

SENATE, No. 2129

STATE OF NEW JERSEY

INTRODUCED JUNE 5, 1997

By Senator CIESLA

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

3

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

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

9 1. For the purposes of this act:

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

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

27 [c.] "Director" means the Director of the Division of Motor  
28 Vehicles in the Department of [Law and Public Safety]  
29 Transportation.

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

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

**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.**

1       2. Section 3 of P.L.1983, c.360 (C.39:13-3) is amended to read as  
2 follows:

3       3. The director shall, on his own initiative or in response to  
4 complaints, investigate on a continuing basis and gather evidence of  
5 violations of this act and of any regulation adopted pursuant to this act  
6 by auto body repair facilities.

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

16 (cf: P.L.1985, c.148, s.24)

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18       3. Section 4 of P.L.1983, c.360 (C.39:13-4) is amended to read as  
19 follows:

20       4. The director may fine or refuse to grant or may suspend or  
21 revoke a license of an auto body repair facility for any of the following  
22 acts or omissions related to the conduct of the business of [auto body  
23 repair done by] the auto body repair facility:

24       a. Making or authorizing any material written or oral statement  
25 which is known to be untrue or misleading;

26       b. Causing or allowing a customer to sign any estimate for repairs  
27 which does not state the repairs requested by the customer or the  
28 [automobile's] motor vehicle's odometer reading at the time of repair;

29       c. Failing to provide a customer with a copy of any estimate or  
30 document requiring his signature, as soon as a customer signs the  
31 estimate or document;

32       d. Making false promises or representations intended to influence,  
33 persuade, or induce a customer to authorize a repair of [an  
34 automobile] a motor vehicle which has been damaged as a result of a  
35 collision;

36       e. Giving an adjuster or appraiser directly or indirectly any gratuity  
37 or other consideration in connection with his appraisal service;

38       f. Making appraisals of the cost of repairing [an automobile] a  
39 motor vehicle which has been damaged as a result of a collision  
40 through the use of photographs, telephone calls, or any manner other  
41 than personal inspection;

42       g. Making an estimate for repairs or charging for repairs in such  
43 amount as to compensate the insured for the cost of the deductible  
44 applicable under the [automobile] motor vehicle insurance policy;

45       h. A pattern of conduct which includes any of the acts or omissions  
46 prohibited in this section or any other unconscionable or fraudulent

1 commercial practice prohibited by the director pursuant to regulations  
2 promulgated under the provisions of this act;

3 i. Failing to maintain its equipment and facilities in good operating  
4 condition, or failing to keep in force and effect any permits,  
5 accreditation or insurance required before an auto body repair facility  
6 license may be granted;

7 j. Operating an auto body repair facility without a license as  
8 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).  
9 (cf: P.L.1985, c.148, s.25)

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11 4. Section 5 of P.L.1983, c.360 (C.39:13-5) is amended to read as  
12 follows:

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

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

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22 5. Section 6 of P.L.1983, c.360 (C.39:13-6) is amended to read as  
23 follows:

24 6. The director may issue and cause to be served, upon an auto  
25 body repair facility charged with a violation of P.L.1983, c.360  
26 (C.39:13-1 et seq.), an order requiring the auto body repair facility to  
27 cease and desist operations and the director may impose upon an auto  
28 body repair facility violating this act a civil penalty of not more than  
29 [\$2,000.00] \$5,000 each for the first offense and not more than  
30 [\$5,000.00] \$20,000 each for the second and each subsequent offense.  
31 The civil penalty shall be issued for and recovered by and in the name  
32 of the director and shall be collected and enforced by summary  
33 proceedings pursuant to "the penalty enforcement law" (N.J.S.2A:58-1  
34 et seq.).

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

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37 6. (New section) There shall be two classes of auto body repair  
38 facility licenses, a full service license and a motor vehicle dealer sublet  
39 license. Auto body repair facilities holding a license issued prior to  
40 the effective date of this amendatory and supplementary act shall have  
41 one year from that date to satisfy the requirements for a full service or  
42 motor vehicle dealer sublet license.

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44 7. (New section) a. To qualify for a full service license an auto  
45 body repair facility shall:

46 (1) Have a building suitable for the conduct of all operations within

- 1 the building, and a Certificate of Occupancy for an auto body repair  
2 facility issued by the applicable zoning authority. In the absence of  
3 evidence to the contrary, public operation as an auto body repair  
4 facility for a continuous period of five years shall create a presumption  
5 of compliance;
- 6 (2) Have all required licenses, permits and registrations required  
7 for the conduct of business including, but not limited to: a federal tax  
8 identification number; a New Jersey sales tax identification number;  
9 hazardous waste disposal systems; stack permits; and any other  
10 licenses, permits and registrations as the director may find applicable;
- 11 (3) Maintain insurance necessary to protect customers' property,  
12 and provide the public and employees with remedies for liability arising  
13 from the operation including, but not limited to: garage keepers'  
14 liability insurance in a minimum amount of \$300,000; workers'  
15 compensation insurance coverage in the amounts required pursuant to  
16 R.S.34:15-1 et seq.; and fire insurance;
- 17 (4) Possess and maintain an auto body repair facility reference  
18 source for estimating the cost of repairs in either book or  
19 computerized form which is accepted by the industry;
- 20 (5) Possess and maintain equipment to safely raise and support  
21 vehicles for inspection and repair;
- 22 (6) Possess and maintain a metal inert gas welder;
- 23 (7) Possess, maintain and utilize for all spray painting:
- 24 (a) an enclosed area for refinishing which complies with all  
25 applicable safety, fire, environmental and other regulations;
- 26 (b) the means to supply fresh air to workers within the spray area  
27 when using materials that require breathable air to be supplied; and  
28 (c) a filtration method to reduce particles from the air exhausted  
29 from the spray area which is accepted by the industry;
- 30 (8) Have equipment or the means for structural repair including,  
31 but not limited to: equipment to make multiple body and chassis pulls  
32 to straighten damaged vehicle components; equipment to anchor a  
33 unibody vehicle at four points; a three dimensional measuring device  
34 suitable to measure structural dimensions of symmetrical and non-  
35 symmetrical vehicles; and dimensional guides appropriate to the  
36 vehicles being repaired;
- 37 (9) Have equipment or the means for performing vehicle four-  
38 wheel alignment;
- 39 (10) Have (a) equipment or the means for vehicle air conditioner  
40 servicing including the means to evacuate, recycle, and recharge  
41 refrigerants and (b) a technician-employee certified to perform such  
42 repairs;
- 43 (11) Have equipment or the means to make collision related  
44 mechanical repairs; and
- 45 (12) Provide evidence that at least one employee or ten (10%)  
46 percent, whichever is greater, of the employees performing repairs at

1 the auto body repair facility have completed a recognized auto body  
2 repair related training course during the year immediately preceding  
3 the application for or renewal of licensure as a full service auto body  
4 repair facility. Training courses available through ICAR (Inter-  
5 Industry Conference on Auto Collision Repair) or any other group  
6 approved by the director shall qualify to satisfy this requirement.

7 b. An applicant for a full service auto body repair facility license  
8 which does not have the equipment to satisfy the requirements of  
9 subsection a. of this section may satisfy those requirements provided  
10 the auto body repair facility has entered into a written agreement to  
11 have the auto body repairs performed by an auto body repair facility  
12 that is licensed as a full service auto body repair facility pursuant to  
13 the provisions of P.L.1983, c.360 (C.39:13-1 et seq.) and this  
14 amendatory and supplementary act.

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16 8. (New section) A person which sells new motor vehicles under  
17 an agreement with a motor vehicle manufacturer and which does not  
18 satisfy the equipment requirements of section 7 of this amendatory and  
19 supplementary act may qualify for a motor vehicle dealer sublet license  
20 if there is a written agreement between the motor vehicle dealer and  
21 an auto body repair facility licensed pursuant to the provisions of  
22 section 7 of this amendatory and supplementary act to perform auto  
23 body repairs in which the motor vehicle dealer agrees to use only the  
24 auto body repair facility listed on the license application to perform  
25 those repairs.

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27 9. (New section) Applications for a full service auto body repair  
28 facility license or a motor vehicle dealer sublet license shall be  
29 reviewed by the director and a license issued or denied within 90 days  
30 following receipt by the director of the completed application and  
31 supporting documents.

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33 10. (New section) Within 180 days of the effective date of this  
34 amendatory and supplementary act the director shall promulgate  
35 regulations, in accordance with the provisions of the "Administrative  
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement  
37 the provisions of this amendatory and supplementary act and to revise  
38 any existing regulations to make them consistent herewith.

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40 11. This act shall take effect on the 180th day following enactment,  
41 except that section 10 shall take effect immediately.

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#### STATEMENT

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46 This bill amends the current auto body repair facility licensing law

1 and establishes minimum standards a facility must meet in order to  
2 qualify for licensure. It creates two classes of licenses: a full service  
3 license and a motor vehicle sublet license. The bill strengthens current  
4 auto body repair facility enforcement provisions and provides for the  
5 privatization of inspection and reporting activities currently performed  
6 by the Division of Motor Vehicles.

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11 Concerns licensing of auto body repair facilities.