

39:13-1

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2001 **CHAPTER:** 53

NJSA: 39:13-1 (Auto body repair shops—licensing)

BILL NO: A1957 (Substituted for S902)

SPONSOR(S): Moran and Imprevduto

DATE INTRODUCED: January 31, 2000

COMMITTEE: **ASSEMBLY:** Consumer Affairs and Regulated Professions; Appropriations

SENATE: Transportation

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** March 26, 2001

SENATE: December 18, 2000

DATE OF APPROVAL: April 10, 2001

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (3rd reprint enacted)

(Amendments during passage denoted by superscript numbers)

A1957

SPONSORS STATEMENT: (Begins on page 6 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes 3-2-2000
(Consum. Aff.)

5-1-2000 (Approp.)

SENATE: Yes

FLOOR AMENDMENT STATEMENTS: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S902

SPONSORS STATEMENT: (Begins on page 6 of original bill)	Yes
COMMITTEE STATEMENT:	ASSEMBLY: No
	SENATE: Yes
FLOOR AMENDMENT STATEMENTS:	No
LEGISLATIVE FISCAL ESTIMATE:	No
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	No

FOLLOWING WERE PRINTED:

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NEWSPAPER ARTICLES:	No

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As introduced.



A1957 MORAN, IMPREVEDUTO

2

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:

6
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
11 for 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)

34

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

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

41 The director may contract with a private party to provide
42 investigation, inspection and recommendation services to the division.

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

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

9

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

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

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

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

21 c. Failing to provide a customer with a copy of any estimate or
22 document requiring his signature, as soon as a customer signs the
23 estimate or document;

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

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

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

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

37 h. A pattern of conduct which includes any of the acts or omissions
38 prohibited in this section or any other unconscionable or fraudulent
39 commercial practice prohibited by the director pursuant to regulations
40 promulgated under the provisions of this act;

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

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1 j. Operating an auto body repair facility without a license as
2 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).

3 (cf: P.L.1985, c.148, s.25)

4

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

7 5. Upon refusal to grant a license or suspension or revocation of
8 a license of an auto body repair facility, the director shall notify the
9 auto body repair facility in writing by registered mail. The auto body
10 repair facility shall be given a hearing by the director if, within [60]
11 30 days thereafter, it files with the director a written request for a
12 hearing concerning the refusal to grant a license or suspension or
13 revocation of the license.

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

15

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

18 6. The director may issue and cause to be served, upon an auto
19 body repair facility charged with a violation of P.L.1983, c.360
20 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
21 cease and desist operations and the director may impose upon an auto
22 body repair facility violating this act a civil penalty of not more than
23 [\$2,000.00] \$5,000 each for the first offense and not more than
24 [\$5,000.00] \$20,000 each for the second and each subsequent
25 offense. The civil penalty shall be issued for and recovered by and in
26 the name of the director and shall be collected and enforced by
27 summary proceedings pursuant to "the penalty enforcement law"
28 (N.J.S.2A:58-1 et seq.).

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

30

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

37

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

40 (1) Have a building suitable for the conduct of all operations within
41 the building, and a Certificate of Occupancy for an auto body repair
42 facility issued by the applicable zoning authority. In the absence of
43 evidence to the contrary, public operation as an auto body repair
44 facility for a continuous period of five years shall create a presumption
45 of compliance;

46 (2) Have all required licenses, permits and registrations required

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

1 approved by the director shall qualify to satisfy this requirement.

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

10

11 8. (New section) A person that sells new motor vehicles under an
12 agreement with a motor vehicle manufacturer and that does not satisfy
13 the equipment requirements of section 7 of this amendatory and
14 supplementary act may qualify for a motor vehicle dealer sublet license
15 provided that the motor vehicle dealer agrees in the sublet license
16 application to use only auto body repair facilities licensed pursuant to
17 the provisions of section 7 of this amendatory and supplementary act
18 to perform auto body repairs.

19

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

25

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

32

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

35

36

37

STATEMENT

38

39 This bill revises and expands the scope of the current auto body
40 repair facility licensing law. The bill redefines "auto body repair
41 facility" as a business or person who for compensation engages in the
42 business of repairing, removing, installing or painting integral
43 component parts of a motor vehicle damaged as the result of a
44 collision. In addition, the term "automobile" is replaced by the term
45 "motor vehicle" which is defined in the bill as any vehicle required to
46 be registered with the Division of Motor Vehicles, excluding

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1 motorcycles.

2 The bill creates two classes of licenses, a full service license and a
3 motor vehicle sublet license, and establishes minimum standards a
4 facility must meet in order to qualify for licensure. For a full service
5 license, the bill provides that a facility must satisfy certain
6 requirements pertaining to: the physical set-up, including equipment
7 necessary to perform auto body repairs; licenses, permits and
8 registrations necessary for the conduct of an auto body repair business;
9 maintenance of proper insurance coverages; and employee training and
10 qualifications. In addition, the bill provides that a dealer of new motor
11 vehicles which does not satisfy the equipment requirements for a full
12 service license may obtain a motor vehicle sublet license provided the
13 dealer agrees in its sublet license application to use only auto body
14 repair facilities licensed pursuant to the provisions of the bill. License
15 applications shall be reviewed by the Director of the Division of Motor
16 Vehicles and a license issued or denied within 90 days of receipt of the
17 completed application and supporting documents.

18 In addition, the bill strengthens current auto body repair facility
19 enforcement provisions and allows for the privatization of inspection
20 of auto body repair facilities and reporting activities currently
21 performed by the Division of Motor Vehicles.

22 The bill also provides that to qualify for a full service license an
23 auto body repair facility shall maintain liability insurance coverage in
24 a minimum amount of \$300,000. The committee amended the bill to
25 permit, in lieu of that liability insurance coverage, security or a letter
26 of credit in that amount.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1957

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 2, 2000

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably and with committee amendments Assembly Bill No. 1957.

As amended by the committee, this bill creates two classes of licenses, a full service license and an automobile sublet license, and establishes minimum standards a facility must meet in order to qualify for licensure. For a full service license, the bill provides that a facility must satisfy certain requirements pertaining to: the physical set-up, including equipment necessary to perform auto body repairs; licenses, permits and registrations necessary for the conduct of an auto body repair business; maintenance of proper insurance coverages; and employee training and qualifications. In addition, the bill provides that a dealer of new automobiles who does not satisfy the equipment requirements for a full service license may obtain an automobile sublet license provided the dealer agrees in its sublet license application to use only auto body repair facilities licensed pursuant to the provisions of the bill. License applications shall be reviewed by the Director of the Division of Motor Vehicles and a license issued or denied within 90 days of receipt of the completed application and supporting documents.

In addition, the bill strengthens current auto body repair facility enforcement provisions and allows for the privatization of inspection of auto body repair facilities and reporting activities currently performed by the Division of Motor Vehicles.

The bill also provides that to qualify for a full service license an auto body repair facility shall maintain liability insurance coverage in a minimum amount of \$300,000 or, in lieu of that liability insurance coverage, security or a letter of credit in that amount.

The bill also empowers the Director of the Division of Motor Vehicles to issue an order to an auto body repair facility charged with a violation of P.L.1983, c.360 to cease and desist operations. In addition, the bill raises the fines that may be imposed on auto body repair facilities charged with certain violations from a maximum of

\$2,000 to a maximum of \$5,000 for the first offense, and from a maximum of \$5,000 to a maximum of \$20,000 for subsequent offenses.

The committee amended the bill to replace the term "motor vehicle" with the term "automobile," which is the term used in the current auto body repair facility licensing law. Additionally, the bill was amended to give an auto body repair facility holding a license issued prior to the effective date of the bill until the expiration date of that license to satisfy the requirements for a new license, rather than until one year from the bill's effective date. Finally, the bill was amended to take effect on the 360th day, rather than the 180th day, following enactment.

[First Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

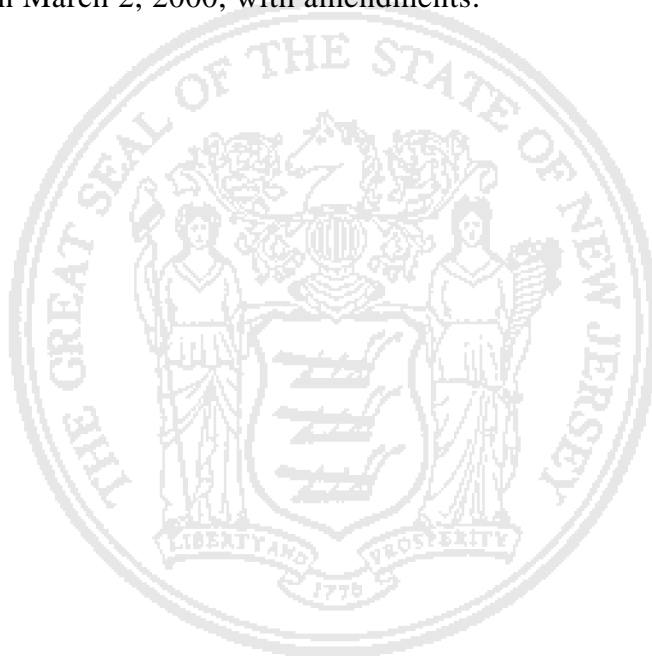
District 32 (Bergen and Hudson)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Consumer Affairs and Regulated Professions Committee on March 2, 2000, with amendments.



A1957 [1R] MORAN, IMPREVEDUTO

2

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:

6
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
11 for 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] ¹[a motor vehicle] an
14 automobile¹ 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 ¹"Automobile" means a private passenger automobile of a private
28 passenger, station wagon, or van type that is owned or hired and is
29 neither used as public or livery conveyance for passengers nor rented
30 to others with a driver; and a motor vehicle with a pickup body, a
31 delivery sedan or a panel truck or a camper type vehicle used for
32 recreational purposes owned by an individual or by husband and wife
33 who are residents of the same household, not customarily used in the
34 occupation, profession or business of the insured other than farming
35 or ranching. An automobile owned by a farm family copartnership or
36 corporation which is principally garaged on a farm or ranch shall be
37 considered a private passenger automobile owned by two or more
38 relatives resident in the same household.¹

39 [c.] "Director" means the Director of the Division of Motor
40 Vehicles in the Department of [Law and Public Safety]
41 Transportation.

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.

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

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

5

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

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

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

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

22

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

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

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

31 b. Causing or allowing a customer to sign any estimate for repairs
32 which does not state the repairs requested by the customer or the
33 [automobile's] ¹[motor vehicle's] automobile's¹ odometer reading at
34 the time of repair;

35 c. Failing to provide a customer with a copy of any estimate or
36 document requiring his signature, as soon as a customer signs the
37 estimate or document;

38 d. Making false promises or representations intended to influence,
39 persuade, or induce a customer to authorize a repair of [an
40 automobile] ¹[a motor vehicle] an automobile ¹which has been
41 damaged as a result of a collision;

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

44 f. Making appraisals of the cost of repairing [an automobile] ¹[a
45 motor vehicle] an automobile¹ which has been damaged as a result of

1 a collision through the use of photographs, telephone calls, or any
2 manner other than personal inspection;

3 g. Making an estimate for repairs or charging for repairs in such
4 amount as to compensate the insured for the cost of the deductible
5 applicable under the [automobile] ¹[motor vehicle] automobile ¹
6 insurance policy;

7 h. A pattern of conduct which includes any of the acts or omissions
8 prohibited in this section or any other unconscionable or fraudulent
9 commercial practice prohibited by the director pursuant to regulations
10 promulgated under the provisions of this act;

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

15 j. Operating an auto body repair facility without a license as
16 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).

17 (cf: P.L.1985, c.148, s.25)

18

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

21 5. Upon refusal to grant a license or suspension or revocation of
22 a license of an auto body repair facility, the director shall notify the
23 auto body repair facility in writing by registered mail. The auto body
24 repair facility shall be given a hearing by the director if, within [60]
25 30 days thereafter, it files with the director a written request for a
26 hearing concerning the refusal to grant a license or suspension or
27 revocation of the license.

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

29

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

32 6. The director may issue and cause to be served, upon an auto
33 body repair facility charged with a violation of P.L.1983, c.360
34 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
35 cease and desist operations and the director may impose upon an auto
36 body repair facility violating this act a civil penalty of not more than
37 [\$2,000.00] \$5,000 each for the first offense and not more than
38 [\$5,000.00] \$20,000 each for the second and each subsequent
39 offense. The civil penalty shall be issued for and recovered by and in
40 the name of the director and shall be collected and enforced by
41 summary proceedings pursuant to "the penalty enforcement law"
42 (N.J.S.2A:58-1 et seq.).

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

44

45 6. (New section) There shall be two classes of auto body repair
46 facility licenses, a full service license and ¹[a motor vehicle] an

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

6
7 7. (New section) a. To qualify for a full service license an auto
8 body repair facility shall:

9 (1) Have a building suitable for the conduct of all operations within
10 the building, and a Certificate of Occupancy for an auto body repair
11 facility issued by the applicable zoning authority. In the absence of
12 evidence to the contrary, public operation as an auto body repair
13 facility for a continuous period of five years shall create a presumption
14 of compliance;

15 (2) Have all required licenses, permits and registrations required
16 for the conduct of business including, but not limited to: a federal tax
17 identification number; a New Jersey sales tax identification number;
18 hazardous waste disposal systems; stack permits; and any other
19 licenses, permits and registrations as the director may find applicable;

20 (3) Maintain insurance necessary to protect customers' property,
21 and provide the public and employees with remedies for liability arising
22 from the operation including, but not limited to: garage keepers'
23 liability insurance in a minimum amount of \$300,000 or security or a
24 letter of credit in that amount; workers' compensation insurance
25 coverage in the amounts required pursuant to R.S.34:15-1 et seq.; and
26 fire insurance;

27 (4) Possess and maintain an auto body repair facility reference
28 source for estimating the cost of repairs in either book or
29 computerized form which is accepted by the industry;

30 (5) Possess and maintain equipment to safely raise and support
31 vehicles for inspection and repair;

32 (6) Possess and maintain a metal inert gas welder;

33 (7) Possess, maintain and utilize for all spray painting:

34 (a) an enclosed area for refinishing which complies with all
35 applicable safety, fire, environmental and other regulations;

36 (b) the means to supply fresh air to workers within the spray area
37 when using materials that require breathable air to be supplied; and

38 (c) a filtration method to reduce particles from the air exhausted
39 from the spray area which is accepted by the industry;

40 (8) Have equipment or the means for structural repair including,
41 but not limited to: equipment to make multiple body and chassis pulls
42 to straighten damaged vehicle components; equipment to anchor a
43 unibody vehicle at four points; a three dimensional measuring device
44 suitable to measure structural dimensions of symmetrical and non-
45 symmetrical vehicles; and dimensional guides appropriate to the
46 vehicles being repaired;

1 (9) Have equipment or the means for performing vehicle four-
2 wheel alignment;

3 (10) Have (a) equipment or the means for vehicle air conditioner
4 servicing including the means to evacuate, recycle, and recharge
5 refrigerants and (b) a technician-employee certified to perform such
6 repairs;

7 (11) Have equipment or the means to make collision related
8 mechanical repairs; and

9 (12) Provide evidence that at least one employee or ten (10%)
10 percent, whichever is greater, of the employees performing repairs at
11 the auto body repair facility have completed a recognized auto body
12 repair related training course during the year immediately preceding
13 the application for or renewal of licensure as a full service auto body
14 repair facility. Training courses available through ICAR (Inter-
15 Industry Conference on Auto Collision Repair) or any other group
16 approved by the director shall qualify to satisfy this requirement.

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

25
26 8. (New section) A person that sells new ¹[motor vehicles]
27 automobiles¹ under an agreement with ¹[a motor vehicle] an
28 automobile¹ manufacturer and that does not satisfy the equipment
29 requirements of section 7 of this amendatory and supplementary act
30 may qualify for ¹[a motor vehicle] an automobile¹ dealer sublet
31 license provided that the ¹[motor vehicle] automobile¹ dealer agrees
32 in the sublet license application to use only auto body repair facilities
33 licensed pursuant to the provisions of section 7 of this amendatory and
34 supplementary act to perform auto body repairs.

35
36 9. (New section) Applications for a full service auto body repair
37 facility license or ¹[a motor vehicle] an automobile¹ dealer sublet
38 license shall be reviewed by the director and a license issued or denied
39 within 90 days following receipt by the director of the completed
40 application and supporting documents.

41
42 10. (New section) Within ¹[180] 360¹ days of the effective date
43 of this amendatory and supplementary act the director shall
44 promulgate regulations, in accordance with the provisions of the
45 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
46 seq.), to implement the provisions of this amendatory and

A1957 [1R] MORAN, IMPREVEDUTO

7

1 supplementary act and to revise any existing regulations to make them
2 consistent herewith.

3

4 11. This act shall take effect on the ¹~~[180th]~~ 360th¹ day following
5 enactment, except that section 10 shall take effect immediately.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1957

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 1, 2000

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1957 (1R) with committee amendments.

Assembly Bill No. 1957(1R), as amended, revises and expands the scope of the current auto body repair facility licensing law.

The bill establishes two classes of licensed facilities: a full service license and an automobile sublet license; and establishes minimum standards a facility must meet in order to qualify for licensure. License applications shall be reviewed by the Director of the Division of Motor Vehicles (DMV) and be issued or denied within 90 days of receipt of the completed application and supporting documents.

The bill strengthens current auto body repair facility enforcement provisions.

The bill provides that to qualify for a full service license an auto body repair facility shall maintain liability insurance coverage in a minimum amount of \$300,000 or, in lieu of that liability insurance coverage, security or a letter of credit in that amount.

The bill also empowers the Director of the DMV to issue an order to an auto body repair facility charged with a violation of P.L.1983, c.360 to cease and desist operations.

FISCAL IMPACT:

The Division of Motor Vehicles in the Department of Transportation has informally advised that this bill requires about \$370,000 annually to hire seven additional staff. The four investigators and three support personnel would monitor and enforce licensing requirements, and process license requests and related investigative/verification reports. The department noted that the existing auto body licensing statute provides for a licensing fee and, pursuant to section 2 of P.L.1983, c.360 (C.39:13-2), the fee is determined by the Director of the DMV to be sufficient to cover program expenses. Currently, a \$350 biennial license fee is levied on about 2,300 auto repair facilities. The division estimates that there are over 1,000 licensed auto dealers that would be eligible for the new

automobile dealer sublet license. Consequently, the additional program costs will be recovered from a combination of the fees from the increased number of licenses or, if needed, by an increase in the license fee.

The bill raises the fines that may be imposed on auto body repair facilities charged with certain violations from a maximum of \$2,000 to a maximum of \$5,000 for the first offense, and from a maximum of \$5,000 to a maximum of \$20,000 for subsequent offenses.

COMMITTEE AMENDMENTS:

The amendments delete a provision allowing the director to contract with private parties for investigation, inspection and recommendation services.

The amendments clarify a provision concerning subcontractors for specialized body and repair work done for licensed facilities.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY

209th LEGISLATURE

DATED: MAY 16, 2000

SUMMARY

Synopsis: Concerns licensing of auto body repair facilities.

Type of Impact: Limited impact on General Fund anticipated; license fees expected to defray additional program costs.

Agencies Affected: Division of Motor Vehicles, Department of Transportation

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	\$370,000	\$370,000	\$370,000
State Revenue	\$370,000	\$370,000	\$370,000

- ! Establishes minimum standards for licensed auto body repair facilities.
- ! Creates two classes of facility licenses, i.e. full service and automobile dealer sublet licenses.
- ! Increases fines for auto body repair violations.

BILL DESCRIPTION

Assembly Bill No. 1957 (1R) of 2000 establishes minimum standards that a facility must meet to be licensed as an auto body repair facility and creates two classes of facility licenses: (1) a full service license; and (2) an automobile dealer sublet license. The bill also raises the fines that may be imposed on facilities violating the provisions of the auto body repair licensing act.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Division of Motor Vehicles in the Department of Transportation has informally advised the Office of Legislative Services (OLS) that this bill would require seven additional staff. The additional staff, four investigators and three support personnel, would monitor and enforce licensing requirements, conduct yearly inspections of auto repair facilities, and process license requests and related investigative/verification reports. The cost for the new staff would be about \$370,000 annually.

However, OLS notes that the existing auto body licensing statute provides for a licensing fee. Pursuant to section 2 of P.L.1983, c.360 (C.39:13-2) the fee, determined by the Director of the Division of Motor Vehicles, is to be sufficient to cover program expenses. At present, the program relies on a \$350 biennial license fee levied on about 2,300 auto repair facilities. In addition, the division estimates that there are over 1,000 licensed auto dealers who would be eligible for the new automobile dealer sublet license. Consequently, additional program costs could be recovered from either the revenue generated by an increase in the number of licenses issued under this bill or, if needed, by an increase in the license fee.

Section: *Authorities, Utilities, Transportation and Communications*

Analyst: *Rusty Lachenauer*
Lead Fiscal Analyst

Approved: *Alan R. Kooney*
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

[Corrected Copy]

[Second Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

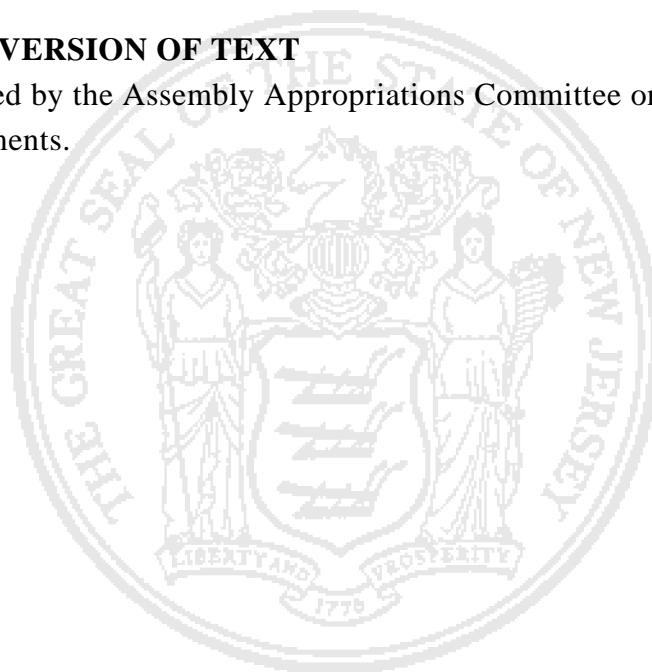
District 32 (Bergen and Hudson)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 1, 2000,
with amendments.



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:

6
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
11 for 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] ¹[a motor vehicle] an
14 automobile¹ 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 ¹"Automobile" means a private passenger automobile of a private
28 passenger, station wagon, or van type that is owned or hired and is
29 neither used as public or livery conveyance for passengers nor rented
30 to others with a driver; and a motor vehicle with a pickup body, a
31 delivery sedan or a panel truck or a camper type vehicle used for
32 recreational purposes owned by an individual or by husband and wife
33 who are residents of the same household, not customarily used in the
34 occupation, profession or business of the insured other than farming
35 or ranching. An automobile owned by a farm family copartnership or
36 corporation which is principally garaged on a farm or ranch shall be
37 considered a private passenger automobile owned by two or more
38 relatives resident in the same household.¹

39 [c.] "Director" means the Director of the Division of Motor
40 Vehicles in the Department of [Law and Public Safety]

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.

1 Transportation.

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

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

6

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

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

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

22 (cf: P.L.1985, c.148, s.24)]²

23

24 ²[3.] ²2. Section 4 of P.L.1983, c.360 (C.39:13-4) is amended to
25 read as follows:

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

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

32 b. Causing or allowing a customer to sign any estimate for repairs
33 which does not state the repairs requested by the customer or the
34 [automobile's] ¹[motor vehicle's] automobile's¹ odometer reading at
35 the time of repair;

36 c. Failing to provide a customer with a copy of any estimate or
37 document requiring his signature, as soon as a customer signs the
38 estimate or document;

39 d. Making false promises or representations intended to influence,
40 persuade, or induce a customer to authorize a repair of [an
41 automobile] ¹[a motor vehicle] an automobile¹ which has been
42 damaged as a result of a collision;

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

45 f. Making appraisals of the cost of repairing [an automobile] ¹[a

1 motor vehicle] an automobile¹ which has been damaged as a result of
2 a collision through the use of photographs, telephone calls, or any
3 manner other than personal inspection;

4 g. Making an estimate for repairs or charging for repairs in such
5 amount as to compensate the insured for the cost of the deductible
6 applicable under the [automobile] ¹[motor vehicle] automobile ¹
7 insurance policy;

8 h. A pattern of conduct which includes any of the acts or omissions
9 prohibited in this section or any other unconscionable or fraudulent
10 commercial practice prohibited by the director pursuant to regulations
11 promulgated under the provisions of this act;

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

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

19

20 ²[4.] 3.² Section 5 of P.L.1983, c.360 (C.39:13-5) is amended to
21 read as follows:

22 5. Upon refusal to grant a license or suspension or revocation of
23 a license of an auto body repair facility, the director shall notify the
24 auto body repair facility in writing by registered mail. The auto body
25 repair facility shall be given a hearing by the director if, within [60]
26 30 days thereafter, it files with the director a written request for a
27 hearing concerning the refusal to grant a license or suspension or
28 revocation of the license.

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

30

31 ²[5.] 4.² Section 6 of P.L.1983, c.360 (C.39:13-6) is amended to
32 read as follows:

33 6. The director may issue and cause to be served, upon an auto
34 body repair facility charged with a violation of P.L.1983, c.360
35 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
36 cease and desist operations and the director may impose upon an auto
37 body repair facility violating this act a civil penalty of not more than
38 [\$2,000.00] \$5,000 each for the first offense and not more than
39 [\$5,000.00] \$20,000 each for the second and each subsequent
40 offense. The civil penalty shall be issued for and recovered by and in
41 the name of the director and shall be collected and enforced by
42 summary proceedings pursuant to "the penalty enforcement law"
43 (N.J.S.2A:58-1 et seq.).

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

1 ²[6.] 5.² (New section) There shall be two classes of auto body
2 repair facility licenses, a full service license and ¹[a motor vehicle] an
3 automobile¹ dealer sublet license. Auto body repair facilities holding
4 a license issued prior to the effective date of this amendatory and
5 supplementary act shall have ¹[one year from that date] until the
6 expiration date of that license¹ to satisfy the requirements for a full
7 service or ¹[motor vehicle] automobile¹ dealer sublet license.

8

9 ²[7.] 6.² (New section) a. To qualify for a full service license an
10 auto body repair facility shall:

11 (1) Have a building suitable for the conduct of all operations within
12 the building, and a Certificate of Occupancy for an auto body repair
13 facility issued by the applicable zoning authority. In the absence of
14 evidence to the contrary, public operation as an auto body repair
15 facility for a continuous period of five years shall create a presumption
16 of compliance;

17 (2) Have all required licenses, permits and registrations required
18 for the conduct of business including, but not limited to: a federal tax
19 identification number; a New Jersey sales tax identification number;
20 hazardous waste disposal systems; stack permits; and any other
21 licenses, permits and registrations as the director may find applicable;

22 (3) Maintain insurance necessary to protect customers' property,
23 and provide the public and employees with remedies for liability arising
24 from the operation including, but not limited to: garage keepers'
25 liability insurance in a minimum amount of \$300,000 or security or a
26 letter of credit in that amount; workers' compensation insurance
27 coverage in the amounts required pursuant to R.S.34:15-1 et seq.; and
28 fire insurance;

29 (4) Possess and maintain an auto body repair facility reference
30 source for estimating the cost of repairs in either book or
31 computerized form which is accepted by the industry;

32 (5) Possess and maintain equipment to safely raise and support
33 vehicles for inspection and repair;

34 (6) Possess and maintain a metal inert gas welder;

35 (7) Possess, maintain and utilize for all spray painting:

36 (a) an enclosed area for refinishing which complies with all
37 applicable safety, fire, environmental and other regulations;

38 (b) the means to supply fresh air to workers within the spray area
39 when using materials that require breathable air to be supplied; and

40 (c) a filtration method to reduce particles from the air exhausted
41 from the spray area which is accepted by the industry;

42 (8) Have equipment or the means for structural repair including,
43 but not limited to: equipment to make multiple body and chassis pulls
44 to straighten damaged vehicle components; equipment to anchor a
45 unibody vehicle at four points; a three dimensional measuring device
46 suitable to measure structural dimensions of symmetrical and non-

1 symmetrical vehicles; and dimensional guides appropriate to the
2 vehicles being repaired;

3 (9) Have equipment or the means for performing vehicle four-
4 wheel alignment;

5 (10) Have (a) equipment or the means for vehicle air conditioner
6 servicing including the means to evacuate, recycle, and recharge
7 refrigerants and (b) a technician-employee certified to perform such
8 repairs;

9 (11) Have equipment or the means to make collision related
10 mechanical repairs; and

11 (12) Provide evidence that at least one employee or ten (10%)
12 percent, whichever is greater, of the employees performing repairs at
13 the auto body repair facility have completed a recognized auto body
14 repair related training course during the year immediately preceding
15 the application for or renewal of licensure as a full service auto body
16 repair facility. Training courses available through ICAR (Inter-
17 Industry Conference on Auto Collision Repair) or any other group
18 approved by the director shall qualify to satisfy this requirement.

19 b. An applicant for a full service auto body repair facility license
20 which does not ²[have the equipment to satisfy] meet² the
21 requirements of ²subparagraphs (8), (9), (10), or (11) of ² subsection
22 a. of this section may satisfy those requirements provided the auto
23 body repair facility has entered into ²and maintains² a written
24 agreement ²or agreements² to have ²[the auto body repairs] that
25 work² performed by an ²[auto body repair facility that is licensed as
26 a full service auto body repair facility pursuant to the provisions of
27 P.L.1983, c.360 (C.39:13-1 et seq.) and this amendatory and
28 supplementary act] entity that meets the requirements of
29 subparagraphs (8), (9), (10), or (11) of subsection a. of this section².

30

31 ²[8.] 7.² (New section) A person that sells new¹ [motor vehicles]
32 automobiles¹ under an agreement with ¹[a motor vehicle] an
33 automobile¹ manufacturer and that does not satisfy the equipment
34 requirements of section 7 of this amendatory and supplementary act
35 may qualify for ¹[a motor vehicle] an automobile¹ dealer sublet
36 license provided that the ¹[motor vehicle] automobile¹ dealer agrees
37 in the sublet license application to use only auto body repair facilities
38 licensed pursuant to the provisions of section 7 of this amendatory and
39 supplementary act to perform auto body repairs.

40

41 ²[9.] 8.² (New section) Applications for a full service auto body
42 repair facility license or ¹[a motor vehicle] an automobile¹ dealer
43 sublet license shall be reviewed by the director and a license issued or
44 denied within 90 days following receipt by the director of the
45 completed application and supporting documents.

1 ²[10.] 9.² (New section) Within ¹[180] 360¹ days of the effective
2 date of this amendatory and supplementary act the director shall
3 promulgate regulations, in accordance with the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), to implement the provisions of this amendatory and
6 supplementary act and to revise any existing regulations to make them
7 consistent herewith.

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

[Second Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

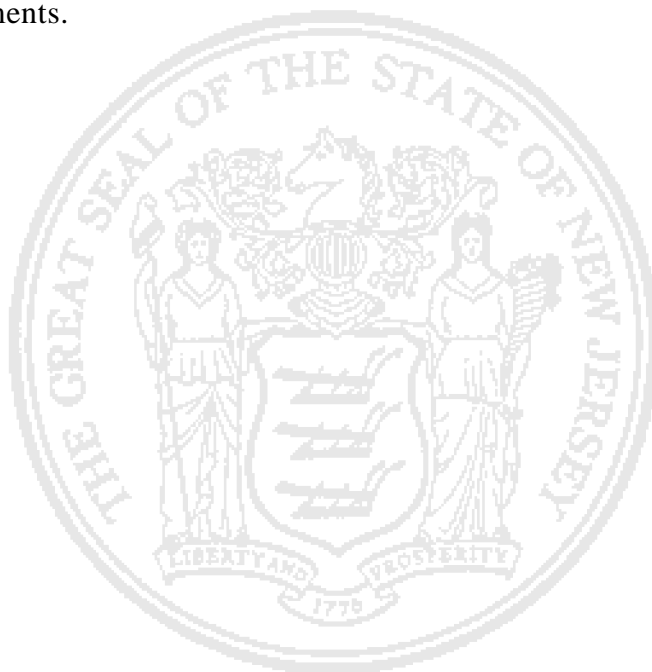
District 32 (Bergen and Hudson)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Assembly Appropriations Committee on May 1, 2000,
with amendments.



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:

6
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
11 for 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] ¹[a motor vehicle] an
14 automobile¹ 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 ¹"Automobile" means a private passenger automobile of a private
28 passenger, station wagon, or van type that is owned or hired and is
29 neither used as public or livery conveyance for passengers nor rented
30 to others with a driver; and a motor vehicle with a pickup body, a
31 delivery sedan or a panel truck or a camper type vehicle used for
32 recreational purposes owned by an individual or by husband and wife
33 who are residents of the same household, not customarily used in the
34 occupation, profession or business of the insured other than farming
35 or ranching. An automobile owned by a farm family copartnership or
36 corporation which is principally garaged on a farm or ranch shall be
37 considered a private passenger automobile owned by two or more
38 relatives resident in the same household.¹

39 [c.] "Director" means the Director of the Division of Motor
40 Vehicles in the Department of [Law and Public Safety]

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.

1 Transportation.

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

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

6

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

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

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

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

23

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

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

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

32 b. Causing or allowing a customer to sign any estimate for repairs
33 which does not state the repairs requested by the customer or the
34 [automobile's] ¹[motor vehicle's] automobile's¹ odometer reading at
35 the time of repair;

36 c. Failing to provide a customer with a copy of any estimate or
37 document requiring his signature, as soon as a customer signs the
38 estimate or document;

39 d. Making false promises or representations intended to influence,
40 persuade, or induce a customer to authorize a repair of [an
41 automobile] ¹[a motor vehicle] an automobile¹ which has been
42 damaged as a result of a collision;

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

45 f. Making appraisals of the cost of repairing [an automobile] ¹[a

1 motor vehicle] an automobile¹ which has been damaged as a result of
2 a collision through the use of photographs, telephone calls, or any
3 manner other than personal inspection;

4 g. Making an estimate for repairs or charging for repairs in such
5 amount as to compensate the insured for the cost of the deductible
6 applicable under the [automobile] ¹[motor vehicle] automobile¹
7 insurance policy;

8 h. A pattern of conduct which includes any of the acts or omissions
9 prohibited in this section or any other unconscionable or fraudulent
10 commercial practice prohibited by the director pursuant to regulations
11 promulgated under the provisions of this act;

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

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

19

20 ²[4.] 3.² Section 5 of P.L.1983, c.360 (C.39:13-5) is amended to
21 read as follows:

22 5. Upon refusal to grant a license or suspension or revocation of
23 a license of an auto body repair facility, the director shall notify the
24 auto body repair facility in writing by registered mail. The auto body
25 repair facility shall be given a hearing by the director if, within [60]
26 30 days thereafter, it files with the director a written request for a
27 hearing concerning the refusal to grant a license or suspension or
28 revocation of the license.

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

30

31 ²[5.] 4.² Section 6 of P.L.1983, c.360 (C.39:13-6) is amended to
32 read as follows:

33 6. The director may issue and cause to be served, upon an auto
34 body repair facility charged with a violation of P.L.1983, c.360
35 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
36 cease and desist operations and the director may impose upon an auto
37 body repair facility violating this act a civil penalty of not more than
38 [\$2,000.00] \$5,000 each for the first offense and not more than
39 [\$5,000.00] \$20,000 each for the second and each subsequent
40 offense. The civil penalty shall be issued for and recovered by and in
41 the name of the director and shall be collected and enforced by
42 summary proceedings pursuant to "the penalty enforcement law"
43 (N.J.S.2A:58-1 et seq.).

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

1 ²[6.] 5.² (New section) There shall be two classes of auto body
2 repair facility licenses, a full service license and ¹[a motor vehicle] an
3 automobile¹ dealer sublet license. Auto body repair facilities holding
4 a license issued prior to the effective date of this amendatory and
5 supplementary act shall have ¹[one year from that date] until the
6 expiration date of that license¹ to satisfy the requirements for a full
7 service or ¹[motor vehicle] automobile¹ dealer sublet license.

8

9 ²[7.] 6.² (New section) a. To qualify for a full service license an
10 auto body repair facility shall:

11 (1) Have a building suitable for the conduct of all operations within
12 the building, and a Certificate of Occupancy for an auto body repair
13 facility issued by the applicable zoning authority. In the absence of
14 evidence to the contrary, public operation as an auto body repair
15 facility for a continuous period of five years shall create a presumption
16 of compliance;

17 (2) Have all required licenses, permits and registrations required
18 for the conduct of business including, but not limited to: a federal tax
19 identification number; a New Jersey sales tax identification number;
20 hazardous waste disposal systems; stack permits; and any other
21 licenses, permits and registrations as the director may find applicable;

22 (3) Maintain insurance necessary to protect customers' property,
23 and provide the public and employees with remedies for liability arising
24 from the operation including, but not limited to: garage keepers'
25 liability insurance in a minimum amount of \$300,000 or security or a
26 letter of credit in that amount; workers' compensation insurance
27 coverage in the amounts required pursuant to R.S.34:15-1 et seq.; and
28 fire insurance;

29 (4) Possess and maintain an auto body repair facility reference
30 source for estimating the cost of repairs in either book or
31 computerized form which is accepted by the industry;

32 (5) Possess and maintain equipment to safely raise and support
33 vehicles for inspection and repair;

34 (6) Possess and maintain a metal inert gas welder;

35 (7) Possess, maintain and utilize for all spray painting:

36 (a) an enclosed area for refinishing which complies with all
37 applicable safety, fire, environmental and other regulations;

38 (b) the means to supply fresh air to workers within the spray area
39 when using materials that require breathable air to be supplied; and

40 (c) a filtration method to reduce particles from the air exhausted
41 from the spray area which is accepted by the industry;

42 (8) Have equipment or the means for structural repair including,
43 but not limited to: equipment to make multiple body and chassis pulls
44 to straighten damaged vehicle components; equipment to anchor a
45 unibody vehicle at four points; a three dimensional measuring device
46 suitable to measure structural dimensions of symmetrical and non-

1 symmetrical vehicles; and dimensional guides appropriate to the
2 vehicles being repaired;

3 (9) Have equipment or the means for performing vehicle four-
4 wheel alignment;

5 (10) Have (a) equipment or the means for vehicle air conditioner
6 servicing including the means to evacuate, recycle, and recharge
7 refrigerants and (b) a technician-employee certified to perform such
8 repairs;

9 (11) Have equipment or the means to make collision related
10 mechanical repairs; and

11 (12) Provide evidence that at least one employee or ten (10%)
12 percent, whichever is greater, of the employees performing repairs at
13 the auto body repair facility have completed a recognized auto body
14 repair related training course during the year immediately preceding
15 the application for or renewal of licensure as a full service auto body
16 repair facility. Training courses available through ICAR (Inter-
17 Industry Conference on Auto Collision Repair) or any other group
18 approved by the director shall qualify to satisfy this requirement.

19 b. An applicant for a full service auto body repair facility license
20 which does not ²[have the equipment to satisfy] meet² the
21 requirements of ²subparagraphs (8), (9), (10), or (11) of ² subsection
22 a. of this section may satisfy those requirements provided the auto
23 body repair facility has entered into ²and maintains² a written
24 agreement ²or agreements² to have ²[the auto body repairs] that
25 work² performed by an ²[auto body repair facility that is licensed as
26 a full service auto body repair facility pursuant to the provisions of
27 P.L.1983, c.360 (C.39:13-1 et seq.) and this amendatory and
28 supplementary act] entity that meets the requirements of
29 subparagraphs (8), (9), (10), or (11) of subsection a. of this section².

30

31 ²[8.] 7.² (New section) A person that sells new¹ [motor vehicles]
32 automobiles¹ under an agreement with ¹[a motor vehicle] an
33 automobile¹ manufacturer and that does not satisfy the equipment
34 requirements of section 7 of this amendatory and supplementary act
35 may qualify for ¹[a motor vehicle] an automobile¹ dealer sublet
36 license provided that the ¹[motor vehicle] automobile¹ dealer agrees
37 in the sublet license application to use only auto body repair facilities
38 licensed pursuant to the provisions of section 7 of this amendatory and
39 supplementary act to perform auto body repairs.

40

41 ²[9.] 8.² (New section) Applications for a full service auto body
42 repair facility license or ¹[a motor vehicle] an automobile¹ dealer
43 sublet license shall be reviewed by the director and a license issued or
44 denied within 90 days following receipt by the director of the
45 completed application and supporting documents.

1 ²[10.] 9.² (New section) Within ¹[180] 360¹ days of the effective
2 date of this amendatory and supplementary act the director shall
3 promulgate regulations, in accordance with the provisions of the
4 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
5 seq.), to implement the provisions of this amendatory and
6 supplementary act and to revise any existing regulations to make them
7 consistent herewith.

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

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

[Second Reprint]

ASSEMBLY, No. 1957

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2000

The Senate Transportation Committee reports favorably and with committee amendments Assembly Bill No. 1957 (2R).

This amended bill amends the current auto body repair facility licensing law and establishes minimum standards a facility must meet in order to qualify for licensure. It provides that the Director of the Division of Motor Vehicles shall establish a system for the licensure of auto body repair facilities, based upon the type or types of motor vehicles repaired by the facility and the equipment required for the repair of the vehicles. At a minimum the director shall provide for a full service auto body repair facility license and an automobile dealer sublet license. The amended bill establishes detailed equipment, training and other requirements for the full service license. However, an auto body repair facility may also qualify for a full service license if it fulfills certain stipulated requirements as set forth in the bill, provided it has a written agreement to subcontract with another auto body repair facility licensee or other qualified party. A person which does not satisfy the equipment requirements set forth in the bill for a full service license may qualify for an automobile dealer sublet license if the dealer agrees in the sublet license application to use only auto body repair facilities licensed pursuant to the bill to perform auto body repairs. The bill also strengthens current auto body repair facility enforcement provisions.

The committee amended the bill to be identical to S-902, as amended and released by the committee on the same date.

[Corrected Copy]

[Third Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

District 32 (Bergen and Hudson)

Co-Sponsored by:

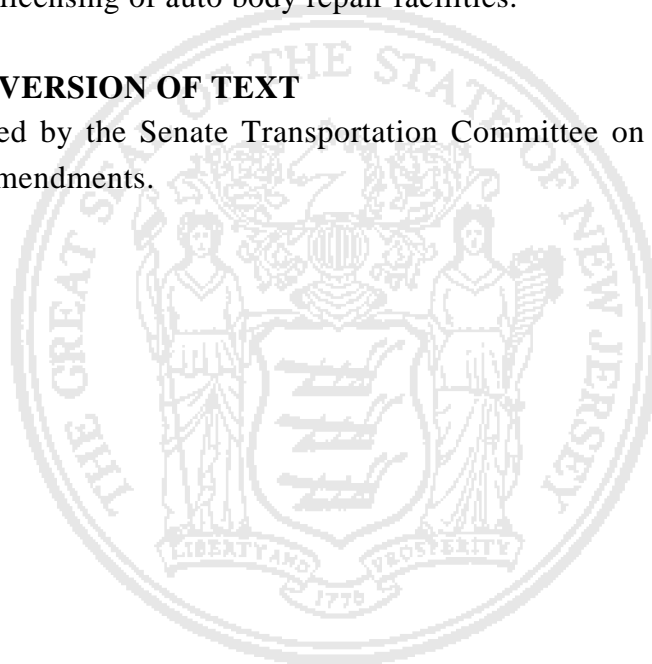
Senators Ciesla and Turner

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Senate Transportation Committee on November 13, 2000, with amendments.



(Sponsorship Updated As Of: 12/19/2000)

A1957 [3R] MORAN, IMPREVEDUTO

2

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

40 [c.] "Director" means the Director of the Division of Motor

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 Vehicles in the Department of [Law and Public Safety]
2 Transportation.

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

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

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

10

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

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

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

36 (cf: P.L.1985, c. 148, s. 23)

37

38 ²[3.] ³[2.] ³3. Section 4 of P.L.1983, c.360 (C.39:13-4) is
39 amended to read as follows:

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

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

46 b. Causing or allowing a customer to sign any estimate for repairs

1 which does not state the repairs requested by the customer or the
2 [automobile's] ¹[motor vehicle's] ³[automobile's¹] motor vehicle's³
3 odometer reading at the time of repair;

4 c. Failing to provide a customer with a copy of any estimate or
5 document requiring his signature, as soon as a customer signs the
6 estimate or document;

7 d. Making false promises or representations intended to influence,
8 persuade, or induce a customer to authorize a repair of [an
9 automobile] ¹[a motor vehicle] ³[an automobile¹] a motor vehicle³
10 which has been damaged as a result of a collision;

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

13 f. Making appraisals of the cost of repairing [an automobile] ¹[a
14 motor vehicle] ³[an automobile¹] a motor vehicle³ which has been
15 damaged as a result of a collision through the use of photographs,
16 telephone calls, or any manner other than personal inspection;

17 g. Making an estimate for repairs or charging for repairs in such
18 amount as to compensate the insured for the cost of the deductible
19 applicable under ³[the]³ [automobile] ¹[motor vehicle]
20 ³[automobile¹] an³ insurance policy;

21 h. A pattern of conduct which includes any of the acts or omissions
22 prohibited in this section or any other unconscionable or fraudulent
23 commercial practice prohibited by the director pursuant to regulations
24 promulgated under the provisions of this act;

25 i. Failing to maintain its equipment and facilities in good operating
26 condition, or failing to keep in force and effect any permits,
27 accreditation ³, letter of credit³ or insurance required ³[before an auto
28 body repair facility license may be granted] for licensure³;

29 ¹[j. Operating an auto body repair facility without a license as
30 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).] j.
31 Operating an auto body repair facility without a license as required
32 pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).¹

33 (cf: P.L.1985, c.148, s.25)

34

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

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

41 The director may contract with a private party to provide
42 investigation, inspection and recommendation services to the division,
43 provided the private party is experienced in the equipping and
44 operation of auto body repair facilities, charges less for these services
45 than the division would incur with its own employees and the director

1 is satisfied that the services will be rendered fairly and solely in the
 2 best interests of the State of New Jersey. An auto body repair facility
 3 trade group or association may be considered by the director to
 4 provide these services.

5 (cf: P.L.1985, c.148, s.24)]²

6
 7 ²[4.] ³[3. ²] ^{4.}³ Section 5 of P.L.1983, c.360 (C.39:13-5) is
 8 amended to read as follows:

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

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

17
 18 ²[5.] ³[4. ²] ^{5.}³ Section 6 of P.L.1983, c.360 (C.39:13-6) is
 19 amended to read as follows:

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

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

36
 37 ²[6.] ³[5. ²] (New section) There shall be two classes of auto body
 38 repair facility licenses, a full service license and ¹[a motor vehicle] an
 39 automobile¹ dealer sublet license. Auto body repair facilities holding
 40 a license issued prior to the effective date of this amendatory and
 41 supplementary act shall have ¹[one year from that date] until the
 42 expiration date of that license¹ to satisfy the requirements for a full
 43 service or ¹[motor vehicle] automobile¹ dealer sublet license.]³

44
 45 ³6. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read

1 as follows:

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

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

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

39 d. No lienholder or lessor shall deduct any amount from the
40 aggregate proceeds of a negotiable instrument that was issued by an
41 insurer or other payor to reimburse an auto body repair facility which,
42 pursuant to the provisions of subsection a. of this section, repaired a
43 damaged motor vehicle, but which is payable jointly to the [insured]
44 owner or lessee and the lienholder or lessor, for the purpose of paying
45 any delinquent amounts or outstanding installments that the [insured]
46 owner or lessee may owe to the lienholder or lessor for the motor

1 vehicle that has been repaired, nor shall any lienholder or lessor
2 unreasonably withhold the endorsement of such instrument or,
3 following endorsement, refuse to transmit the endorsed instrument to
4 the [insured] owner or lessee.

5 For the purposes of this act, "auto body repair facility" shall mean
6 an auto body repair facility as defined in section 1 of P.L.1983, c.360
7 (C.39:13-1).³

8 (cf: P.L.1989, c.273, s.1)

9
10 ²[7.] ³[6.²] 7.³ (New section) a. To qualify for a full service
11 license an auto body repair facility shall:

12 (1) Have a building suitable for the conduct of all operations within
13 the building, and a Certificate of Occupancy for an auto body repair
14 facility issued by the applicable zoning authority. In the absence of
15 evidence to the contrary, public operation as an auto body repair
16 facility for a continuous period of five years shall create a presumption
17 of compliance;

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

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

34 (4) Possess and maintain an auto body repair facility reference
35 source for estimating the cost of repairs ³[in either book or
36 computerized form which is accepted by the industry] , which
37 reference source is generally accepted by the auto body repair
38 industry. The reference source may be in either book or computerized
39 form³;

40 (5) Possess and maintain equipment to safely raise and support
41 vehicles for inspection and repair;

42 (6) Possess and maintain a metal inert gas welder;

43 (7) Possess, maintain and utilize for all spray painting:

44 (a) an enclosed area for refinishing which complies with all
45 applicable safety, fire, environmental and other regulations;

- 1 (b) the means to supply fresh air to workers within the spray area
2 when using materials that require breathable air to be supplied; and
- 3 (c) a filtration method to reduce particles from the air exhausted
4 from the spray area which is ³[accepted by the industry] established
5 in accordance with standards established by the State or federal
6 government³;
- 7 (8) Have equipment ³necessary to perform³ or the means ³for
8 performing³ structural repair including, but not limited to: equipment
9 to make multiple body and chassis pulls to straighten damaged vehicle
10 components; equipment to anchor a unibody vehicle at four points; a
11 three dimensional measuring device suitable to measure structural
12 dimensions of symmetrical and non-symmetrical vehicles; and
13 dimensional guides appropriate to the vehicles being repaired;
- 14 (9) Have equipment ³necessary to perform³ or the means for
15 performing vehicle four-wheel alignment;
- 16 (10) Have (a) equipment ³necessary to perform³ or the means for
17 ³performing³ vehicle air conditioner servicing including the means to
18 evacuate, recycle, and recharge refrigerants and (b) a technician-
19 employee certified to perform such repairs;
- 20 (11) Have equipment ³necessary to perform³ or the means ³[to
21 make collision related] for performing³ mechanical repairs
22 ³necessitated by collision damage³; and
- 23 (12) Provide evidence that at least one employee or ten (10%)
24 percent, whichever is greater, of the employees performing repairs at
25 the auto body repair facility have completed a recognized auto body
26 repair related training course during the year immediately preceding
27 the application for or renewal of licensure as a full service auto body
28 repair facility. Training courses available through ICAR (Inter-
29 Industry Conference on Auto Collision Repair) ³, the manufacturer's
30 representative³ or ³[any other group approved by the director shall
31 qualify to satisfy this requirement] a generally recognized auto body
32 repair training program shall qualify to satisfy the requirement³.
- 33 b. ³[An applicant for a full service auto body repair facility license
34 which does not ²[have the equipment to satisfy] meet² the
35 requirements of ²subparagraphs (8), (9), (10) and (11) of² subsection
36 a. of this section may satisfy those requirements provided the auto
37 body repair facility has entered into ²and maintains² a written
38 agreement ²or agreements² to have ²[the auto body repairs] that
39 work² performed by an ²[auto body repair facility that is licensed as
40 a full service auto body repair facility pursuant to the provisions of
41 P.L.1983, c.360 (C.39:13-1 et seq.) and this amendatory and
42 supplementary act.] entity that meets the requirements of
43 subparagraphs (8), (9), (10), or (11) of subsection a. of this section².]
44 An auto body repair facility may, however, qualify for a full service
45 license if it meets all of the conditions established by paragraphs (1),

1 (2), (3), (4), (5), (6), (7) and (12) of subsection a. of this section and
 2 has a written agreement to subcontract with another autobody repair
 3 facility licensee or other party to perform the work for which the
 4 equipment set forth in paragraphs (8), (9), (10) or (11) of subsection
 5 a. of this section is required provided, however, that the other party
 6 meets the requirements set forth in those paragraphs with regard to
 7 equipment or the means for performing the required tasks and
 8 training.³

9
 10 ²[8.] ³[7.2] 8.³ (New section) A person ³[that] which³ sells new
 11 ¹[motor vehicles] automobiles¹ under an agreement with ¹[a motor
 12 vehicle] an automobile¹ manufacturer and ³[that]³ does not satisfy the
 13 equipment requirements of section 7 of this amendatory and
 14 supplementary act may qualify for ¹[a motor vehicle] an automobile¹
 15 dealer sublet license provided that the ¹[motor vehicle] automobile¹
 16 dealer agrees in the sublet license application to use only auto body
 17 repair facilities licensed pursuant to the provisions of section 7 of this
 18 amendatory and supplementary act to perform auto body repairs¹.

19
 20 ²[9.] ³[8.2] 9.³ (New section) Applications for a ³new or
 21 renewal³ full service auto body repair facility license or ¹[a motor
 22 vehicle] ³[an automobile¹] a motor vehicle³ dealer sublet license shall
 23 be reviewed by the director and a license issued or denied within 90
 24 days following receipt by the director of the completed application and
 25 supporting documents. ³Applicants for renewal or initial licensure
 26 filed after the effective date of this amendatory and supplementary act
 27 shall certify that the applicant has met the requirements of the act.
 28 Auto body repair facilities holding a license issued prior to the
 29 effective date of this amendatory and supplementary act shall be
 30 subject to the provisions of the act on the first renewal date of the
 31 license established by the director. The director may extend licenses
 32 issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.),
 33 pending renewal of the licenses pursuant to the terms and conditions
 34 established by this amendatory and supplementary act. No later than
 35 the 45th day following the effective date of this amendatory and
 36 supplementary act, the director shall notify all licensed auto body
 37 repair facilities of the terms, conditions and requirements of the act.³

38
 39 ²[10.] ³[9.2] 10.³ (New section) Within ¹[180] 360¹ days of the
 40 effective date of this amendatory and supplementary act the director
 41 shall promulgate regulations, in accordance with the provisions of the
 42 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
 43 seq.), to implement the provisions of this amendatory and
 44 supplementary act and to revise any existing regulations to make them
 45 consistent herewith.

A1957 [3R] MORAN, IMPREVEDUTO

10

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

[Third Reprint]

ASSEMBLY, No. 1957

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED JANUARY 31, 2000

Sponsored by:

Assemblyman JEFFREY W. MORAN

District 9 (Atlantic, Burlington and Ocean)

Assemblyman ANTHONY IMPREVEDUTO

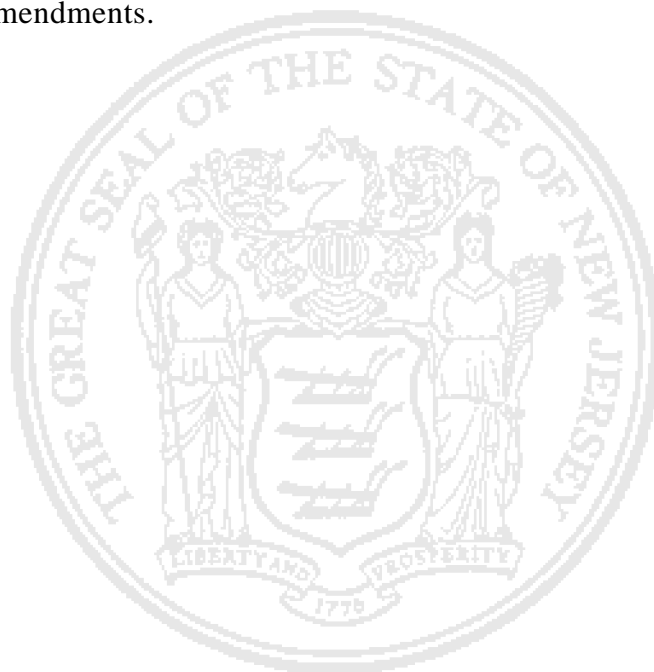
District 32 (Bergen and Hudson)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Senate Transportation Committee on November 13, 2000, with amendments.



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:

6
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
11 for 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] ¹[a motor vehicle]
14 ³[an automobile¹] a motor vehicle³ 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 ³[¹"Automobile" means a private passenger automobile of a private
28 passenger, station wagon, or van type that is owned or hired and is
29 neither used as public or livery conveyance for passengers nor rented
30 to others with a driver; and a motor vehicle with a pickup body, a
31 delivery sedan or a panel truck or a camper type vehicle used for
32 recreational purposes owned by an individual or by husband and wife
33 who are residents of the same household, not customarily used in the
34 occupation, profession or business of the insured other than farming
35 or ranching. An automobile owned by a farm family copartnership or
36 corporation which is principally garaged on a farm or ranch shall be
37 considered a private passenger automobile owned by two or more
38 relatives resident in the same household.¹]³

39 [c.] "Director" means the Director of the Division of Motor
40 Vehicles in the Department of [Law and Public Safety]

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 Transportation.

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

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

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

9

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

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

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

36

37 ²[~~3.~~] ³[~~2.~~] ~~3.~~³ Section 4 of P.L.1983, c.360 (C.39:13-4) is
38 amended to read as follows:

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

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

45 b. Causing or allowing a customer to sign any estimate for repairs
46 which does not state the repairs requested by the customer or the

- 1 [automobile's] ¹[motor vehicle's] ³[automobile's¹] motor vehicle's³
 2 odometer reading at the time of repair;
- 3 c. Failing to provide a customer with a copy of any estimate or
 4 document requiring his signature, as soon as a customer signs the
 5 estimate or document;
- 6 d. Making false promises or representations intended to influence,
 7 persuade, or induce a customer to authorize a repair of [an
 8 automobile] ¹[a motor vehicle] ³[an automobile¹] a motor vehicle³
 9 which has been damaged as a result of a collision;
- 10 e. Giving an adjuster or appraiser directly or indirectly any gratuity
 11 or other consideration in connection with his appraisal service;
- 12 f. Making appraisals of the cost of repairing [an automobile] ¹[a
 13 motor vehicle] ³[an automobile¹] a motor vehicle³ which has been
 14 damaged as a result of a collision through the use of photographs,
 15 telephone calls, or any manner other than personal inspection;
- 16 g. Making an estimate for repairs or charging for repairs in such
 17 amount as to compensate the insured for the cost of the deductible
 18 applicable under ³[the]³ [automobile] ¹[motor vehicle]
 19 ³[automobile¹] an³ insurance policy;
- 20 h. A pattern of conduct which includes any of the acts or omissions
 21 prohibited in this section or any other unconscionable or fraudulent
 22 commercial practice prohibited by the director pursuant to regulations
 23 promulgated under the provisions of this act;
- 24 i. Failing to maintain its equipment and facilities in good operating
 25 condition, or failing to keep in force and effect any permits,
 26 accreditation ³, letter of credit³ or insurance required ³[before an auto
 27 body repair facility license may be granted] for licensure³;
- 28 ¹[j. Operating an auto body repair facility without a license as
 29 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).] j.
 30 Operating an auto body repair facility without a license as required
 31 pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).¹
 32 (cf: P.L.1985, c.148, s.25)

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

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

40 The director may contract with a private party to provide
 41 investigation, inspection and recommendation services to the division,
 42 provided the private party is experienced in the equipping and
 43 operation of auto body repair facilities, charges less for these services
 44 than the division would incur with its own employees and the director
 45 is satisfied that the services will be rendered fairly and solely in the

1 best interests of the State of New Jersey. An auto body repair facility
2 trade group or association may be considered by the director to
3 provide these services.

4 (cf: P.L.1985, c.148, s.24)]²

5
6 ²[4.] ³[3.²] ^{4.}³ Section 5 of P.L.1983, c.360 (C.39:13-5) is
7 amended to read as follows:

8 5. Upon refusal to grant a license or suspension or revocation of
9 a license of an auto body repair facility, the director shall notify the
10 auto body repair facility in writing by registered mail. The auto body
11 repair facility shall be given a hearing by the director if, within [60]
12 30 days thereafter, it files with the director a written request for a
13 hearing concerning the refusal to grant a license or suspension or
14 revocation of the license.

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

16
17 ²[5.] ³[4.²] ^{5.}³ Section 6 of P.L.1983, c.360 (C.39:13-6) is
18 amended to read as follows:

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

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

35
36 ²[6.] ³[5.² (New section) There shall be two classes of auto body
37 repair facility licenses, a full service license and ¹[a motor vehicle] an
38 automobile¹ dealer sublet license. Auto body repair facilities holding
39 a license issued prior to the effective date of this amendatory and
40 supplementary act shall have ¹[one year from that date] until the
41 expiration date of that license¹ to satisfy the requirements for a full
42 service or ¹[motor vehicle] automobile¹ dealer sublet license.]³

43
44 ³6. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read
45 as follows:

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

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

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

38 d. No lienholder or lessor shall deduct any amount from the
39 aggregate proceeds of a negotiable instrument that was issued by an
40 insurer or other payor to reimburse an auto body repair facility which,
41 pursuant to the provisions of subsection a. of this section, repaired a
42 damaged motor vehicle, but which is payable jointly to the [insured]
43 owner or lessee and the lienholder or lessor, for the purpose of paying
44 any delinquent amounts or outstanding installments that the [insured]
45 owner or lessee may owe to the lienholder or lessor for the motor
46 vehicle that has been repaired, nor shall any lienholder or lessor

1 unreasonably withhold the endorsement of such instrument or,
2 following endorsement, refuse to transmit the endorsed instrument to
3 the [insured] owner or lessee.

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

8

9 ²[7.] ³[6.²] 7.³ (New section) a. To qualify for a full service
10 license an auto body repair facility shall:

11 (1) Have a building suitable for the conduct of all operations within
12 the building, and a Certificate of Occupancy for an auto body repair
13 facility issued by the applicable zoning authority. In the absence of
14 evidence to the contrary, public operation as an auto body repair
15 facility for a continuous period of five years shall create a presumption
16 of compliance;

17 (2) Have all required licenses, permits and registrations required
18 for the conduct of business including, but not limited to: a federal tax
19 identification number; a New Jersey sales tax identification number;
20 hazardous waste disposal systems ³that are in accordance with
21 standards established by the State or federal government³; stack
22 permits; and any other licenses, permits and registrations as the
23 director may find applicable;

24 (3) Maintain insurance ³[necessary to protect customers'
25 coverage for damage to³ property ³and for liability arising from bodily
26 injury³, ³[and provide the public and employees with remedies for
27 liability arising from the operation]³ including, but not limited to:
28 garage keepers' liability insurance in a minimum amount of \$300,000
29 ³[or security]³ or a letter of credit in ³[that] the³ amount ³of
30 \$300,000³; workers' compensation insurance coverage in the amounts
31 required pursuant to R.S.34:15-1 et seq.; ³[and]³ fire insurance ³, and
32 any other coverage required by the director³;

33 (4) Possess and maintain an auto body repair facility reference
34 source for estimating the cost of repairs ³[in either book or
35 computerized form which is accepted by the industry] , which
36 reference source is generally accepted by the auto body repair
37 industry. The reference source may be in either book or computerized
38 form³;

39 (5) Possess and maintain equipment to safely raise and support
40 vehicles for inspection and repair;

41 (6) Possess and maintain a metal inert gas welder;

42 (7) Possess, maintain and utilize for all spray painting:

43 (a) an enclosed area for refinishing which complies with all
44 applicable safety, fire, environmental and other regulations;

45 (b) the means to supply fresh air to workers within the spray area

1 when using materials that require breathable air to be supplied; and
2 (c) a filtration method to reduce particles from the air exhausted
3 from the spray area which is ³[accepted by the industry] established
4 in accordance with standards established by the State or federal
5 government³;

6 (8) Have equipment ³necessary to perform³ or the means ³for
7 performing³ structural repair including, but not limited to: equipment
8 to make multiple body and chassis pulls to straighten damaged vehicle
9 components; equipment to anchor a unibody vehicle at four points; a
10 three dimensional measuring device suitable to measure structural
11 dimensions of symmetrical and non-symmetrical vehicles; and
12 dimensional guides appropriate to the vehicles being repaired;

13 (9) Have equipment ³necessary to perform³ or the means for
14 performing vehicle four-wheel alignment;

15 (10) Have (a) equipment ³necessary to perform³ or the means for
16 ³performing³ vehicle air conditioner servicing including the means to
17 evacuate, recycle, and recharge refrigerants and (b) a technician-
18 employee certified to perform such repairs;

19 (11) Have equipment ³necessary to perform³ or the means ³[to
20 make collision related] for performing³ mechanical repairs
21 ³necessitated by collision damage³; and

22 (12) Provide evidence that at least one employee or ten (10%)
23 percent, whichever is greater, of the employees performing repairs at
24 the auto body repair facility have completed a recognized auto body
25 repair related training course during the year immediately preceding
26 the application for or renewal of licensure as a full service auto body
27 repair facility. Training courses available through ICAR (Inter-
28 Industry Conference on Auto Collision Repair) ³, the manufacturer's
29 representative³ or ³[any other group approved by the director shall
30 qualify to satisfy this requirement] a generally recognized auto body
31 repair training program shall qualify to satisfy the requirement³.

32 b. ³[An applicant for a full service auto body repair facility license
33 which does not ²[have the equipment to satisfy] meet² the
34 requirements of ²subparagraphs (8), (9), (10) and (11) of² subsection
35 a. of this section may satisfy those requirements provided the auto
36 body repair facility has entered into ²and maintains² a written
37 agreement ²or agreements² to have ²[the auto body repairs] that
38 work² performed by an ²[auto body repair facility that is licensed as
39 a full service auto body repair facility pursuant to the provisions of
40 P.L.1983, c.360 (C.39:13-1 et seq.) and this amendatory and
41 supplementary act.] entity that meets the requirements of
42 subparagraphs (8), (9), (10), or (11) of subsection a. of this section².]
43 An auto body repair facility may, however, qualify for a full service
44 license if it meets all of the conditions established by paragraphs (1),
45 (2), (3), (4), (5), (6), (7) and (12) of subsection a. of this section and

1 has a written agreement to subcontract with another autobody repair
2 facility licensee or other party to perform the work for which the
3 equipment set forth in paragraphs (8), (9), (10) or (11) of subsection
4 a. of this section is required provided, however, that the other party
5 meets the requirements set forth in those paragraphs with regard to
6 equipment or the means for performing the required tasks and
7 training.³

8
9 ²[8.] ³[7.2] 8.³ (New section) A person ³[that] which³ sells new
10 ¹[motor vehicles] automobiles¹ under an agreement with ¹[a motor
11 vehicle] an automobile¹ manufacturer and ³[that]³ does not satisfy the
12 equipment requirements of section 7 of this amendatory and
13 supplementary act may qualify for ¹[a motor vehicle] an automobile¹
14 dealer sublet license provided that the ¹[motor vehicle] automobile¹
15 dealer agrees in the sublet license application to use only auto body
16 repair facilities licensed pursuant to the provisions of section 7 of this
17 amendatory and supplementary act to perform auto body repairs¹.

18
19 ²[9.] ³[8.2] 9.³ (New section) Applications for a ³new or
20 renewal³ full service auto body repair facility license or ¹[a motor
21 vehicle] ³[an automobile¹] a motor vehicle³ dealer sublet license shall
22 be reviewed by the director and a license issued or denied within 90
23 days following receipt by the director of the completed application and
24 supporting documents. ³Applicants for renewal or initial licensure
25 filed after the effective date of this amendatory and supplementary act
26 shall certify that the applicant has met the requirements of the act.
27 Auto body repair facilities holding a license issued prior to the
28 effective date of this amendatory and supplementary act shall be
29 subject to the provisions of the act on the first renewal date of the
30 license established by the director. The director may extend licenses
31 issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.),
32 pending renewal of the licenses pursuant to the terms and conditions
33 established by this amendatory and supplementary act. No later than
34 the 45th day following the effective date of this amendatory and
35 supplementary act, the director shall notify all licensed auto body
36 repair facilities of the terms, conditions and requirements of the act.³

37
38 ²[10.] ³[9.2] 10.³ (New section) Within ¹[180] 360¹ days of the
39 effective date of this amendatory and supplementary act the director
40 shall promulgate regulations, in accordance with the provisions of the
41 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
42 seq.), to implement the provisions of this amendatory and
43 supplementary act and to revise any existing regulations to make them
44 consistent herewith.

A1957 [3R] MORAN, IMPREVEDUTO

10

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

SENATE, No. 902

STATE OF NEW JERSEY 209th LEGISLATURE

INTRODUCED FEBRUARY 7, 2000

Sponsored by:

Senator ANDREW R. CIESLA
District 10 (Monmouth and Ocean)
Senator SHIRLEY K. TURNER
District 15 (Mercer)

SYNOPSIS

Concerns licensing of auto body repair facilities.

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As introduced.



(Sponsorship Updated As Of: 6/9/2000)

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11 for 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)

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

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

41 The director may contract with a private party to provide
42 investigation, inspection and recommendation services to the division.

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

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

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

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

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

21 c. Failing to provide a customer with a copy of any estimate or
22 document requiring his signature, as soon as a customer signs the
23 estimate or document;

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

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

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

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

37 h. A pattern of conduct which includes any of the acts or omissions
38 prohibited in this section or any other unconscionable or fraudulent
39 commercial practice prohibited by the director pursuant to regulations
40 promulgated under the provisions of this act;

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

45 j. Operating an auto body repair facility without a license as
46 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).

47 (cf: P.L.1985, c.148, s.25)

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

3 5. Upon refusal to grant a license or suspension or revocation of
4 a license of an auto body repair facility, the director shall notify the
5 auto body repair facility in writing by registered mail. The auto body
6 repair facility shall be given a hearing by the director if, within [60]
7 30 days thereafter, it files with the director a written request for a
8 hearing concerning the refusal to grant a license or suspension or
9 revocation of the license.

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

11

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

14 6. The director may issue and cause to be served, upon an auto
15 body repair facility charged with a violation of P.L.1983, c.360
16 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
17 cease and desist operations and the director may impose upon an auto
18 body repair facility violating this act a civil penalty of not more than
19 ~~[\$2,000.00]~~ \$5,000 each for the first offense and not more than
20 ~~[\$5,000.00]~~ \$20,000 each for the second and each subsequent
21 offense. The civil penalty shall be issued for and recovered by and in
22 the name of the director and shall be collected and enforced by
23 summary proceedings pursuant to ["the penalty enforcement law"
24 (N.J.S.2A:58-1 et seq.)] the "Penalty Enforcement Law of 1999,"
25 P.L.1999, c.274 (C.2A:58-10 et seq.).

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

27

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

34

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

37 (1) Have a building suitable for the conduct of all operations within
38 the building, and a Certificate of Occupancy for an auto body repair
39 facility issued by the applicable zoning authority. In the absence of
40 evidence to the contrary, public operation as an auto body repair
41 facility for a continuous period of five years shall create a presumption
42 of compliance;

43 (2) Have all required licenses, permits and registrations required
44 for the conduct of business including, but not limited to: a federal tax
45 identification number; a New Jersey sales tax identification number;
46 hazardous waste disposal systems; stack permits; and any other

- 1 licenses, permits and registrations as the director may find applicable;
- 2 (3) Maintain insurance necessary to protect customers' property,
- 3 and provide the public and employees with remedies for liability arising
- 4 from the operation including, but not limited to: garage keepers'
- 5 liability insurance in a minimum amount of \$300,000; workers'
- 6 compensation insurance coverage in the amounts required pursuant to
- 7 R.S.34:15-1 et seq.; and fire insurance;
- 8 (4) Possess and maintain an auto body repair facility reference
- 9 source for estimating the cost of repairs in either book or
- 10 computerized form which is accepted by the industry;
- 11 (5) Possess and maintain equipment to safely raise and support
- 12 vehicles for inspection and repair;
- 13 (6) Possess and maintain a metal inert gas welder;
- 14 (7) Possess, maintain and utilize for all spray painting:
- 15 (a) an enclosed area for refinishing which complies with all
- 16 applicable safety, fire, environmental and other regulations;
- 17 (b) the means to supply fresh air to workers within the spray area
- 18 when using materials that require breathable air to be supplied; and
- 19 (c) a filtration method to reduce particles from the air exhausted
- 20 from the spray area which is accepted by the industry;
- 21 (8) Have equipment or the means for structural repair including,
- 22 but not limited to: equipment to make multiple body and chassis pulls
- 23 to straighten damaged vehicle components; equipment to anchor a
- 24 unibody vehicle at four points; a three dimensional measuring device
- 25 suitable to measure structural dimensions of symmetrical and non-
- 26 symmetrical vehicles; and dimensional guides appropriate to the
- 27 vehicles being repaired;
- 28 (9) Have equipment or the means for performing vehicle four-
- 29 wheel alignment;
- 30 (10) Have (a) equipment or the means for vehicle air conditioner
- 31 servicing including the means to evacuate, recycle, and recharge
- 32 refrigerants and (b) a technician-employee certified to perform such
- 33 repairs;
- 34 (11) Have equipment or the means to make collision related
- 35 mechanical repairs; and
- 36 (12) Provide evidence that at least one employee or ten (10%)
- 37 percent, whichever is greater, of the employees performing repairs at
- 38 the auto body repair facility have completed a recognized auto body
- 39 repair related training course during the year immediately preceding
- 40 the application for or renewal of licensure as a full service auto body
- 41 repair facility. Training courses available through ICAR (Inter-
- 42 Industry Conference on Auto Collision Repair) or any other group
- 43 approved by the director shall qualify to satisfy this requirement.
- 44 b. An applicant for a full service auto body repair facility license
- 45 which does not have the equipment to satisfy the requirements of
- 46 subsection a. of this section may satisfy those requirements provided

1 the auto body repair facility has entered into a written agreement to
2 have the auto body repairs performed by an auto body repair facility
3 that is licensed as a full service auto body repair facility pursuant to
4 the provisions of P.L.1983, c.360 (C.39:13-1 et seq.) and this
5 amendatory and supplementary act.

6
7 8. (New section) A person which sells new motor vehicles under
8 an agreement with a motor vehicle manufacturer and which does not
9 satisfy the equipment requirements of section 7 of this amendatory and
10 supplementary act may qualify for a motor vehicle dealer sublet license
11 if there is a written agreement between the motor vehicle dealer and
12 an auto body repair facility licensed pursuant to the provisions of
13 section 7 of this amendatory and supplementary act to perform auto
14 body repairs in which the motor vehicle dealer agrees to use only the
15 auto body repair facility listed on the license application to perform
16 those repairs.

17
18 9. (New section) Applications for a full service auto body repair
19 facility license or a motor vehicle dealer sublet license shall be
20 reviewed by the director and a license issued or denied within 90 days
21 following receipt by the director of the completed application and
22 supporting documents.

23
24 10. (New section) Within 180 days of the effective date of this
25 amendatory and supplementary act the director shall promulgate
26 regulations, in accordance with the provisions of the "Administrative
27 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement
28 the provisions of this amendatory and supplementary act and to revise
29 any existing regulations to make them consistent herewith.

30
31 11. This act shall take effect on the 180th day following enactment,
32 except that section 10 shall take effect immediately.

33
34
35 STATEMENT

36
37 This bill amends the current auto body repair facility licensing law
38 and establishes minimum standards a facility must meet in order to
39 qualify for licensure. It creates two classes of licenses: a full service
40 license and a motor vehicle sublet license. The bill strengthens current
41 auto body repair facility enforcement provisions and provides for the
42 privatization of inspection and reporting activities currently performed
43 by the Division of Motor Vehicles.

[Corrected Copy]

[First Reprint]

SENATE, No. 902

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 7, 2000

Sponsored by:

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

Senator SHIRLEY K. TURNER

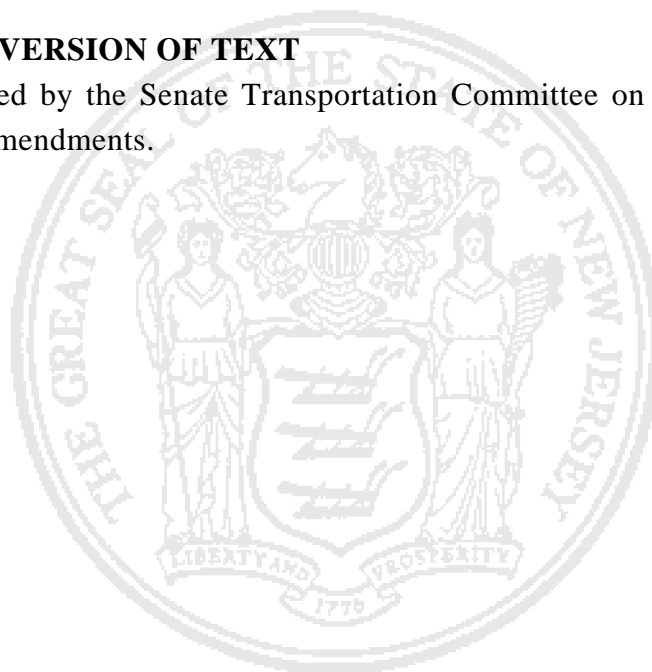
District 15 (Mercer)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Senate Transportation Committee on November 13, 2000, with amendments.



(Sponsorship Updated As Of: 6/9/2000)

1 AN ACT concerning licensing of auto body repair facilities ¹,amending
2 P.L.1987, c.280¹ 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] a motor vehicle
15 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 [c.] "Director" means the Director of the Division of Motor
29 Vehicles in the Department of [Law and Public Safety]
30 Transportation.

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

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

35
36 ¹[2. Section 3 of P.L.1983, c.360 (C.39:13-3) is amended to read
37 as follows:

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

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 Senate STR committee amendments adopted November 13, 2000.

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

10 (cf: P.L.1985, c.148, s.24)]¹

11
12 ¹2. Section 2 of P.L.1983, c.360 (C.39:13-2) is amended to read
13 as follows:

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

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

38
39 3. Section 4 of P.L.1983, c.360 (C.39:13-4) is amended to read as
40 follows:

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

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

47 b. Causing or allowing a customer to sign any estimate for repairs
48 which does not state the repairs requested by the customer or the

- 1 [automobile's] motor vehicle's odometer reading at the time of repair;
2 c. Failing to provide a customer with a copy of any estimate or
3 document requiring his signature, as soon as a customer signs the
4 estimate or document;
5 d. Making false promises or representations intended to influence,
6 persuade, or induce a customer to authorize a repair of [an
7 automobile] a motor vehicle which has been damaged as a result of a
8 collision;
9 e. Giving an adjuster or appraiser directly or indirectly any gratuity
10 or other consideration in connection with his appraisal service;
11 f. Making appraisals of the cost of repairing [an automobile] a
12 motor vehicle which has been damaged as a result of a collision
13 through the use of photographs, telephone calls, or any manner other
14 than personal inspection;
15 g. Making an estimate for repairs or charging for repairs in such
16 amount as to compensate the insured for the cost of the deductible
17 applicable under ¹[the]¹ [automobile]¹ [motor vehicle]¹ an¹ insurance
18 policy;
19 h. A pattern of conduct which includes any of the acts or omissions
20 prohibited in this section or any other unconscionable or fraudulent
21 commercial practice prohibited by the director pursuant to regulations
22 promulgated under the provisions of this act;
23 i. Failing to maintain its equipment and facilities in good operating
24 condition, or failing to keep in force and effect any permits,
25 accreditation ¹, letter of credit¹ or insurance required ¹ [before an auto
26 body repair facility license may be granted] for licensure¹;
27 ¹[j. Operating an auto body repair facility without a license as
28 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).] j.
29 Operating an auto body repair facility without a license as required
30 pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).¹
31 (cf: P.L.1985, c.148, s.25)

32
33 4. Section 5 of P.L.1983, c.360 (C.39:13-5) is amended to read as
34 follows:

35 5. Upon refusal to grant a license or suspension or revocation of
36 a license of an auto body repair facility, the director shall notify the
37 auto body repair facility in writing by registered mail. The auto body
38 repair facility shall be given a hearing by the director if, within [60]
39 30 days thereafter, it files with the director a written request for a
40 hearing concerning the refusal to grant a license or suspension or
41 revocation of the license.

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

43

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

1 6. The director may issue and cause to be served, upon an auto
2 body repair facility charged with a violation of P.L.1983, c.360
3 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
4 cease and desist ¹[operations] from the violation ¹ and the director
5 may impose upon an auto body repair facility violating this act a civil
6 penalty of not more than [\$2,000.00] \$5,000 for the first offense and
7 not more than [\$5,000.00] \$20,000 for the second and each
8 subsequent offense. The civil penalty shall be issued for and recovered
9 by and in the name of the director and shall be collected and enforced
10 by summary proceedings pursuant to ["the penalty enforcement law"
11 (N.J.S.2A:58-1 et seq.)] the "Penalty Enforcement Law of 1999,"
12 P.L.1999, c.274 (C.2A:58-10 et seq.) ¹In the event of continued or
13 serious violations, the director may suspend the license of the facility
14 and require it to cease operations during the period of suspension ¹.
15 (cf: P.L.1985, c.148, s.27)

16
17 ¹[6. (New section) There shall be two classes of auto body repair
18 facility licenses, a full service license and a motor vehicle dealer sublet
19 license. Auto body repair facilities holding a license issued prior to
20 the effective date of this amendatory and supplementary act shall have
21 one year from that date to satisfy the requirements for a full service or
22 motor vehicle dealer sublet license.] ¹

23
24 ¹6. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read
25 as follows:

26 1. a. When a motor vehicle is repaired by an auto body repair
27 facility as a result of damage to the vehicle and (1) the damage is
28 reimbursable under a policy of insurance [under physical damage
29 coverage, property damage coverage, or comprehensive coverage] or
30 is otherwise reimbursable by a third party; and (2) the proceeds of the
31 reimbursement are in the form of a negotiable instrument issued by an
32 insurer or other payer which is payable jointly to the [insured] owner
33 or lessee of the vehicle and a lienholder or lessor, the auto body repair
34 facility shall provide the lienholder or lessor with a statement of the
35 repairs which have been made to the vehicle, which statement shall be
36 attested by an authorized representative of the auto body repair
37 facility. The statement shall constitute proof to the lienholder or
38 lessor that all repairs have been made by an auto body repair facility.
39 A color photograph of the repaired vehicle shall accompany the
40 statement.

41 b. In the event that any lienholder or lessor should wish to inspect
42 any motor vehicle to which repairs have been made as provided in
43 subsection a. of this section, the lienholder or lessor shall conduct the
44 inspection upon the premises of the auto body repair facility within
45 [seven] three business days after receipt of the notice by certified mail

1 that the repair has been completed. If an inspection is not made by a
2 lienholder or lessor within the [seven-day] three-day period provided
3 herein, the lienholder or lessor shall forfeit the right to make an
4 inspection.

5 c. In the event a lienholder or lessor shall sell any motor vehicle
6 to which repairs have been made as provided in subsection a. of this
7 section prior to the payment or reimbursement of the auto body repair
8 facility which repaired that motor vehicle, except for the amounts due
9 that lienholder or lessor under the provisions of a perfected lien or
10 security interest, the amount due the auto body repair facility for those
11 repairs shall supersede and have priority over all other liens or
12 outstanding interests, including those payable by an insurer to the
13 [person who insured] owner or lessee of the repaired motor vehicle.
14 In such cases, if the insurer or other payor has received a statement
15 and request demanding payment from the auto body repair facility, the
16 proceeds, or portion thereof, shall be directed by the insurer or other
17 payor to that auto body repair facility.

18 d. No lienholder or lessor shall deduct any amount from the
19 aggregate proceeds of a negotiable instrument that was issued by an
20 insurer or other payor to reimburse an auto body repair facility which,
21 pursuant to the provisions of subsection a. of this section, repaired a
22 damaged motor vehicle, but which is payable jointly to the [insured]
23 owner or lessee and the lienholder or lessor, for the purpose of paying
24 any delinquent amounts or outstanding installments that the [insured]
25 owner or lessee may owe to the lienholder or lessor for the motor
26 vehicle that has been repaired, nor shall any lienholder or lessor
27 unreasonably withhold the endorsement of such instrument or,
28 following endorsement, refuse to transmit the endorsed instrument to
29 the [insured] owner or lessee.

30 For the purposes of this act, "auto body repair facility" shall mean
31 an auto body repair facility as defined in section 1 of P.L.1983, c.360
32 (C.39:13-1).¹

33 (cf: P.L.1989, c.273, s.1)

34

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

37 (1) Have a building suitable for the conduct of all operations within
38 the building, and a Certificate of Occupancy for an auto body repair
39 facility issued by the applicable zoning authority. In the absence of
40 evidence to the contrary, public operation as an auto body repair
41 facility for a continuous period of five years shall create a presumption
42 of compliance;

43 (2) Have all required licenses, permits and registrations required
44 for the conduct of business including, but not limited to: a federal tax
45 identification number; a New Jersey sales tax identification number;
46 hazardous waste disposal systems ¹that are in accordance with

- 1 standards established by the State or federal government¹; stack
2 permits; and any other licenses, permits and registrations as the
3 director may find applicable;
- 4 (3) Maintain insurance ¹[necessary to protect customers']
5 coverage for damage to¹ property ¹and for liability arising from bodily
6 injury¹, ¹[and provide the public and employees with remedies for
7 liability arising from the operation]¹ including, but not limited to:
8 garage keepers' liability insurance in a minimum amount of \$300,000
9 ¹or a letter of credit in the amount of \$300,000¹; workers'
10 compensation insurance coverage in the amounts required pursuant to
11 R.S.34:15-1 et seq.; ¹[and]¹ fire insurance ¹, and any other coverage
12 required by the director¹;
- 13 (4) Possess and maintain an auto body repair facility reference
14 source for estimating the cost of repairs ¹[in either book or
15 computerized form which is accepted by the industry] , which
16 reference source is generally accepted by the auto body repair
17 industry. The reference source may be in either book or computerized
18 form¹;
- 19 (5) Possess and maintain equipment to safely raise and support
20 vehicles for inspection and repair;
- 21 (6) Possess and maintain a metal inert gas welder;
- 22 (7) Possess, maintain and utilize for all spray painting:
- 23 (a) an enclosed area for refinishing which complies with all
24 applicable safety, fire, environmental and other regulations;
- 25 (b) the means to supply fresh air to workers within the spray area
26 when using materials that require breathable air to be supplied; and
- 27 (c) a filtration method to reduce particles from the air exhausted
28 from the spray area which is ¹[accepted by the industry] established
29 in accordance with standards established by the State or federal
30 government¹;
- 31 (8) Have equipment ¹necessary to perform¹ or the means for
32 ¹performing¹ structural repair including, but not limited to: equipment
33 to make multiple body and chassis pulls to straighten damaged vehicle
34 components; equipment to anchor a unibody vehicle at four points; a
35 three dimensional measuring device suitable to measure structural
36 dimensions of symmetrical and non-symmetrical vehicles; and
37 dimensional guides appropriate to the vehicles being repaired;
- 38 (9) Have equipment ¹necessary to perform¹ or the means for
39 performing vehicle four-wheel alignment;
- 40 (10) Have (a) equipment ¹necessary to perform¹ or the means for
41 ¹performing¹ vehicle air conditioner servicing including the means to
42 evacuate, recycle, and recharge refrigerants and (b) a technician-
43 employee certified to perform such repairs;
- 44 (11) Have equipment ¹necessary to perform¹ or the means ¹[to
45 make collision related] for performing¹ mechanical repairs

1 ¹necessitated by collision damage¹; and

2 (12) Provide evidence that at least one employee or ten (10%)
3 percent, whichever is greater, of the employees performing repairs at
4 the auto body repair facility have completed a recognized auto body
5 repair related training course during the year immediately preceding
6 the application for or renewal of licensure as a full service auto body
7 repair facility. Training courses available through ICAR (Inter-
8 Industry Conference on Auto Collision Repair) ¹, the manufacturer's
9 representative¹ or ¹[any other group approved by the director shall
10 qualify to satisfy this requirement] a generally recognized auto body
11 repair training program shall qualify to satisfy the requirement¹.

12 b. ¹[An applicant for a full service auto body repair facility license
13 which does not have the equipment to satisfy the requirements of
14 subsection a. of this section may satisfy those requirements provided
15 the auto body repair facility has entered into a written agreement to
16 have the auto body repairs performed by an auto body repair facility
17 that is licensed as a full service auto body repair facility pursuant to
18 the provisions of P.L.1983, c.360 (C.39:13-1 et seq.) and this
19 amendatory and supplementary act.] An auto body repair facility may,
20 however, qualify for a full service license if it meets all of the
21 conditions established by paragraphs (1), (2), (3), (4), (5), (6), (7) and
22 (12) of subsection a. of this section and has a written agreement to
23 subcontract with another autobody repair facility licensee or other
24 party to perform the work for which the equipment set forth in
25 paragraphs (8), (9), (10) or (11) of subsection a. of this section is
26 required provided, however, that the other party meets the
27 requirements set forth in those paragraphs with regard to equipment
28 or the means for performing the required tasks and training.¹

29
30 8. (New section) A person which sells new ¹[motor vehicles]
31 automobiles¹ under an agreement with [a motor vehicle] an
32 automobile¹ manufacturer and ¹[which]¹ does not satisfy the
33 equipment requirements of section 7 of this amendatory and
34 supplementary act may qualify for ¹[a motor vehicle] an automobile¹
35 dealer sublet license ¹[if there is a written agreement between the
36 motor vehicle dealer and an auto body repair facility licensed pursuant
37 to the provisions of section 7 of this amendatory and supplementary
38 act to perform auto body repairs in which the motor vehicle dealer
39 agrees to use only the auto body repair facility listed on the license
40 application to perform those repairs] provided that the automobile
41 dealer agrees in the sublet license application to use only auto body
42 repair facilities licensed pursuant to the provisions of section 7 of this
43 amendatory and supplementary act to perform auto body repairs¹.

44
45 9. (New section) Applications for a ¹new or renewal¹ full service

1 auto body repair facility license or a motor vehicle dealer sublet license
2 shall be reviewed by the director and a license issued or denied within
3 90 days following receipt by the director of the completed application
4 and supporting documents. ¹Applicants for renewal or initial licensure
5 filed after the effective date of this amendatory and supplementary act
6 shall certify that the applicant has met the requirements of the act.
7 Auto body repair facilities holding a license issued prior to the
8 effective date of this amendatory and supplementary act shall be
9 subject to the provisions of the act on the first renewal date of the
10 license established by the director. The director may extend licenses
11 issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.),
12 pending renewal of the licenses pursuant to the terms and conditions
13 established by this amendatory and supplementary act. No later than
14 the 45th day following the effective date of this amendatory and
15 supplementary act, the director shall notify all licensed auto body
16 repair facilities of the terms, conditions and requirements of the act.¹

17

18 10. (New section) Within ¹[180] 360¹ days of the effective date
19 of this amendatory and supplementary act the director shall
20 promulgate regulations, in accordance with the provisions of the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), to implement the provisions of this amendatory and
23 supplementary act and to revise any existing regulations to make them
24 consistent herewith.

25

26 11. This act shall take effect on the ¹[180th] 360th¹ day following
27 enactment, except that section 10 shall take effect immediately.

[First Reprint]

SENATE, No. 902

STATE OF NEW JERSEY
209th LEGISLATURE

INTRODUCED FEBRUARY 7, 2000

Sponsored by:

Senator ANDREW R. CIESLA

District 10 (Monmouth and Ocean)

Senator SHIRLEY K. TURNER

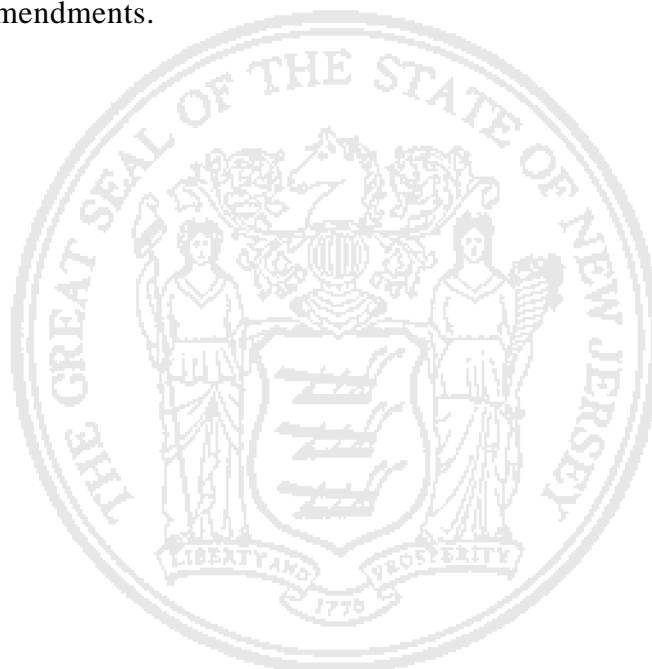
District 15 (Mercer)

SYNOPSIS

Concerns licensing of auto body repair facilities.

CURRENT VERSION OF TEXT

As reported by the Senate Transportation Committee on November 13, 2000, with amendments.



(Sponsorship Updated As Of: 6/9/2000)

1 AN ACT concerning licensing of auto body repair facilities, amending
2 P.L.1987, c.280 and 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:

6
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
11 for 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)

34
35 ¹[2. Section 3 of P.L.1983, c.360 (C.39:13-3) is amended to read
36 as follows:

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

41 The director may contract with a private party to provide

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 Senate STR committee amendments adopted November 13, 2000.

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

9 (cf: P.L.1985, c.148, s.24)]¹

10
11 ¹2. Section 2 of P.L.1983, c.360 (C.39:13-2) is amended to read
12 as follows:

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

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

36 (cf: P.L.1985, c.148, s.23)

37
38 3. Section 4 of P.L.1983, c.360 (C.39:13-4) is amended to read as
39 follows:

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

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

46 b. Causing or allowing a customer to sign any estimate for repairs
47 which does not state the repairs requested by the customer or the

- 1 [automobile's] motor vehicle's odometer reading at the time of repair;
2 c. Failing to provide a customer with a copy of any estimate or
3 document requiring his signature, as soon as a customer signs the
4 estimate or document;
5 d. Making false promises or representations intended to influence,
6 persuade, or induce a customer to authorize a repair of [an
7 automobile] a motor vehicle which has been damaged as a result of a
8 collision;
9 e. Giving an adjuster or appraiser directly or indirectly any gratuity
10 or other consideration in connection with his appraisal service;
11 f. Making appraisals of the cost of repairing [an automobile] a
12 motor vehicle which has been damaged as a result of a collision
13 through the use of photographs, telephone calls, or any manner other
14 than personal inspection;
15 g. Making an estimate for repairs or charging for repairs in such
16 amount as to compensate the insured for the cost of the deductible
17 applicable under ¹[the]¹ [automobile]¹ [motor vehicle]¹ an¹ insurance
18 policy;
19 h. A pattern of conduct which includes any of the acts or omissions
20 prohibited in this section or any other unconscionable or fraudulent
21 commercial practice prohibited by the director pursuant to regulations
22 promulgated under the provisions of this act;
23 i. Failing to maintain its equipment and facilities in good operating
24 condition, or failing to keep in force and effect any permits,
25 accreditation ¹, letter of credit¹ or insurance required ¹[before an auto
26 body repair facility license may be granted] for licensure¹;
27 ¹[j. Operating an auto body repair facility without a license as
28 required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).] j.
29 Operating an auto body repair facility without a license as required
30 pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).¹
31 (cf: P.L.1985, c.148, s.25)

32
33 4. Section 5 of P.L.1983, c.360 (C.39:13-5) is amended to read as
34 follows:

35 5. Upon refusal to grant a license or suspension or revocation of
36 a license of an auto body repair facility, the director shall notify the
37 auto body repair facility in writing by registered mail. The auto body
38 repair facility shall be given a hearing by the director if, within [60]
39 30 days thereafter, it files with the director a written request for a
40 hearing concerning the refusal to grant a license or suspension or
41 revocation of the license.

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

43

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

1 6. The director may issue and cause to be served, upon an auto
2 body repair facility charged with a violation of P.L.1983, c.360
3 (C.39:13-1 et seq.), an order requiring the auto body repair facility to
4 cease and desist ¹[operations] from the violation¹ and the director
5 may impose upon an auto body repair facility violating this act a civil
6 penalty of not more than [\$2,000.00] \$5,000 for the first offense and
7 not more than [\$5,000.00] \$20,000 for the second and each
8 subsequent offense. The civil penalty shall be issued for and recovered
9 by and in the name of the director and shall be collected and enforced
10 by summary proceedings pursuant to ["the penalty enforcement law"
11 (N.J.S.2A:58-1 et seq.)] the "Penalty Enforcement Law of 1999,"
12 P.L.1999, c.274 (C.2A:58-10 et seq.) ¹In the event of continued or
13 serious violations, the director may suspend the license of the facility
14 and require it to cease operations during the period of suspension¹.
15 (cf: P.L.1985, c.148, s.27)

16
17 ¹[6. (New section) There shall be two classes of auto body repair
18 facility licenses, a full service license and a motor vehicle dealer sublet
19 license. Auto body repair facilities holding a license issued prior to
20 the effective date of this amendatory and supplementary act shall have
21 one year from that date to satisfy the requirements for a full service or
22 motor vehicle dealer sublet license.]¹

23
24 ¹6. Section 1 of P.L.1987, c.280 (C.39:13-8) is amended to read
25 as follows:

26 1. a. When a motor vehicle is repaired by an auto body repair
27 facility as a result of damage to the vehicle and (1) the damage is
28 reimbursable under a policy of insurance [under physical damage
29 coverage, property damage coverage, or comprehensive coverage] or
30 is otherwise reimbursable by a third party; and (2) the proceeds of the
31 reimbursement are in the form of a negotiable instrument issued by an
32 insurer or other payer which is payable jointly to the [insured] owner
33 or lessee of the vehicle and a lienholder or lessor, the auto body repair
34 facility shall provide the lienholder or lessor with a statement of the
35 repairs which have been made to the vehicle, which statement shall be
36 attested by an authorized representative of the auto body repair
37 facility. The statement shall constitute proof to the lienholder or
38 lessor that all repairs have been made by an auto body repair facility.
39 A color photograph of the repaired vehicle shall accompany the
40 statement.

41 b. In the event that any lienholder or lessor should wish to inspect
42 any motor vehicle to which repairs have been made as provided in
43 subsection a. of this section, the lienholder or lessor shall conduct the
44 inspection upon the premises of the auto body repair facility within
45 [seven] three business days after receipt of the notice by certified mail

1 that the repair has been completed. If an inspection is not made by a
2 lienholder or lessor within the [seven-day] three-day period provided
3 herein, the lienholder or lessor shall forfeit the right to make an
4 inspection.

5 c. In the event a lienholder or lessor shall sell any motor vehicle
6 to which repairs have been made as provided in subsection a. of this
7 section prior to the payment or reimbursement of the auto body repair
8 facility which repaired that motor vehicle, except for the amounts due
9 that lienholder or lessor under the provisions of a perfected lien or
10 security interest, the amount due the auto body repair facility for those
11 repairs shall supersede and have priority over all other liens or
12 outstanding interests, including those payable by an insurer to the
13 [person who insured] owner or lessee of the repaired motor vehicle.
14 In such cases, if the insurer or other payor has received a statement
15 and request demanding payment from the auto body repair facility, the
16 proceeds, or portion thereof, shall be directed by the insurer or other
17 payor to that auto body repair facility.

18 d. No lienholder or lessor shall deduct any amount from the
19 aggregate proceeds of a negotiable instrument that was issued by an
20 insurer or other payor to reimburse an auto body repair facility which,
21 pursuant to the provisions of subsection a. of this section, repaired a
22 damaged motor vehicle, but which is payable jointly to the [insured]
23 owner or lessee and the lienholder or lessor, for the purpose of paying
24 any delinquent amounts or outstanding installments that the [insured]
25 owner or lessee may owe to the lienholder or lessor for the motor
26 vehicle that has been repaired, nor shall any lienholder or lessor
27 unreasonably withhold the endorsement of such instrument or,
28 following endorsement, refuse to transmit the endorsed instrument to
29 the [insured] owner or lessee.

30 For the purposes of this act, "auto body repair facility" shall mean
31 an auto body repair facility as defined in section 1 of P.L.1983, c.360
32 (C.39:13-1).¹

33 (cf: P.L.1989, c.273, s.1)

34

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

37 (1) Have a building suitable for the conduct of all operations within
38 the building, and a Certificate of Occupancy for an auto body repair
39 facility issued by the applicable zoning authority. In the absence of
40 evidence to the contrary, public operation as an auto body repair
41 facility for a continuous period of five years shall create a presumption
42 of compliance;

43 (2) Have all required licenses, permits and registrations required
44 for the conduct of business including, but not limited to: a federal tax
45 identification number; a New Jersey sales tax identification number;
46 hazardous waste disposal systems ¹that are in accordance with

- 1 standards established by the State or federal government¹; stack
2 permits; and any other licenses, permits and registrations as the
3 director may find applicable;
- 4 (3) Maintain insurance ¹[necessary to protect customers']
5 coverage for damage to¹ property ¹and for liability arising from bodily
6 injury¹, ¹[and provide the public and employees with remedies for
7 liability arising from the operation]¹ including, but not limited to:
8 garage keepers' liability insurance in a minimum amount of \$300,000
9 ¹or a letter of credit in the amount of \$300,000 ; workers'
10 compensation insurance coverage in the amounts required pursuant to
11 R.S.34:15-1 et seq.; ¹[and]¹ fire insurance ¹, and any other coverage
12 required by the director¹;
- 13 (4) Possess and maintain an auto body repair facility reference
14 source for estimating the cost of repairs ¹[in either book or
15 computerized form which is accepted by the industry] , which
16 reference source is generally accepted by the auto body repair
17 industry. The reference source may be in either book or computerized
18 form¹;
- 19 (5) Possess and maintain equipment to safely raise and support
20 vehicles for inspection and repair;
- 21 (6) Possess and maintain a metal inert gas welder;
- 22 (7) Possess, maintain and utilize for all spray painting:
- 23 (a) an enclosed area for refinishing which complies with all
24 applicable safety, fire, environmental and other regulations;
- 25 (b) the means to supply fresh air to workers within the spray area
26 when using materials that require breathable air to be supplied; and
- 27 (c) a filtration method to reduce particles from the air exhausted
28 from the spray area which is ¹[accepted by the industry] established
29 in accordance with standards established by the State or federal
30 government¹;
- 31 (8) Have equipment ¹necessary to perform¹ or the means for
32 ¹performing¹ structural repair including, but not limited to: equipment
33 to make multiple body and chassis pulls to straighten damaged vehicle
34 components; equipment to anchor a unibody vehicle at four points; a
35 three dimensional measuring device suitable to measure structural
36 dimensions of symmetrical and non-symmetrical vehicles; and
37 dimensional guides appropriate to the vehicles being repaired;
- 38 (9) Have equipment ¹necessary to perform¹ or the means for
39 performing vehicle four-wheel alignment;
- 40 (10) Have (a) equipment ¹necessary to perform¹ or the means for
41 ¹performing¹ vehicle air conditioner servicing including the means to
42 evacuate, recycle, and recharge refrigerants and (b) a technician-
43 employee certified to perform such repairs;
- 44 (11) Have equipment ¹necessary to perform¹ or the means ¹[to
45 make collision related] for performing¹ mechanical repairs

- 1 ¹necessitated by collision damage¹; and
- 2 (12) Provide evidence that at least one employee or ten (10%)
- 3 percent, whichever is greater, of the employees performing repairs at
- 4 the auto body repair facility have completed a recognized auto body
- 5 repair related training course during the year immediately preceding
- 6 the application for or renewal of licensure as a full service auto body
- 7 repair facility. Training courses available through ICAR (Inter-
- 8 Industry Conference on Auto Collision Repair) ¹, the manufacturer's
- 9 representative¹ or ¹[any other group approved by the director shall
- 10 qualify to satisfy this requirement] a generally recognized auto body
- 11 repair training program shall qualify to satisfy the requirement¹.
- 12 b. ¹[An applicant for a full service auto body repair facility license
- 13 which does not have the equipment to satisfy the requirements of
- 14 subsection a. of this section may satisfy those requirements provided
- 15 the auto body repair facility has entered into a written agreement to
- 16 have the auto body repairs performed by an auto body repair facility
- 17 that is licensed as a full service auto body repair facility pursuant to
- 18 the provisions of P.L.1983, c.360 (C.39:13-1 et seq.) and this
- 19 amendatory and supplementary act.] An auto body repair facility may,
- 20 however, qualify for a full service license if it meets all of the
- 21 conditions established by paragraphs (1), (2), (3), (4), (5), (6), (7) and
- 22 (12) of subsection a. of this section and has a written agreement to
- 23 subcontract with another autobody repair facility licensee or other
- 24 party to perform the work for which the equipment set forth in
- 25 paragraphs (8), (9), (10) or (11) of subsection a. of this section is
- 26 required provided, however, that the other party meets the
- 27 requirements set forth in those paragraphs with regard to equipment
- 28 or the means for performing the required tasks and training.¹
- 29
- 30 8. (New section) A person which sells new ¹[motor vehicles]
- 31 automobiles¹ under an agreement with ¹[a motor vehicle] an
- 32 automobile¹ manufacturer and ¹[which] does not satisfy the
- 33 equipment requirements of section 7 of this amendatory and
- 34 supplementary act may qualify for ¹[a motor vehicle] an automobile¹
- 35 dealer sublet license ¹[if there is a written agreement between the
- 36 motor vehicle dealer and an auto body repair facility licensed pursuant
- 37 to the provisions of section 7 of this amendatory and supplementary
- 38 act to perform auto body repairs in which the motor vehicle dealer
- 39 agrees to use only the auto body repair facility listed on the license
- 40 application to perform those repairs] provided that the automobile
- 41 dealer agrees in the sublet license application to use only auto body
- 42 repair facilities licensed pursuant to the provisions of section 7 of this
- 43 amendatory and supplementary act to perform auto body repairs¹.
- 44
- 45 9. (New section) Applications for a ¹new or renewal¹ full service

1 auto body repair facility license or a motor vehicle dealer sublet license
2 shall be reviewed by the director and a license issued or denied within
3 90 days following receipt by the director of the completed application
4 and supporting documents. ¹Applicants for renewal or initial licensure
5 filed after the effective date of this amendatory and supplementary act
6 shall certify that the applicant has met the requirements of the act.
7 Auto body repair facilities holding a license issued prior to the
8 effective date of this amendatory and supplementary act shall be
9 subject to the provisions of the act on the first renewal date of the
10 license established by the director. The director may extend licenses
11 issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.),
12 pending renewal of the licenses pursuant to the terms and conditions
13 established by this amendatory and supplementary act. No later than
14 the 45th day following the effective date of this amendatory and
15 supplementary act, the director shall notify all licensed auto body
16 repair facilities of the terms, conditions and requirements of the act.¹

17

18 10. (New section) Within ¹[180] 360¹ days of the effective date
19 of this amendatory and supplementary act the director shall
20 promulgate regulations, in accordance with the provisions of the
21 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
22 seq.), to implement the provisions of this amendatory and
23 supplementary act and to revise any existing regulations to make them
24 consistent herewith.

25

26 11. This act shall take effect on the ¹[180th] 360th¹ day following
27 enactment, except that section 10 shall take effect immediately.

SENATE TRANSPORTATION COMMITTEE

STATEMENT TO

SENATE, No. 902

with committee amendments

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2000

The Senate Transportation Committee reports favorably and with committee amendments Senate Bill No. 902.

This amended bill amends the current auto body repair facility licensing law and establishes minimum standards a facility must meet in order to qualify for licensure. It provides that the Director of the Division of Motor Vehicles shall establish a system for the licensure of auto body repair facilities, based upon the type or types of motor vehicles repaired by the facility and the equipment required for the repair of the vehicles. At a minimum the director shall provide for a full service auto body repair facility license and an automobile dealer sublet license. The amended bill establishes detailed equipment, training and other requirements for the full service license. However, an auto body repair facility may also qualify for a full service license if it fulfills certain stipulated requirements as set forth in the bill, provided it has a written agreement to subcontract with another auto body repair facility licensee or other qualified party. A person which does not satisfy the equipment requirements set forth in the bill for a full service license may qualify for an automobile dealer sublet license if the dealer agrees in the sublet license application to use only auto body repair facilities licensed pursuant to the bill to perform auto body repairs. The bill also strengthens current auto body repair facility enforcement provisions.

The committee amended the bill to provide for the full service auto body repair facility license and the automobile dealer sublet license and to stipulate the various requirements for the licenses. The amendments make sundry changes to the bill dealing with enforcement and insurance coverage and providing for a delayed effective date.

This amended bill is identical to A-1957 (2R), as amended and released by the committee on the same date.

§§7-10 -
C.39:13-2.1
to 39:13-2.4
§11 - Note to
§§1-10

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.

11

12

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14

15 Concerns licensing of auto body repair facilities.

CHAPTER 53

AN ACT concerning licensing of auto body repair facilities, amending P.L.1987, c.280 and amending and supplementing P.L.1983, c.360.

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

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

C.39:13-1 Definitions.

1. For the purposes of this act:

"Auto body repair facility" means a business or person who for compensation engages in the business of repairing, removing, installing or painting integral component parts of a chassis or body of a motor vehicle damaged as a result of a collision.

"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation.

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

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

C.39:13-2 System for licensure of auto body repair facilities.

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

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

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

C.39:13-4 Fine; refusal to grant suspension, revocation of license.

4. The director may fine or refuse to grant or may suspend or revoke a license of an auto body repair facility for any of the following acts or omissions related to the conduct of the business of the auto body repair facility:

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

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

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

- d. Making false promises or representations intended to influence, persuade, or induce a customer to authorize a repair of a motor vehicle which has been damaged as a result of a collision;

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

- f. Making appraisals of the cost of repairing a motor vehicle which has been damaged as a result of a collision through the use of photographs, telephone calls, or any manner other than

personal inspection;

g. Making an estimate for repairs or charging for repairs in such amount as to compensate the insured for the cost of the deductible applicable under an insurance policy;

h. A pattern of conduct which includes any of the acts or omissions prohibited in this section or any other unconscionable or fraudulent commercial practice prohibited by the director pursuant to regulations promulgated under the provisions of this act;

i. Failing to maintain its equipment and facilities in good operating condition, or failing to keep in force and effect any permits, accreditation, letter of credit or insurance required for licensure;

j. Operating an auto body repair facility without a license as required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).

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

C.39:13-5 Notification, hearing upon written request.

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

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

C.39:13-6 Cease and desist order, civil penalty.

6. The director may issue and cause to be served, upon an auto body repair facility charged with a violation of P.L.1983, c.360 (C.39:13-1 et seq.), an order requiring the auto body repair facility to cease and desist from the violation and the director may impose upon an auto body repair facility violating this act a civil penalty of not more than \$5,000 for the first offense and not more than \$20,000 for the second and each subsequent offense. The civil penalty shall be issued for and recovered by and in the name of the director and shall be collected and enforced by summary proceedings pursuant to the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.) In the event of continued or serious violations, the director may suspend the license of the facility and require it to cease operations during the period of suspension.

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

C.39:13-8 Damage repairs reimbursable under insurance policy by negotiable instrument payable to insured and lienholder or lessor; statement and photograph as proof; inspection.

1. a. When a motor vehicle is repaired by an auto body repair facility as a result of damage to the vehicle and (1) the damage is reimbursable under a policy of insurance or is otherwise reimbursable by a third party; and (2) the proceeds of the reimbursement are in the form of a negotiable instrument issued by an insurer or other payer which is payable jointly to the owner or lessee of the vehicle and a lienholder or lessor, the auto body repair facility shall provide the lienholder or lessor with a statement of the repairs which have been made to the vehicle, which statement shall be attested by an authorized representative of the auto body repair facility. The statement shall constitute proof to the lienholder or lessor that all repairs have been made by an auto body repair facility. A color photograph of the repaired vehicle shall accompany the statement.

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

c. In the event a lienholder or lessor shall sell any motor vehicle to which repairs have been

made as provided in subsection a. of this section prior to the payment or reimbursement of the auto body repair facility which repaired that motor vehicle, except for the amounts due that lienholder or lessor under the provisions of a perfected lien or security interest, the amount due the auto body repair facility for those repairs shall supersede and have priority over all other liens or outstanding interests, including those payable by an insurer to the owner or lessee of the repaired motor vehicle. In such cases, if the insurer or other payor has received a statement and request demanding payment from the auto body repair facility, the proceeds, or portion thereof, shall be directed by the insurer or other payor to that auto body repair facility.

d. No lienholder or lessor shall deduct any amount from the aggregate proceeds of a negotiable instrument that was issued by an insurer or other payor to reimburse an auto body repair facility which, pursuant to the provisions of subsection a. of this section, repaired a damaged motor vehicle, but which is payable jointly to the owner or lessee and the lienholder or lessor, for the purpose of paying any delinquent amounts or outstanding installments that the owner or lessee may owe to the lienholder or lessor for the motor vehicle that has been repaired, nor shall any lienholder or lessor unreasonably withhold the endorsement of such instrument or, following endorsement, refuse to transmit the endorsed instrument to the owner or lessee.

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

C.39:13-2.1 Qualification for full service license.

7. a. To qualify for a full service license an auto body repair facility shall:

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

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

(3) Maintain insurance coverage for damage to property and for liability arising from bodily injury, including, but not limited to: garage keepers' liability insurance in a minimum amount of \$300,000 or a letter of credit in the amount of \$300,000; workers' compensation insurance coverage in the amounts required pursuant to R.S.34:15-1 et seq.; fire insurance, and any other coverage required by the director;

(4) Possess and maintain an auto body repair facility reference source for estimating the cost of repairs, which reference source is generally accepted by the auto body repair industry. The reference source may be in either book or computerized form;

(5) Possess and maintain equipment to safely raise and support vehicles for inspection and repair;

(6) Possess and maintain a metal inert gas welder;

(7) Possess, maintain and utilize for all spray painting:

(a) an enclosed area for refinishing which complies with all applicable safety, fire, environmental and other regulations;

(b) the means to supply fresh air to workers within the spray area when using materials that require breathable air to be supplied; and

(c) a filtration method to reduce particles from the air exhausted from the spray area which is established in accordance with standards established by the State or federal government;

(8) Have equipment necessary to perform or the means for performing structural repair including, but not limited to: equipment to make multiple body and chassis pulls to straighten damaged vehicle components; equipment to anchor a unibody vehicle at four points; a three dimensional measuring device suitable to measure structural dimensions of symmetrical and non-symmetrical vehicles; and dimensional guides appropriate to the vehicles being repaired;

(9) Have equipment necessary to perform or the means for performing vehicle four-wheel alignment;

(10) Have (a) equipment necessary to perform or the means for performing vehicle air conditioner servicing including the means to evacuate, recycle, and recharge refrigerants and (b) a technician-employee certified to perform such repairs;

(11) Have equipment necessary to perform or the means for performing mechanical repairs necessitated by collision damage; and

(12) Provide evidence that at least one employee or ten (10%) percent, whichever is greater, of the employees performing repairs at the auto body repair facility have completed a recognized auto body repair related training course during the year immediately preceding the application for or renewal of licensure as a full service auto body repair facility. Training courses available through ICAR (Inter-Industry Conference on Auto Collision Repair), the manufacturer's representative or a generally recognized auto body repair training program shall qualify to satisfy the requirement.

b. An auto body repair facility may, however, qualify for a full service license if it meets all of the conditions established by paragraphs (1), (2), (3), (4), (5), (6), (7) and (12) of subsection a. of this section and has a written agreement to subcontract with another autobody repair facility licensee or other party to perform the work for which the equipment set forth in paragraph (8), (9), (10) or (11) of subsection a. of this section is required provided, however, that the other party meets the requirements set forth in those paragraphs with regard to equipment or the means for performing the required tasks and training.

C.39:13-2.2 Qualification for automobile dealer sublet license.

8. A person which sells new automobiles under an agreement with an automobile manufacturer and does not satisfy the equipment requirements of section 7 of this amendatory and supplementary act may qualify for an automobile dealer sublet license provided that the automobile dealer agrees in the sublet license application to use only auto body repair facilities licensed pursuant to the provisions of section 7 of this amendatory and supplementary act to perform auto body repairs.

C.39:13-2.3 Review of applications for licensure.

9. Applications for a new or renewal full service auto body repair facility license or a motor vehicle dealer sublet license shall be reviewed by the director and a license issued or denied within 90 days following receipt by the director of the completed application and supporting documents. Applicants for renewal or initial licensure filed after the effective date of this amendatory and supplementary act shall certify that the applicant has met the requirements of the act. Auto body repair facilities holding a license issued prior to the effective date of this amendatory and supplementary act shall be subject to the provisions of the act on the first renewal date of the license established by the director. The director may extend licenses issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.), pending renewal of the licenses pursuant to the terms and conditions established by this amendatory and supplementary act. No later than the 45th day following the effective date of this amendatory and supplementary act, the director shall notify all licensed auto body repair facilities of the terms, conditions and requirements of the act.

C.39:13-2.4 Regulations.

10. Within 360 days of the effective date of this amendatory and supplementary act the director shall promulgate regulations, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this amendatory and supplementary act and to revise any existing regulations to make them consistent herewith.

11. This act shall take effect on the 360th day following enactment, except that section 10 shall take effect immediately.

Approved April 10, 2001.