

P.L. 2001, CHAPTER 53, *approved April 10, 2001*
Assembly, No. 1957 (*Third Reprint*)
(Corrected Copy)

1 AN ACT concerning licensing of auto body repair facilities ³amending
2 P.L.1987, c.280³ and amending and supplementing P.L.1983,
3 c.360.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 1 of P.L.1983, c.360 (C.39:13-1) is amended to read as
9 follows:

10 1. For the purposes of this act:

11 [a.] "Auto body repair facility" means a business or person who
12 for compensation engages in the business of repairing, removing, [or]
13 installing or painting integral component parts of [an engine, power
14 train,] a chassis[,], or body of [an automobile] ¹[a motor vehicle]
15 ³[an automobile¹] a motor vehicle³ damaged as a result of a collision.

16 [b. "Automobile" means a private passenger automobile of a
17 private passenger, station wagon, or van type that is owned or hired
18 and is neither used as public or livery conveyance for passengers nor
19 rented to others with a driver; and a motor vehicle with a pickup body,
20 a delivery sedan or a panel truck or a camper type vehicle used for
21 recreational purposes owned by an individual or by husband and wife
22 who are residents of the same household, not customarily used in the
23 occupation, profession or business of the insured other than farming
24 or ranching. An automobile owned by a farm family copartnership or
25 corporation which is principally garaged on a farm or ranch shall be
26 considered a private passenger automobile owned by two or more
27 relatives resident in the same household.]

28 ³[¹"Automobile" means a private passenger automobile of a private
29 passenger, station wagon, or van type that is owned or hired and is
30 neither used as public or livery conveyance for passengers nor rented
31 to others with a driver; and a motor vehicle with a pickup body, a
32 delivery sedan or a panel truck or a camper type vehicle used for
33 recreational purposes owned by an individual or by husband and wife
34 who are residents of the same household, not customarily used in the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted March 2, 2000.

² Assembly AAP committee amendments adopted May 1, 2000.

³ Assembly STR committee amendments adopted November 13, 2000.

1 occupation, profession or business of the insured other than farming
2 or ranching. An automobile owned by a farm family copartnership or
3 corporation which is principally garaged on a farm or ranch shall be
4 considered a private passenger automobile owned by two or more
5 relatives resident in the same household.¹³

6 [c.] "Director" means the Director of the Division of Motor
7 Vehicles in the Department of [Law and Public Safety]
8 Transportation.

9 ¹["Motor vehicle" means a vehicle as defined in R.S.39:1-1 and
10 which is required to be registered with the Division of Motor Vehicles,
11 excluding motorcycles.]¹

12 ³"Motor vehicle" means a vehicle as defined in R.S. 39:1-1 and
13 which is required to be registered with the Division of Motor Vehicles,
14 excluding motorcycles.³

15 (cf: P.L.1985, c.148, s.22)

16

17 ³2. Section 2 of P.L.1983, c.360 (C.39:13-2) is amended to read
18 as follows:

19 2. a. The director shall establish a system for the licensure of auto
20 body repair facilities. This system may provide for licenses based upon
21 the type or types of motor vehicles repaired by the facility and the
22 equipment required for repair of the vehicles. At a minimum, the
23 director shall provide for a full service auto body repair facility license,
24 the qualifications for which are established under section 7 of this
25 amendatory and supplementary act, and a automobile dealer sublet
26 license, the qualifications for which are established under section 8 of
27 this amendatory and supplementary act. All facilities licensed pursuant
28 to this section may hold themselves out to the public as licensed auto
29 body repair facilities.

30 b. No person may engage in the business of an auto body repair
31 facility unless it is licensed by the director. An auto body repair
32 facility shall be licensed by the director upon submission and approval
33 of an application and payment of a reasonable application fee sufficient
34 to cover the cost of implementing the provisions of this act and to be
35 prescribed by the director. The director may require biennial renewal
36 of applications for licensure and may stagger the renewal dates and
37 adjust the application fees accordingly. Revenue received from
38 application fees and renewals shall be annually appropriated to the
39 Department of Transportation for the use of the Division of Motor
40 Vehicles in implementing and administering the provisions of
41 P.L.1983, c.360 (C.39:13-1 et seq.), as amended and supplemented.³
42 (cf: P.L.1985, c. 148, s. 23)

43

44 ²[3.] ³[2.] ³3. Section 4 of P.L.1983, c.360 (C.39:13-4) is
45 amended to read as follows:

46 4. The director may fine or refuse to grant or may suspend or

- 1 revoke a license of an auto body repair facility for any of the following
 2 acts or omissions related to the conduct of the business of [auto body
 3 repair done by] the auto body repair facility:
- 4 a. Making or authorizing any material written or oral statement
 5 which is known to be untrue or misleading;
- 6 b. Causing or allowing a customer to sign any estimate for repairs
 7 which does not state the repairs requested by the customer or the
 8 [automobile's] ¹[motor vehicle's] ³[automobile's¹] motor vehicle's³
 9 odometer reading at the time of repair;
- 10 c. Failing to provide a customer with a copy of any estimate or
 11 document requiring his signature, as soon as a customer signs the
 12 estimate or document;
- 13 d. Making false promises or representations intended to influence,
 14 persuade, or induce a customer to authorize a repair of [an
 15 automobile] ¹[a motor vehicle] ³[an automobile¹] a motor vehicle³
 16 which has been damaged as a result of a collision;
- 17 e. Giving an adjuster or appraiser directly or indirectly any gratuity
 18 or other consideration in connection with his appraisal service;
- 19 f. Making appraisals of the cost of repairing [an automobile] ¹[a
 20 motor vehicle] ³[an automobile¹] a motor vehicle³ which has been
 21 damaged as a result of a collision through the use of photographs,
 22 telephone calls, or any manner other than personal inspection;
- 23 g. Making an estimate for repairs or charging for repairs in such
 24 amount as to compensate the insured for the cost of the deductible
 25 applicable under ³[the]³ [automobile] ¹[motor vehicle]
 26 ³[automobile¹] an³ insurance policy;
- 27 h. A pattern of conduct which includes any of the acts or omissions
 28 prohibited in this section or any other unconscionable or fraudulent
 29 commercial practice prohibited by the director pursuant to regulations
 30 promulgated under the provisions of this act;
- 31 i. Failing to maintain its equipment and facilities in good operating
 32 condition, or failing to keep in force and effect any permits,
 33 accreditation ³, letter of credit³ or insurance required ³[before an auto
 34 body repair facility license may be granted] for licensure³;
- 35 ¹[j. Operating an auto body repair facility without a license as
 36 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).] j.
 37 Operating an auto body repair facility without a license as required
 38 pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).¹
 39 (cf: P.L.1985, c.148, s.25)
- 40
- 41 ²[2. Section 3 of P.L.1983, c.360 (C.39:13-3) is amended to read
 42 as follows:
- 43 3. The director shall, on his own initiative or in response to
 44 complaints, investigate on a continuing basis and gather evidence of
 45 violations of this act and of any regulation adopted pursuant to this act

1 by auto body repair facilities.

2 The director may contract with a private party to provide
 3 investigation, inspection and recommendation services to the division,
 4 provided the private party is experienced in the equipping and
 5 operation of auto body repair facilities, charges less for these services
 6 than the division would incur with its own employees and the director
 7 is satisfied that the services will be rendered fairly and solely in the
 8 best interests of the State of New Jersey. An auto body repair facility
 9 trade group or association may be considered by the director to
 10 provide these services.

11 (cf: P.L.1985, c.148, s.24)]²

12

13 ²[4.] ³[3.²] 4.³ Section 5 of P.L.1983, c.360 (C.39:13-5) is
 14 amended to read as follows:

15 5. Upon refusal to grant a license or suspension or revocation of
 16 a license of an auto body repair facility, the director shall notify the
 17 auto body repair facility in writing by registered mail. The auto body
 18 repair facility shall be given a hearing by the director if, within [60]
 19 30 days thereafter, it files with the director a written request for a
 20 hearing concerning the refusal to grant a license or suspension or
 21 revocation of the license.

22 (cf: P.L.1985, c.148, s.26)

23

24 ²[5.] ³[4.²] 5.³ Section 6 of P.L.1983, c.360 (C.39:13-6) is
 25 amended to read as follows:

26 6. The director may issue and cause to be served, upon an auto
 27 body repair facility charged with a violation of P.L.1983, c.360
 28 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
 29 cease and desist ³[operations] from the violation³ and the director
 30 may impose upon an auto body repair facility violating this act a civil
 31 penalty of not more than [\$2,000.00] \$5,000 ³[each]³ for the first
 32 offense and not more than [\$5,000.00] \$20,000 ³[each]³ for the
 33 second and each subsequent offense. The civil penalty shall be issued
 34 for and recovered by and in the name of the director and shall be
 35 collected and enforced by summary proceedings pursuant to ³["the
 36 penalty enforcement law" (N.J.S.2A:58-1 et seq.)] the "Penalty
 37 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) In
 38 the event of continued or serious violations, the director may suspend
 39 the license of the facility and require it to cease operations during the
 40 period of suspension³.

41 (cf: P.L.1985, c.148, s.27)

42

43 ²[6.] ³[5.²] (New section) There shall be two classes of auto body
 44 repair facility licenses, a full service license and ¹[a motor vehicle] an
 45 automobile¹ dealer sublet license. Auto body repair facilities holding

1 a license issued prior to the effective date of this amendatory and
2 supplementary act shall have ¹[one year from that date] until the
3 expiration date of that license¹ to satisfy the requirements for a full
4 service or ¹[motor vehicle] automobile¹ dealer sublet license.]³

5
6 ³6. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read
7 as follows:

8 1. a. When a motor vehicle is repaired by an auto body repair
9 facility as a result of damage to the vehicle and (1) the damage is
10 reimbursable under a policy of insurance [under physical damage
11 coverage, property damage coverage, or comprehensive coverage] or
12 is otherwise reimbursable by a third party; and (2) the proceeds of the
13 reimbursement are in the form of a negotiable instrument issued by an
14 insurer or other payer which is payable jointly to the [insured] owner
15 or lessee of the vehicle and a lienholder or lessor, the auto body repair
16 facility shall provide the lienholder or lessor with a statement of the
17 repairs which have been made to the vehicle, which statement shall be
18 attested by an authorized representative of the auto body repair
19 facility. The statement shall constitute proof to the lienholder or
20 lessor that all repairs have been made by an auto body repair facility.
21 A color photograph of the repaired vehicle shall accompany the
22 statement.

23 b. In the event that any lienholder or lessor should wish to inspect
24 any motor vehicle to which repairs have been made as provided in
25 subsection a. of this section, the lienholder or lessor shall conduct the
26 inspection upon the premises of the auto body repair facility within
27 [seven] three business days after receipt of the notice by certified mail
28 that the repair has been completed. If an inspection is not made by a
29 lienholder or lessor within the [seven-day] three-day period provided
30 herein, the lienholder or lessor shall forfeit the right to make an
31 inspection.

32 c. In the event a lienholder or lessor shall sell any motor vehicle
33 to which repairs have been made as provided in subsection a. of this
34 section prior to the payment or reimbursement of the auto body repair
35 facility which repaired that motor vehicle, except for the amounts due
36 that lienholder or lessor under the provisions of a perfected lien or
37 security interest, the amount due the auto body repair facility for those
38 repairs shall supersede and have priority over all other liens or
39 outstanding interests, including those payable by an insurer to the
40 [person who insured] owner or lessee of the repaired motor vehicle.
41 In such cases, if the insurer or other payor has received a statement
42 and request demanding payment from the auto body repair facility, the
43 proceeds, or portion thereof, shall be directed by the insurer or other
44 payor to that auto body repair facility.

45 d. No lienholder or lessor shall deduct any amount from the
46 aggregate proceeds of a negotiable instrument that was issued by an

1 insurer or other payor to reimburse an auto body repair facility which,
 2 pursuant to the provisions of subsection a. of this section, repaired a
 3 damaged motor vehicle, but which is payable jointly to the [insured]
 4 owner or lessee and the lienholder or lessor, for the purpose of paying
 5 any delinquent amounts or outstanding installments that the [insured]
 6 owner or lessee may owe to the lienholder or lessor for the motor
 7 vehicle that has been repaired, nor shall any lienholder or lessor
 8 unreasonably withhold the endorsement of such instrument or,
 9 following endorsement, refuse to transmit the endorsed instrument to
 10 the [insured] owner or lessee.

11 For the purposes of this act, "auto body repair facility" shall mean
 12 an auto body repair facility as defined in section 1 of P.L.1983, c.360
 13 (C.39:13-1).³
 14 (cf: P.L.1989, c.273, s.1)

15

16 ²[7.] ³[6.2] 7³ (New section) a. To qualify for a full service
 17 license an auto body repair facility shall:

18 (1) Have a building suitable for the conduct of all operations within
 19 the building, and a Certificate of Occupancy for an auto body repair
 20 facility issued by the applicable zoning authority. In the absence of
 21 evidence to the contrary, public operation as an auto body repair
 22 facility for a continuous period of five years shall create a presumption
 23 of compliance;

24 (2) Have all required licenses, permits and registrations required
 25 for the conduct of business including, but not limited to: a federal tax
 26 identification number; a New Jersey sales tax identification number;
 27 hazardous waste disposal systems ³that are in accordance with
 28 standards established by the State or federal government³; stack
 29 permits; and any other licenses, permits and registrations as the
 30 director may find applicable;

31 (3) Maintain insurance ³[necessary to protect customers'
 32 coverage for damage to³ property ³and for liability arising from bodily
 33 injury³, ³[and provide the public and employees with remedies for
 34 liability arising from the operation]³ including, but not limited to:
 35 garage keepers' liability insurance in a minimum amount of \$300,000
 36 ³[or security]³ or a letter of credit in ³[that] the³ amount ³of
 37 \$300,000³; workers' compensation insurance coverage in the amounts
 38 required pursuant to R.S.34:15-1 et seq.; ³[and]³ fire insurance ³, and
 39 any other coverage required by the director³;

40 (4) Possess and maintain an auto body repair facility reference
 41 source for estimating the cost of repairs ³[in either book or
 42 computerized form which is accepted by the industry] , which
 43 reference source is generally accepted by the auto body repair
 44 industry. The reference source may be in either book or computerized
 45 form³;

- 1 (5) Possess and maintain equipment to safely raise and support
2 vehicles for inspection and repair;
- 3 (6) Possess and maintain a metal inert gas welder;
- 4 (7) Possess, maintain and utilize for all spray painting:
- 5 (a) an enclosed area for refinishing which complies with all
6 applicable safety, fire, environmental and other regulations;
- 7 (b) the means to supply fresh air to workers within the spray area
8 when using materials that require breathable air to be supplied; and
- 9 (c) a filtration method to reduce particles from the air exhausted
10 from the spray area which is ³[accepted by the industry] established
11 in accordance with standards established by the State or federal
12 government³;
- 13 (8) Have equipment ³necessary to perform ³or the means ³for
14 performing³ structural repair including, but not limited to: equipment
15 to make multiple body and chassis pulls to straighten damaged vehicle
16 components; equipment to anchor a unibody vehicle at four points; a
17 three dimensional measuring device suitable to measure structural
18 dimensions of symmetrical and non-symmetrical vehicles; and
19 dimensional guides appropriate to the vehicles being repaired;
- 20 (9) Have equipment ³necessary to perform³ or the means for
21 performing vehicle four-wheel alignment;
- 22 (10) Have (a) equipment ³necessary to perform³ or the means for
23 ³performing³ vehicle air conditioner servicing including the means to
24 evacuate, recycle, and recharge refrigerants and (b) a technician-
25 employee certified to perform such repairs;
- 26 (11) Have equipment ³necessary to perform³ or the means ³[to
27 make collision related] for performing³ mechanical repairs
28 ³necessitated by collision damage³; and
- 29 (12) Provide evidence that at least one employee or ten (10%)
30 percent, whichever is greater, of the employees performing repairs at
31 the auto body repair facility have completed a recognized auto body
32 repair related training course during the year immediately preceding
33 the application for or renewal of licensure as a full service auto body
34 repair facility. Training courses available through ICAR (Inter-
35 Industry Conference on Auto Collision Repair) ³, the manufacturer's
36 representative³ or ³[any other group approved by the director shall
37 qualify to satisfy this requirement] a generally recognized auto body
38 repair training program shall qualify to satisfy the requirement³.
- 39 b. ³[An applicant for a full service auto body repair facility license
40 which does not ²[have the equipment to satisfy] meet the
41 requirements of ²subparagraphs (8), (9), (10) and (11) of² subsection
42 a. of this section may satisfy those requirements provided the auto
43 body repair facility has entered into ²and maintains² a written
44 agreement ²or agreements² to have ²[the auto body repairs] that
45 work² performed by an ²[auto body repair facility that is licensed as

1 a full service auto body repair facility pursuant to the provisions of
 2 P.L.1983, c.360 (C.39:13-1 et seq.) and this amendatory and
 3 supplementary act.] entity that meets the requirements of
 4 subparagraphs (8), (9), (10), or (11) of subsection a. of this section².]
 5 An auto body repair facility may, however, qualify for a full service
 6 license if it meets all of the conditions established by paragraphs (1),
 7 (2), (3), (4), (5), (6), (7) and (12) of subsection a. of this section and
 8 has a written agreement to subcontract with another autobody repair
 9 facility licensee or other party to perform the work for which the
 10 equipment set forth in paragraphs (8), (9), (10) or (11) of subsection
 11 a. of this section is required provided, however, that the other party
 12 meets the requirements set forth in those paragraphs with regard to
 13 equipment or the means for performing the required tasks and
 14 training.³

15
 16 ²[8.] ³[7.²] 8.³ (New section) A person ³[that] which³ sells new
 17 ¹[motor vehicles] automobiles¹ under an agreement with ¹[a motor
 18 vehicle] an automobile¹ manufacturer and ³[that]³ does not satisfy the
 19 equipment requirements of section 7 of this amendatory and
 20 supplementary act may qualify for ¹[a motor vehicle] an automobile¹
 21 dealer sublet license provided that the ¹[motor vehicle] automobile¹
 22 dealer agrees in the sublet license application to use only auto body
 23 repair facilities licensed pursuant to the provisions of section 7 of this
 24 amendatory and supplementary act to perform auto body repairs¹.

25
 26 ²[9.] ³[8.²] 9.³ (New section) Applications for a ³new or
 27 renewal³ full service auto body repair facility license or ¹[a motor
 28 vehicle] ³[an automobile¹] a motor vehicle³ dealer sublet license shall
 29 be reviewed by the director and a license issued or denied within 90
 30 days following receipt by the director of the completed application and
 31 supporting documents. ³Applicants for renewal or initial licensure
 32 filed after the effective date of this amendatory and supplementary act
 33 shall certify that the applicant has met the requirements of the act.
 34 Auto body repair facilities holding a license issued prior to the
 35 effective date of this amendatory and supplementary act shall be
 36 subject to the provisions of the act on the first renewal date of the
 37 license established by the director. The director may extend licenses
 38 issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.),
 39 pending renewal of the licenses pursuant to the terms and conditions
 40 established by this amendatory and supplementary act. No later than
 41 the 45th day following the effective date of this amendatory and
 42 supplementary act, the director shall notify all licensed auto body
 43 repair facilities of the terms, conditions and requirements of the act.³

44
 45 ²[10.] ³[9.²] 10.³ (New section) Within ¹[180] 360¹ days of the

1 effective date of this amendatory and supplementary act the director
2 shall promulgate regulations, in accordance with the provisions of the
3 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
4 seq.), to implement the provisions of this amendatory and
5 supplementary act and to revise any existing regulations to make them
6 consistent herewith.

7

8 ²[11. ³[10.²] 11.³ This act shall take effect on the ¹[180th] 360th¹
9 day following enactment, except that section 10 shall take effect
10 immediately.

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15 _____
Concerns licensing of auto body repair facilities.