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By Mr. Rotondi, a petition (accompanied by bill, Senate, No. 428) of Samuel Rotondi for legislation to establish registration of automotive repair shops. Government Regulations.

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*The Commonwealth of Massachusetts*

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

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.

