, request additional information or dismiss any
149 recommendation made by the director within ten days follow-
150 ing the recommendation of the director. If the board takes no
151 action within ten business days, the recommendation of the
152 director is deemed approved.

153 *Section 8.* 1) The final decision of the board must be ap-
154 pealed by the auto repair shop within seven business days from
155 the date said decision becomes effective in the District Court
156 in the judicial district where the auto repair shop does busi-
157 ness.

158 2) A petition for a stay of the execution of said final deci-
159 sion of the board must be filed in the District Court within
160 seven business days from the date of the final decision of the
161 board.

162 Unless the District Court, for the good cause shown, shall
163 otherwise order, no restraining order or preliminary injunc-
164 tion or stay of execution shall be issued except upon the giv-
165 ing of security by the applicant, in a sum as the court deems
166 proper, but not less than five hundred dollars, for the payment
167 of such costs and damages as may be incurred or suffered by
168 the board who is found to have been wrongfully enjoined or
169 restrained. Except as provided in this act, the Massachusetts
170 Rules of Civil Procedures Rules 65 shall apply.

171 3) Any appeals under this section shall be determined by
172 the District Court under the standards and procedures of chap-
173 ter 39A.

174 *Section 9.* There is hereby created the automotive repair
175 fund to which all fees and revenues collected pursuant to this
176 chapter shall be deposited. The director shall report to the
177 comptroller at the beginning of each month the amount and
178 source of all fees and revenues received by the board pursuant
179 to this chapter, and shall deposit the entire amount of such

180 fees and revenues into the state treasury for credit to the
181 automotive repair fund.

182 The fees prescribed by this chapter shall be set forth by the
183 board in an amount estimated to provide for the administra-
184 tion of this act in accordance with the following schedule: —
185 The annual fee for automotive repair dealer certificate fee
186 shall be not less than 75 dollars, nor more than 100 dollars, for
187 each place of business in this Commonwealth.

188 *Section 10.* Every automotive repair shop shall pay the an-
189 nual fee required by this act for each place of business and shall
190 register with the board upon forms as may be prescribed by
191 the board. Excluded from this act are those individuals and
192 repair shops described in Section 2 of this act.

193 Such forms shall set forth such facts as the board may pre-
194 scribe in order to sufficiently identify the owner of the repair
195 shop, whether a sole proprietorship, partnership, or corpora-
196 tion and its location. If a business is to be carried on under a
197 fictitious name, such fictitious name shall be stated. In such
198 cases, fees shall be paid for each location. Upon receipt of
199 such forms properly filled out, after satisfactory investigation,
200 the director shall validate the certificate. Each certificate
201 shall be renewed on a staggered basis as set forth by the
202 director.

203 It shall be unlawful for any person or persons to operate an
204 automotive repair shop within the Commonwealth unless such
205 a shop is registered in accordance with the provisions of this
206 chapter. Any person who fails to be so certified or operates an
207 unregistered shop shall be punished by a fine not exceeding
208 one thousand dollars or by imprisonment not exceeding six
209 months or both.

210 *Section 11.* The expiration of a valid certificate shall not
211 deprive the board from preceding with an investigation or
212 disciplinary proceeding against an automotive repair shop.

213 The board shall design and/or approve of a sign which shall
214 be placed in all automotive repair shops, in a place and man-
215 ner conspicuous to the public. Such a sign shall state in large,
216 easy to read print the telephone number and such other infor-
217 mation as may be required by the board. Each automotive re-

218 pair shop shall display in a conspicuous location in said shop
219 the current certificate of registration assigned to said estab-
220 lishments. A current copy of the regulations promulgated pur-
221 suant to chapter 93A relative to motor vehicle repairs shall be
222 available to the public at each such repair shop in accordance
223 with the provisions established by the board.
224 *Section 12.* If any provisions of this chapter or the applica-
225 tion thereof to any person or circumstance is held invalid, the
226 invalidity shall not affect other provisions or applications of
227 the act which can be given effect without the invalid provi-
228 sions and to this end the provisions of this act are severable.
229 *Section 13.* The board shall file with the general court an
230 annual report on its activities in such a manner as shall be re-
231 quired by the joint legislative committee on government regu-
232 lations.

1 SECTION 2. The contribution of the board, its effectiveness
2 and cost of operation shall be evaluated after five years of
3 operation. If the program has been found to be beneficial, it
4 shall be renewed for another five year period of evaluation;
5 if the program is found to be ineffective, it shall be discon-
6 tinued.