

By Mr. Serra of Boston, petition of Emanuel G. Serra for legislation to establish a board of automotive repairs. Government Regulations.

**The Commonwealth of Massachusetts**

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

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:*

1 *Section 1.* In this chapter, the following words shall have the  
2 following meanings: —

3 BOARD — An advisory board to the Bureau of Automotive  
4 Repair.

5 BUREAU — Bureau of Automotive Repair within the  
6 Executive Office of Consumer Affairs.

7 DIRECTOR — The Director of the Bureau of Automotive  
8 Repair.

9 MOTOR VEHICLE — As defined by section one of chapter  
10 ninety.

11 REPAIR OF MOTOR VEHICLES — All maintenance of and  
12 repairs to motor vehicles performed by an automotive repair  
13 shop, but excluding repairing tires, changing tires, lubricating  
14 vehicles, installing light bulbs, batteries, windshield wiper blades,  
15 and other minor accessories, cleaning, adjusting, and replacing  
16 spark plugs, replacing fan belts, oil, and air filters, and other  
17 minor services, which the secretary, by regulation, determines are  
18 customarily performed by gasoline service stations.

19 No service shall be designated as minor, for purposes of this  
20 act, if the secretary finds that performance of the service requires  
21 mechanical expertise, has given rise to a high incidence of fraud  
22 or deceptive practices, or involves a part of the vehicle essential to  
23 its safe operation.

24 AUTOMOTIVE REPAIR SHOP — A shop which engages in  
25 the repair of motor vehicles as defined in this section.

26 *Section 2.* The following persons are exempt from the  
27 requirement of registration.

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

30 (b) Any person repairing or maintaining his own automobile;  
31 the Commonwealth of Massachusetts, or any agency, department  
32 or political subdivisions thereof; the United States Government  
33 or any agency or department thereof; or any industrial or  
34 commercial establishment maintaining vehicles for their own use.

35 *Section 3.* There shall be in the Executive Office of Consumer  
36 Affairs a Bureau of Automotive Repair. The Chief Executive and  
37 Administrative Officer of the Bureau is the Director who is  
38 responsible to the Secretary of Consumer Affairs. The Secretary  
39 of Consumer Affairs shall appoint the Director, subject to the  
40 approval of the Governor and at a salary determined by the  
41 Secretary and approved by the Director of Personnel. The  
42 position of Director of the Bureau shall not be subject to the  
43 provisions of chapter 31.

44 The Director shall prepare and promulgate rules and  
45 regulations and from time to time as he deems necessary shall  
46 amend said regulations.

47 The Director shall keep a complete record of all licensees, their  
48 names and addresses. Such information shall be made available  
49 on request to the public upon payment of such fees as determined  
50 by the Director to sufficiently cover the cost thereof. The Bureau  
51 shall publish any change in its policy or regulation. The Director,  
52 on its own initiative or in response to complaints, shall investigate  
53 licensees and the automotive repair business on a continuous  
54 basis and shall gather evidence of any violation of this chapter by  
55 an automotive shop. All employees of this bureau, except the  
56 Director, shall be subject to the provisions of chapter thirty-one  
57 and the rules and regulations thereof.

58 *Section 4.* There shall be established within the bureau, an  
59 Advisory Board. Said Board shall be appointed by the Governor  
60 for a term coterminous with that of the Governor, consisting of  
61 seven members; two of whom shall be representatives of the  
62 public with no prior or present interest in the automotive repair  
63 industry, three of whom shall represent the automotive industry.

64 and one of whom shall be the Registrar of Motor Vehicles or his  
65 designee and one of whom shall be the Director of the  
66 Automotive Repair Bureau. All the members of the said board  
67 shall be registered voters in the Commonwealth. No more than  
68 four members of said board shall be of the same political party.  
69 The Director shall serve as chairman.

70 *Section 4A.* The Board shall meet at least twice each year. A  
71 quorum shall consist of four members. Additional meetings may  
72 be called by the Director or upon the written request of any three  
73 members of the Board. Except for the Director, each member of  
74 the board shall receive no compensation other than actual  
75 expenses incurred in the performance of his duties.

76 *Section 5.* The duties of the board, shall include but not be  
77 limited to the following: —

78 (a) Inquire into the practices and policies of the automotive  
79 repair business.

80 (b) Advise and make recommendations regarding the operation  
81 and administration of the bureau.

82 (c) Recommend to the director amending, repealing, or  
83 supplementing the rules and regulations which he has  
84 promulgated.

85 *Section 6.* Every automotive repair shop shall pay the fee  
86 required by this act for each place of business and shall register  
87 with the Director upon forms prescribed by the Bureau.

88 Such forms shall set forth such facts as the bureau may  
89 prescribe in order to sufficiently identify the owner of the repair  
90 shop, whether a sole proprietorship, partnership, or corporation  
91 and its location. In such case, fees shall be paid for each location.  
92 Upon receipt of forms properly filled out and after satisfactory  
93 investigation, the Director shall validate the license. Each license  
94 shall expire on December thirty-first of each year and shall be  
95 renewed upon payment of the annual fee. It shall be unlawful for  
96 any person or persons to operate an automotive repair shop  
97 within the Commonwealth unless such a shop is licensed in  
98 accordance with the provisions of this chapter.

101 All repairs and other work, including all warranty work, shall  
102 be recorded on an invoice and shall describe all service work done  
103 and parts supplied. If any used, rebuilt, or reconditioned parts are  
104 supplied, the invoice shall clearly state that fact. If any part of a  
105 component system is composed of new and used, rebuilt or  
106 reconditioned parts, such invoice shall clearly state that fact. One  
107 copy shall be given to the customer, and one copy shall be  
108 retained.

109 Licensees shall give to the customer a written estimated price  
110 for labor and parts necessary for a specific job and shall not  
111 charge for work done or parts supplied in excess of the estimated  
112 price without the oral or written consent of the customer.  
113 Nothing in this section shall be construed as requiring a licensee  
114 to give a written estimated price if the licensee does not agree to  
115 perform the requested repair.

116 Upon request of the customer, when the invoice is presented,  
117 the licensee shall return removed parts to the customer at the  
118 completion of the work except such parts as may be exempt  
119 because of size, weight, or other similar factors from this  
120 requirement by regulations of the Bureau and excepting such  
121 parts as the automotive repair shop is required to return to the  
122 manufacturer, distributor, or supplier under a warranty, or other  
123 reciprocal arrangement. If such parts must be returned to the  
124 manufacturer, distributor, or supplier the shop, at the time the  
125 work order is taken, shall offer to show such parts to the  
126 customer upon completion of the work.

127 Each automotive repair shop shall maintain such records as are  
128 required by regulations adopted to carry out the provisions of this  
129 act. Each record of repair shall be maintained for at least two  
130 years, and shall be open for inspection by the Bureau.

131 The expiration of a valid registration shall not deprive the  
132 Director from proceeding with an investigation or disciplinary  
133 proceeding against an automotive repair shop.

134 The Bureau shall design and approve of a sign which shall be  
135 placed in all automotive repair shops, in a place and manner  
136 conspicuous to the public. Such a sign shall give the telephone  
137 number and other information required by the bureau. Each  
138 automotive repair shop must also publicly display their particular  
139 license which clearly indicates the type of license of said shop.

10 *Section 7.* The Director may, and upon the verified complaint  
11 in writing of an aggrieved person shall, investigate the action of  
12 any licensee or applicant for a license, who in addition to any  
13 grounds hereinbefore enumerated, may deny such application,  
14 revoke, suspend or refuse to renew any license which he has found  
15 to have been obtained by false or fraudulent representation. The  
16 Director may deny an application, suspend, revoke, or refuse to  
17 renew any license, when he has found as a fact that the applicant  
18 or licensee, in performing or attempting to perform any act  
19 relating to such application or license, has: —

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

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

25 (3) Failed or refused to present to the customer a copy of any  
26 document requiring his signature, as soon as the customer signed  
27 such document.

28 (4) Performed any act which constitutes fraud or gross  
29 negligence.

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

32 (6) Made false promises likely to influence, persuade, or induce  
33 a customer to authorize the repair, service, or maintenance of  
34 automobiles.

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

38 If any automotive repair shop owner operates more than one  
39 place of business in this state, the Director shall only refuse to  
40 validate or shall only invalidate temporarily or permanently the  
41 registration of the specific place of business which has violated  
42 any of the provisions of this chapter.

43 *Section 8.* No application for a license shall be denied, nor  
44 shall any license be revoked or suspended except after a hearing  
45 held by the Director after ten days notice in writing to the  
46 applicant or licensee stating the time and place of the hearing and  
47 the grounds of his intended action. Any party shall have the right  
48 to be represented by counsel with rights of cross examination and

179 to attendance of witnesses on his behalf upon designating to the  
180 board the name and address of any witness to be summoned.

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

198 *Section 9.* There is hereby created the Automotive Repair  
199 Fund to which all fees and revenues collected pursuant to this  
200 chapter shall be deposited. The Director shall report to the State  
201 Comptroller at the beginning of each month the 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 registration 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 registration shall not be more than fifty dollars for each place of  
214 business in this State, if renewed prior to its expiration date.

215 *Section 10.* Any person who fails to comply with the  
216 provisions of this act is guilty of a misdemeanor and punishable  
217 by a fine not exceeding one thousand dollars or by imprisonment

218 not exceeding six months, or both.

219 *Section 11.* If any provisions of this chapter or the application  
220 thereof to any person or circumstance is held invalid, the  
221 invalidity shall not affect other provisions or applications of the  
222 act which can be given effect without the invalid provisions or  
223 applications, and to this end the provisions of this act are  
224 severable.

