

By Mr. Bolling of Boston, petition of Royal L. Bolling, Jr., for legislation to establish a board of registration of automotive repair shops. Government Regulations.

**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 insert-  
2 ing after chapter 22 the following new chapter:

3 **CHAPTER 22A.**

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

6 “Board” — the board of registration of automotive repair shops  
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 repairs to  
12 motor vehicles performed by an automotive repair shop and auto  
13 body repair shop, but excluding repairing tires, changing tires,  
14 lubricating vehicles, installing light bulbs, batteries, windshield  
15 wiper blades, and other minor accessories, cleaning, adjusting and  
16 replacing spark plugs, replacing fan belts, and other minor services  
17 which are customarily performed by gasoline stations.

18 “Automotive Repair Shop” — A shop which engages in the  
19 repair of motor vehicles as defined in this section.

20 *Section 2.* The following persons are exempt from the require-  
21 ments of being registered pursuant to the provisions of this chap-  
22 ter: —

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

25 (2) Any person requiring or maintaining his/her own automomo-  
26 bile; repairing fewer than ten automobiles a year; any institution of  
27 higher learning and state, municipal or vocational collaborative  
28 repairing automobiles; the commonwealth of Massachusetts, or  
29 any agency, department, or political subdivisions thereof; the Uni-  
30 ted States Government or any agency or department thereof; or  
31 any individual establishment maintaining vehicles for their own  
32 use.

33 *Section 3.* The board of registration of automotive repairs shall  
34 consist of five members. Two shall be appointed by the governor;  
35 two shall be appointed by the attorney general; one shall be ap-  
36 pointed by the secretary of consumer affairs as a public member.  
37 One of the governor's appointees shall be chosen from a list of  
38 names submitted by the Massachusetts consumer's council and one  
39 shall have at least five years experience in the automotive repair  
40 industry. One of the attorney general's appointees shall be himself  
41 or his designee.

42 The term of office of each member of the board shall be three  
43 years, except that of the members of the first board. Two members  
44 appointed by the governor shall be appointed for a term of two  
45 years; two members appointed by the attorney general shall be  
46 appointed for three years; the member appointed by the secretary  
47 of consumer affairs shall be appointed for two years.

48 The members of the board shall be compensated at a rate to be  
49 determined by the secretary of consumer affairs with the approval  
50 of the joint ways and means committee.

51 Any member of the board may be removed by the appointing  
52 authority for neglect of duty, misconduct, malfeasance or misfea-  
53 sance in office after being given a written statement of the charges  
54 against him and sufficient opportunity to heard thereon.

55 The members of the board shall appoint the director of the  
56 board, subject to the approval of the governor and at a salary  
57 determined by the governor and approved by the director of per-  
58 sonnel. The position of the director shall not be subject to the  
59 provisions of chapter 31. The director of the board may appoint an  
60 "acting director" who shall perform all duties of the director in the  
61 director's absence.

62     *Section 4.* The director, with the approval of the board, may  
63 appoint such clerical, legal, inspection, investigating and auditing  
64 and other personnel as may be necessary to carry out the provisions  
65 of this chapter including mechanic/investigators. The mechanic/  
66 investigators must have at least two years experience in motor  
67 vehicle repair or in investigation and must be certified in auto  
68 repair classification in which they inspect by the National Institute  
69 of Automotive Service Excellence auto mechanic exam or any  
70 other motor vehicle repair exam, as approved by the board. These  
71 positions shall not be subject to the provisions of chapter 31.

72     The board shall keep a complete record of all registration  
73 holders and their names and current addresses. Such information  
74 shall be made available on request to the public upon payment of  
75 such fees as determined by the director to sufficiently cover the cost  
76 thereof. The board shall publish any change in its administrative  
77 policy.

78     The director and board shall receive individual complaints from  
79 the public regarding automotive repair problems.

80     The director and board may establish three regional or branch  
81 offices in the commonwealth to handle consumer complaints.

82     The director, board or its employees, on its own initiative or on  
83 the initiative of the attorney general, or in response to their com-  
84 plaints or inquiries, shall investigate registration holders and the  
85 automotive repair business on a continuous basis and shall gather  
86 evidence of any violations of this chapter by an automotive repair  
87 shop.

88     *Section 5.* The duties of the director and the board shall be to  
89 systematically investigate the policies and practices of the auto  
90 repair business in the commonwealth to determine all violations of  
91 chapter 93A as they relate to this chapter and the regulations of the  
92 attorney general.

93     The director and board shall adopt all definitions, rules and  
94 regulations from the attorney general's motor vehicle regulations.  
95 Any changes in these rules and regulations shall initiate from the  
96 attorney general's office.

97     The board shall advise and make recommendations to the direc-  
98 tor regarding the administration and operations of the board.

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

101 *Section 6.* The board, director and its employees shall gather  
102 evidence of all violations of this chapter. The board shall report all  
103 denials of applications, suspensions and revocations of registra-  
104 tions to the office of the attorney general on a monthly basis. The  
105 board shall resolve complaints informally whenever possible.

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

110 The board shall make all records available to the attorney gener-  
111 al in such form as the attorney general shall prescribe.

112 *Section 7.* The board may deny an application, suspend, revoke  
113 or refuse to renew any registration when they have found as a fact  
114 that the applicant or registrant has acted in violation of the regula-  
115 tions and rules promulgated by the attorney general pursuant to  
116 chapter 93A for which the complaining consumer has been uncom-  
117 pensated or for repeated violations of such rules and regulations.

118 The director shall notify a registrant of his intention to bring  
119 action to deny an application, suspend, revoke or refuse to renew  
120 any registration. The repair shop shall be notified in writing of the  
121 time and place of the hearing to be held within 10 business days of  
122 receiving notice. Any registrant shall have the right to be represent-  
123 ed by counsel with the right of cross examination and to attendance  
124 of witnesses on his behalf of designating to the board the name and  
125 address of any witness to be summoned in accordance with the  
126 Administrative Procedures Act and all administrative hearings are  
127 to be held in accordance with the standard of adjudicatory proce-  
128 dures.

129 The director and board may accept offers in compromise in lieu  
130 of suspension upon the condition that said offers include a waiver  
131 of appeal and judicial review and a certified check in the amount  
132 designated by the board.

133 The director shall make its recommendations to the board as to  
134 whether to deny an application, suspend, revoke or refuse to renew  
135 any registration pertaining to the findings of the hearings.

136 The board shall review all recommendations made by the direc-  
137 tor within ten days of the hearing. The board may modify the  
138 decision, request additional information or dismiss any recom-

139 mendment made by the director within ten days following the  
140 recommendation of the director. If the board takes no action  
141 within ten business days, the recommendation of the director is  
142 deemed approved.

143 *Section 8.* 1) The final decision of the board must be appealed  
144 by the auto repair shop within seven business days from the date  
145 said decision becomes effective in the district court in the judicial  
146 district where the auto repair shop does business.

147 2) A petition for stay of the execution of said final decision of  
148 the board must be filed in the district court within seven business  
149 days from the date of the final decision of the board.

150 Unless the district court, for the good cause shown, shall other-  
151 wise order, no restraining order or preliminary injunction or stay  
152 of execution shall be issued except upon the giving of security by  
153 the applicant, in a sum as the court deems proper, but not less than  
154 five hundred dollars, for the payment of such costs and damages as  
155 may be incurred or suffered by the board who is found to have been  
156 wrongfully enjoined or restrained. Except as provided in this act,  
157 the Massachusetts rules of civil procedures rule 65 shall apply.

158 3) Any appeals under this section shall be determined by the  
159 district court under the standards and procedures of chapter 39A.

160 *Section 9.* There is hereby created the automotive repair fund to  
161 which all fees and revenues collected pursuant to this chapter shall  
162 be deposited. The director shall report to the comptroller at the  
163 beginning of each month the amount and source of all fees and  
164 revenues received by the board pursuant to this chapter, and shall  
165 deposit the entire amount of such fees and revenues into the state  
166 treasury for credit to the automotive repair fund.

167 The fees prescribed by this chapter shall be set forth by the board  
168 in an amount estimated to provide for the administration of this act  
169 in accordance with the following schedule:

170 The annual fee for automotive repair dealer certificate shall be  
171 not less than 75 dollars, no more than 100 dollars, for each place of  
172 business in this commonwealth.

173 *Section 10.* Every automotive repair shop shall pay the annual  
174 fee required by this act for each place of business and shall register  
175 with the board upon forms as may be prescribed by the board.  
176 Excluded from this act are those individuals and repair shops  
177 described in section 2 of this act.

178 Such forms shall set forth such facts as the board may prescribe  
179 in order to sufficiently identify the owner of the repair shop,  
180 whether a sole proprietorship, partnership, or corporation and its  
181 location. If a business is to be carried on under a fictitious name,  
182 such fictitious name shall be stated. In such cases, fees shall be paid  
183 for each location. Upon receipt of such forms properly filled out,  
184 satisfactory investigation, the director shall validate the certificate.  
185 Each certificate shall be renewed on a staggered basis as set forth by  
186 the director.

187 It shall be unlawful for any person or persons to operate an  
188 automotive repair shop within the commonwealth unless such a  
189 shop is registered in accordance with the provisions of this chapter.  
190 Any person who fails to be certified or operates an unregistered  
191 shop shall be punished by a fine not exceeding one thousand  
192 dollars or by imprisonment not exceeding six months or both.

193 *Section 11.* The expiration of a valid certificate shall not de-  
194 prive the board from proceeding with an investigation or discipli-  
195 nary proceeding against an automotive repair shop.

196 The board shall design and/or approve of a sign which shall be  
197 placed in all automotive repair shops, in a place and manner  
198 conspicuous to the public. Such a sign shall state in large, easy to  
199 read print the telephone number and such other information as  
200 may be required by the board. Each automotive repair shop shall  
201 display in a conspicuous location in said shop the current certifi-  
202 cate of registration assigned to said establishment. A current copy  
203 of the regulations promulgated pursuant to chapter 93A relative to  
204 motor vehicle repairs shall be available to the public at each such  
205 repair shop in accordance with the provisions established by the  
206 board.

207 *Section 12.* If any provisions of this chapter or the application  
208 thereof to any person or circumstance is held invalid, the invalidity  
209 shall not affect other provisions or applications of the act which  
210 can be given effect without the invalid provisions and to this end  
211 the provisions of this act are severable.

212 *Section 13.* The board shall file with the general court an annual  
213 report on its activities in such a manner as shall be required by the  
214 joint legislative committee on government regulations.

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

