MOTOR VEHICLE SERVICE AND REPAIR ACT
Act 300 of 1974

AN ACT to regulate the practice of servicing and repairing motor vehicles; to proscribe unfair and deceptive practices; to provide for training and certification of mechanics; to provide for the registration of motor vehicle repair facilities; to provide for enforcement; and to prescribe penalties.

History: 1974, Act 300, Eff. Apr. 1, 1975.

The People of the State of Michigan enact:

257.1301 Short title.

Sec. 1. This act shall be known and may be cited as the “motor vehicle service and repair act”.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1302 Definitions.

Sec. 2. As used in this act:

(a) "Administrator" means the secretary of state or any individual designated by the secretary of state to act in his or her place.

(b) "BAIID mechanic" means a specialty mechanic who holds a certification from the department under section 10 to perform BAIID service.

(c) "BAIID service" means the installation, removal, repair, or other servicing of breath alcohol ignition interlock devices.

(d) "Breath alcohol ignition interlock device" or "BAIID" means that term as defined in section 20d of the Michigan vehicle code, 1949 PA 300, MCL 257.20d.

(e) "Department" means the department of state.

(f) "Master mechanic" means a motor vehicle mechanic or specialty mechanic who is certified by the department under this act in all of the specific repair or service categories described in section 10(1).

(g) "Motor vehicle" means a vehicle that is self-propelled, a vehicle that is propelled by electric power, a motorcycle, or a trailer, as those terms are defined in the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923. For the purposes of this act, a motor vehicle does not include the dwelling or sleeping portions of a motor home, trailer, or any recreational vehicle that has similar facilities that are not directly connected with the drive mechanism of the vehicle or other areas of repair that would require certification of motor vehicle mechanics as specified in this act or rules promulgated under this act.

(h) "Motor vehicle mechanic" means a technician or other individual who, for compensation, repairs motor vehicles, including the reconditioning, replacement, adjustment, or alteration of the operating condition, of any component or subassembly of a motor vehicle.

(i) "Mechanic trainee" means an individual who desires to become a motor vehicle mechanic, a specialty mechanic, or a master mechanic and receives a permit from the administrator under this act.

(j) "Motor vehicle repair facility" means a place of business that, for compensation, is engaged in the business of performing, or employs individuals who perform, maintenance, diagnosis, vehicle body work, repair service, or, beginning July 1, 2016, BAIID service, on a motor vehicle for compensation. The term does not include any of the following:

(*i*) An individual who engages only in the business of repairing the motor vehicles of a single commercial or industrial establishment or governmental agency.

(*ii*) An individual who is repairing his or her own or a family member's car.

(*iii*) A business that does not diagnose the operation of a motor vehicle, does not remove parts from a motor vehicle to be remachined, and does not install finished machined or remachined parts on a motor vehicle, not including a motor vehicle repair facility that engages in the business of performing or employing persons who perform vehicle body work.

(*iv*) A BAIID facility described in section 625k(14)(d) of the Michigan vehicle code, 1949 PA 300, MCL 257.625k.

(k) "Specialty mechanic" means a motor vehicle mechanic who is certified by the department for a specific repair or service category or categories described in section 10(1).

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976;—Am. 1988, Act 254, Eff. Oct. 1, 1989;—Am. 2016, Act 33, Eff. June 6, 2016.

257.1302a Additional definitions.

Sec. 2a. As used in this act:

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(a) “Distressed vehicle” means that term as defined in section 12a of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.12a of the Michigan Compiled Laws.

(b) “Facility” means a motor vehicle repair facility.

(c) “Late model vehicle” means that term as defined in section 24b of Act No. 300 of the Public Acts of 1949, being section 257.24b of the Michigan Compiled Laws.

(d) “Major component part” means 1 of the following parts of a motor vehicle:

(*i*) The engine.

(*ii*) The transmission.

(*iii*) The right or left front fender.

(*iv*) The hood.

(*v*) A door allowing entrance to or egress from the passenger compartment of the vehicle.

(*vi*) The front or rear bumper.

(*vii*) The right or left rear quarter panel.

(*viii*) The deck lid, tailgate, or hatchback.

(*ix*) The trunk floor pan.

(*x*) The cargo box of a pickup.

(*xi*) The frame, or if the vehicle has a unitized body, the supporting structure or structures that serve as the frame.

(*xii*) The cab of a truck.

(*xiii*) The body of a passenger vehicle.

(e) “Salvageable part” means a major component part of a late model vehicle or a vehicle manufactured in the current model year, if the part can be reused.

(f) “Vehicle body work” means the business or activity of repairing physical damage to a motor vehicle by repairing, mending, straightening, or replacing a major component part, except for the engine or transmission.

History: Add. 1988, Act 254, Eff. Oct. 1, 1989.

257.1303 Act inapplicable to gasoline service stations exclusively engaged in selling motor fuel and lubricants; minor services subject to act; exception.

Sec. 3. Unless the means of doing or engaging in a motor vehicle repair business including the operating of a motor vehicle repair facility is adopted for the purposes of evading this act, and except as otherwise provided in this act, this act shall not apply to gasoline service stations exclusively engaged in the business of selling motor fuel and lubricants. A person or facility providing minor services, including but not limited to: the changing or installing of light bulbs, tires, lamp globes, batteries, air filters, oil filters, windshield wiper blades, fan or power assist belts or lubrication or oil changes and other minor or ornamental accessories or activities incidental to the business of selling motor fuel and lubricants is hereby declared a motor vehicle repair facility and is subject to this act except that those employees performing only minor repairs need not be certified under this act.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1304 Act inapplicable to certain persons.

Sec. 4. Unless the act or practice of repairing, servicing, reconditioning, or engaging in the activity of a master or specialty mechanic is adopted for the purposes of evading this act, this act shall not apply to a person who:

(a) Repairs, replaces, reconditions, adjusts, analyzes, diagnoses, or alters the operating condition of his or her own or a family member's motor vehicle and for which there is evidence of ownership of that motor vehicle.

(b) Is a master or specialty mechanic, a motor vehicle mechanic, a mechanic trainee, or technician who is in the full-time employ of an automotive manufacturer and is engaged solely in that capacity on motor vehicles owned by or being produced by the manufacturer.

(c) Engages solely in the business of repairing the motor vehicles for compensation of a single commercial, industrial, or governmental establishment, or 2 or more establishments related by common ownership or corporate affiliation.

(d) Engages solely in the business of repairing, replacing, reconditioning, adjusting, analyzing, diagnosing, or altering the operating condition of a motor vehicle or trailer not required to be registered and not titled under Act No. 300 of the Public Acts of 1949, as amended, being sections 257.1 to 257.923 of the Michigan Compiled Laws. The state treasurer shall reimburse a person exempted under this subdivision money paid by the person as a registration fee or renewal registration fee under section 30.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976;—Am. 1980, Act 151, Imd. Eff. June 10,

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1980.

257.1305 Motor vehicle repair facility; certified specialty or master mechanic required; inspection and approval of work performed by noncertified mechanic; waiver.

Sec. 5. (1) Effective December 31, 1977, all motor vehicle repair facilities must have at least 1 specialty or master mechanic in its employ certified in each category of repair which it provides.

(2) After January 1, 1978 any work concerning major service or repair performed by a noncertified mechanic shall be inspected and approved by 1 who is certified in the pertinent specialty.

(3) Effective December 31, 1980, a person shall not engage in the business or activity of a specialty or master mechanic unless the person is certified pursuant to this act.

(4) Following December 31, 1977, if a customer voluntarily requests services or parts for the repair of a motor vehicle without delay, due to an emergency, from a repair facility in a repair category for which that facility does not have a master or specialty mechanic, that facility may obtain from the customer a waiver of the customer's rights to have the repair work performed by a master or specialty mechanic. The waiver shall be executed in duplicate with 1 copy to be given to the customer requesting the repairs and shall read as follows:

"_____(customer) has voluntarily requested

_____(repair person) of _____(facility) to provide services

or parts in the repair of the below described motor vehicle because of an emergency and thereby waives any claim or cause of action he may have against either

_____(repair person) or _____(facility) as a result.

Motor vehicle description:

Customer signature _____

Dated _____

Time _____ ."

(5) This waiver shall not be effective unless given by the customer voluntarily and with the knowledge of the implications of the waiver. A motor vehicle repair facility or anyone in its employ, including a specialty or master mechanic or mechanic trainee shall not make use of the waiver of liability in an attempt to evade this act.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1306 Motor vehicle repair facility; registration required.

Sec. 6. Unless the act or practice is otherwise exempt by this act, a person shall not engage in the business or activity of a motor vehicle repair facility unless the person registers the facility with the administrator pursuant to this act.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1306a Motor vehicle repair facility providing BAIID service; approval of department; requirements; term; inspection.

Sec. 6a. (1) A motor vehicle repair facility shall not provide BAIID service without the approval of the department under this section and under section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k.

(2) The department may approve a motor vehicle repair facility as a facility that is authorized to perform BAIID service, or renew an approval under this section, if all of the following requirements are met:

(a) The facility operates at a fixed location in this state.

(b) The facility employs at least 1 mechanic who holds a specialty certification in BAIID service under section 10(1) and who is properly trained as a BAIID technician by the BAIID manufacturer for which the facility is a vendor.

(c) The facility maintains and makes available for inspection records that prove that each mechanic who holds a specialty certification in BAIID service under section 10(1) and is employed by the facility is properly trained by the BAIID manufacturer to service the BAIID for which the facility is a vendor.

(d) The facility provides a designated waiting area for customers that is separate from the area in which BAIID service is performed.

(e) Only a mechanic who holds a specialty certification in BAIID service under section 10(1), a representative of the manufacturer, or a representative of the department is allowed to observe the installation or removal of a BAIID.

(f) The facility takes adequate security measures to ensure that unauthorized personnel cannot gain access to proprietary materials or files of any BAIID manufacturer for which the facility is a vendor.

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(g) The facility informs the department of any change in its business address at least 15 days before the date of any relocation.

(h) An application for approval is for a single location. A separate application for approval is required for each location at which the facility will provide BAIID service.

(i) If requested by the department, the facility allows the department to conduct an on-site evaluation to ensure compliance with the requirements in this act.

(3) The term of an original or renewal approval of a motor vehicle repair facility under this section is 1 year.

(4) The department may conduct an inspection of a motor vehicle repair facility that provides BAIID service to ensure compliance with this act and section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k, and rules promulgated to implement this act and that section. The motor vehicle repair facility shall pay for the actual costs to the department in conducting an inspection under this subsection.

History: Add. 2016, Act 33, Eff. June 6, 2016.

257.1307 Unfair or deceptive practices prohibited.

Sec. 7. A person subject to this act shall not engage or attempt to engage in a method, act, or practice which is unfair or deceptive.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1308 Administration of act; nonaffiliation with facility.

Sec. 8. The secretary of state or his designee shall administer this act. A person designated by the secretary of state to act in his place shall not be affiliated with a motor vehicle repair facility.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1309 Powers and duties of administrator; rules.

Sec. 9. The administrator shall:

(a) Certify master and specialty mechanics and issue permits to mechanic trainees subject to this act.

(b) Register motor vehicle repair facilities subject to this act.

(c) Keep a complete register of motor vehicle repair facilities, which shall be open to public inspection at the office of the secretary of state.

(d) Keep an accurate listing by name and by certificate number of each specialty and master mechanic certified by the administrator at the office of the secretary of state.

(e) Engage in a public information program to inform the public of their rights and remedies under this act.

(f) Inform registered motor vehicle repair facilities at least annually of the rules promulgated pursuant to this act, of representative disciplinary hearings, orders, or judgments issued or obtained by the administrator, and suspensions or revocations of registrations or licenses. A motor vehicle repair facility shall inform the mechanics in its employ of these actions.

(g) Establish procedures for receiving complaints relating to alleged violations of this act or rules promulgated pursuant to this act.

(h) Establish and collect fees for certification examinations administered by the administrator.

(i) Promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws.

The rules shall include but not be limited to:

(*i*) Definitions of unfair and deceptive practices.

(*ii*) Definitions of minor repair services.

(*iii*) Criteria for determining the competency of specialty and master mechanics, as a prerequisite to continued certification under this act.

(*iv*) Definition of repair categories for the certification of specialty and master mechanics.

(*v*) Other rules as are necessary to implement this act.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

Administrative rules: R 257.101 et seq. of the Michigan Administrative Code.

257.1310 Certification as specialty mechanic; repair or service categories for which certification required; certification fee; initial specialty mechanic's certificate in BAIID service; examination; qualification for master mechanic's certificate.

Sec. 10. (1) Subject to subsection (3), an individual may become certified as a specialty mechanic if he or she passes an examination, developed by the administrator or developed by a private entity and adopted by the administrator, that the administrator determines is an adequate test of an individual's ability to perform

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certain types of motor vehicle repair. The repair or service categories for which certification is required include the following and any others specified by the administrator by rule:

(a) Engine repair.

(b) Automatic transmission repair.

(c) Manual transmission and rear axle repair.

(d) Front end repair.

(e) Repair of brakes.

(f) Electrical systems repair.

(g) Heating and air conditioning repair.

(h) Engine tune-up.

(i) Pre-1973 motor vehicle repair.

(j) BAIID service.

(2) An individual may apply for a specialty mechanic's certificate in any or all repair categories but he or she is required to pay only 1 certification fee if he or she makes the applications for more than 1 category at 1 time.

(3) On application, the department shall issue an initial specialty mechanic's certificate in BAIID service, without examination, to an individual who holds a valid specialty mechanic's certificate in electrical systems repair on the effective date of the amendatory act that added this subsection.

(4) Within 120 days after the effective date of the amendatory act that added section 10a, the administrator shall develop or adopt an examination for specialty mechanic certification in the repair or service category described in subsection (1)(j) for an individual who is engaged, for compensation, in BAIID service.

(5) An individual may apply for and receive a master mechanic's certificate if he or she is qualified as a specialty mechanic in all categories of motor vehicle repair described in subsection (1), except that qualification in a specialty category described in subsection (1)(i) or (j) is not necessary for a master mechanic's certificate.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 2000, Act 366, Imd. Eff. Jan. 2, 2001;—Am. 2016, Act 33, Eff. June 6, 2016.

257.1310a Performance of BAIID service; certificate required; requirements; written installation verification.

Sec. 10a. (1) Beginning July 1, 2016, an individual shall not perform BAIID service in this state unless he or she has a specialty mechanic's certificate in BAIID service from the department under section 10 and certification as a BAIID installer under section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k.

(2) A BAIID mechanic shall perform BAIID service in a workmanlike manner and, in performing BAIID service, shall comply with the requirements of this section, the standards described in section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k, and the requirements of the BAIID manufacturer.

(3) A motor vehicle repair facility and BAIID mechanic shall ensure that a BAIID that is installed is in working order; that it performs in a manner that meets the requirements of this section and the standards described in section 625k of the Michigan vehicle code, 1949 PA 300, MCL 257.625k; and that all connections are soldered and covered with a tamper seal.

(4) When he or she completes the installation of a BAIID, a BAIID mechanic shall provide the customer with written installation verification. The department shall establish the form and format of this verification.

History: Add. 2016, Act 33, Eff. June 6, 2016.

257.1311 Application for specialty or master mechanic's certificate; form; contents.

Sec. 11. Before a person offers to engage in or engages in employment as a specialty or master mechanic, that person shall apply for and receive a certificate for that employment from the department. Application for a specialty or master mechanic's certificate shall be made on a form provided by the department and shall include:

(a) The name and home address of the applicant.

(b) The repair category or categories for which the applicant is applying and the results of the required examinations.

(c) The number of years the applicant has worked as a motor vehicle mechanic for compensation and the education or training he has had to prepare him for work as a motor vehicle mechanic, specialty mechanic, or master mechanic.

(d) The states or jurisdictions in which the applicant is licensed or certified to work as a motor vehicle mechanic, specialty mechanic, or master mechanic.

(e) A copy of an irrevocable appointment of the secretary of state as the applicant's agent for service of

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process.

(f) Other relevant information as the administrator shall require.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1312 Examination.

Sec. 12. An applicant shall be required to have passed an examination which is designed to test the competency to correctly diagnose and repair motor vehicles in the specific category for which the applicant is applying. The examination shall be written or oral or practical. The administrator shall review examinations that are being given by private or public agencies, including the department of education. If the administrator approves an agency for the purposes of administering examinations, the prospective applicant may take the examination and the testing agency shall forward the results to the administrator for review and verification or the prospective applicant may take such examination as may be developed and given by the administrator.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1313 Mechanic trainee permit; supervision of mechanic trainee; mechanic trainee training.

Sec. 13. If a person is unable to obtain a certificate as a specialty or master mechanic as provided in this act, and that person desires to become a specialty or master mechanic, he may make application for a mechanic trainee permit on the form prescribed or approved by the administrator. The administrator shall issue or approve a mechanic trainee permit to an applicant who qualifies under the rules promulgated for that purpose. A person who qualifies as a mechanic trainee may retain that status for a period of not more than 2 years. A mechanic trainee employed by a motor vehicle repair facility shall be required to work under the direct supervision of a specialty or master mechanic during the full time of his employment. The administrator shall by rule establish and operate a mechanic trainee training program designed to provide the training necessary to become certified under this act. Instead of establishing and operating the program, the administrator may appoint schools, academies, or other similar establishments to engage in mechanic trainee training if those establishments, schools, or academies meet the criteria established by the administrator, after consultation with the department of education and the United States department of labor, bureau of apprenticeship and training. The establishments may be designated by the administrator to engage in a continuing education and training program for specialty and master mechanics.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1314 Registration form; contents.

Sec. 14. A motor vehicle repair facility shall be registered by the owner on a registration form provided by the administrator, which shall disclose the following information:

(a) The name, address, and form of ownership of the facility, and for a corporation, the date and place of incorporation.

(b) The name and address of each of its resident agents, officers, directors, and partners in the state.

(c) The principal occupation for the past 5 years of every officer, director, and partner, and each owner of 10% or more of the facility, and any person occupying a similar status or performing similar functions.

(d) A description of the repair facility to be registered as specified by rule.

(e) An irrevocable appointment of the secretary of state as the agent for the facility for service of process.

(f) A copy of the documents, instruments, forms, contracts, or other papers known to be used by the applicant in dealing with the public in the repair of motor vehicles as specified by rule.

(g) Other relevant information as the administrator shall require.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1315 Single registration form for more than 1 facility; contents; fees.

Sec. 15. A business maintaining more than 1 motor vehicle repair facility shall file a single registration form annually, which along with the other information required by this act, clearly indicates the location of and the individual in charge of each facility. Fees shall be paid separately for each location.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1316 Change in name or address of facility; notice; making change in renewal registration.

Sec. 16. If a name or address of the motor vehicle repair facility changes, not involving a change of ownership, the facility shall notify the administrator in writing of the change. Appropriate changes should be made on the renewal registration when due.

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History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1317 Inspections; time; announced and unannounced; violations.

Sec. 17. (1) The registered facility or a facility required to be registered under this act shall be open to inspection by the administrator and other law enforcement officials during reasonable business hours. During reasonable business hours, the administrator and other law enforcement officials may make periodic unannounced inspections of the premises, parts records, and parts inventories of facilities.

(2) A person who hinders, obstructs, or otherwise prevents an inspection is in violation of this act.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1988, Act 254, Eff. Oct. 1, 1989;—Am. 2002, Act 464, Imd. Eff. June 21, 2002.

257.1318 Records; contents; police book; dealer's license required.

Sec. 18. (1) A facility shall maintain reasonable records as are required by rules promulgated to carry out this act. The records shall be open for reasonable inspection by the administrator or other law enforcement officials and shall be maintained by the facility for not less than 5 years.

(2) A facility that engages in vehicle body work shall maintain records in a form prescribed by the administrator. The records shall contain the date of purchase or acquisition of each distressed vehicle, a description of the vehicle, and the name and address of the person from whom the vehicle was acquired. If the vehicle is sold, the record shall contain the date of sale and the name and address of the purchaser. The record shall indicate whether a certificate of title or salvage certificate of title was obtained by the facility. In the case of a late model vehicle, a record of the purchase or sale of each major component part purchased or acquired shall be maintained by the facility. The record shall contain the date of purchase or acquisition of the part, a description of the part, the identification number assigned to the part, and the name and address of the person to or from whom the part was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of a major component part shall be maintained in or attached to a police book as described in section 251 of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being section 257.251 of the Michigan Compiled Laws. The facility's police book and the records of vehicle part sales, purchases, or acquisitions shall immediately be made available for inspection by the administrator and other law enforcement officials after a request for inspection is made.

(3) Nothing in this section shall authorize a facility to engage in the business of dealing in vehicles or salvageable parts without a dealer's license.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1988, Act 254, Eff. Oct. 1, 1989.

Administrative rules: R 257.101 et seq. of the Michigan Administrative Code.

257.1318a Records of air bag sales, purchases, or acquisitions; period of time records required to be maintained.

Sec. 18a. (1) A facility that repairs or replaces air bags in a motor vehicle shall maintain a record of the purchase or sale of each used or reconditioned air bag purchased or acquired by the facility. The record shall contain the date of purchase or acquisition of each air bag, a description of each air bag, the identification number assigned to each air bag, and the name and address of the person to or from whom each air bag was purchased, acquired, or sold. The record of the sale, purchase, or acquisition of each air bag shall be maintained in or attached to a police book as described in section 251 of the Michigan vehicle code, 1949 PA 300, MCL 257.251. The facility's police book and the records of air bag sales, purchases, or acquisitions shall immediately be made available for inspection by the administrator and other law enforcement officials after a request for inspection is made.

(2) Records required under this section shall be maintained by the facility for not less than 5 years.

History: Add. 1997, Act 9, Imd. Eff. May 16, 1997.

257.1319 Obtaining duplicate copy of registration, certificate, or permit.

Sec. 19. In the event of loss, destruction, or mutilation of a registration, certificate, or permit, the person to whom it was issued may obtain a duplicate copy upon furnishing satisfactory proof of the loss, destruction, or mutilation and paying the fee as determined by rule.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1320 Renewal of registrations, certificates, and permits.

Sec. 20. Registrations and certificates including mechanic trainee permits shall be renewed as determined by rule.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1321 Cease and desist order.

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Sec. 21. (1) If the administrator determines after notice and a hearing that a person has violated this act or a rule promulgated pursuant to it, or engaged in an unfair or deceptive method, act, or practice, directly or through an agent or employee, he may issue an order requiring the person to cease and desist from the unlawful act or practice or to take such affirmative action as in the judgment of the administrator will carry out the purposes of this act.

(2) If the department makes a finding of fact in writing that the public interest will be irreparably harmed by delay in issuing an order, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the administrator when possible by telephone or otherwise shall give notice of the proposal to issue a temporary cease and desist order to the facility. A temporary cease and desist order shall include in its terms a provision that upon request a hearing shall be held within 30 days to determine whether or not the order shall become permanent.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1321a Summary suspension of registration, certificate, or mechanic trainee permit; affidavit; hearing; setting aside, continuing, or modifying order of summary suspension.

Sec. 21a. (1) The administrator may order a summary suspension of a registration, certificate, or mechanic trainee permit pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, upon an affidavit by a person familiar with the facts set forth in the affidavit that there is a violation of 1 or more of the following:

(a) Section 17.

(b) Section 18.

(c) Section 2 of Act No. 119 of the Public Acts of 1986, being section 257.1352 of the Michigan Compiled Laws.

(2) The facility or mechanic to whom the order is directed may apply to the administrator and shall be granted a hearing within 30 days of application pursuant to Act No. 306 of the Public Acts of 1969.

(3) At the hearing, the order of summary suspension shall be set aside, continued, or modified.

History: Add. 1988, Act 254, Eff. Oct. 1, 1989.

257.1322 Denial, suspension, or revocation of registration, certificate, or mechanic trainee permit; grounds; notice and hearing.

Sec. 22. The administrator may deny, suspend, or revoke a registration, certificate, or mechanic trainee permit after notice and opportunity for a hearing if the administrator determines that the facility, mechanic, or trainee did 1 or more of the following:

(a) Engaged in a method, act, or practice that is unfair or deceptive or made an untrue statement of a material fact.

(b) Violated this act or a rule promulgated under this act.

(c) Violated a condition of probation.

(d) Made unnecessary repairs or repairs not authorized by the customer.

(e) Refused to honor warranties made by a facility.

(f) Caused or allowed a customer to sign a document in blank relating to the repair of a motor vehicle.

(g) Was enjoined by a court of competent jurisdiction from engaging in the trade or business of repairing motor vehicles or from a violation of this act or a rule promulgated under this act.

(h) If the applicant is a corporation or partnership, a stockholder, officer, director, or partner of the applicant was guilty of an act or omission that would be a cause for refusing, revoking, or suspending a license issued to the officer, director, or partner as an individual.

(i) Failed to comply with the terms of a final cease and desist order.

(j) Was convicted of a violation of this act.

(k) Used the waiver of liability provision in an attempt to evade this act.

(*l*) Was convicted of a violation of Act No. 119 of the Public Acts of 1986, being sections 257.1351 to 257.1355 of the Michigan Compiled Laws.

(m) Was convicted under section 413, 415, 535, 535a, or 536a of the Michigan penal code, Act No. 328 of the Public Acts of 1931, being sections 750.413, 750.415, 750.535, 750.535a, and 750.536a of the Michigan Compiled Laws, or has been convicted in another state of a violation of a law substantially corresponding to sections 413, 415, 535, 535a, 536, and 536a of the Michigan penal code, Act No. 328 of the Public Acts of 1931.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976;—Am. 1988, Act 254, Eff. Oct. 1, 1989.

Administrative rules: R 257.101 et seq. of the Michigan Administrative Code.

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257.1323 Action by attorney general or county prosecutor.

Sec. 23. If it appears that a person has engaged, is engaging, or is about to engage in a method, act, or practice in violation of this act or the rules promulgated hereunder, the attorney general or county prosecutor, may after receiving notice of an alleged violation of this act, with or without prior administrative proceedings having occurred, bring an action in the name of the people of this state to enjoin that method, act, or practice. The action shall be brought in the county where the person resides, or does business. If a person is not established in any one county, the action may be brought in Ingham county. Upon a proper showing, temporary or permanent injunctions may be issued including the appointment of a receiver or conservator. The state is not required to post a bond in a court proceeding. In addition the court may suspend or revoke a registration, certificate, or permit.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1324 Notice of alleged violation.

Sec. 24. The attorney general or prosecuting attorney after receiving notice of an alleged violation of this act or a violation of an injunction, order, decree or judgment issued in an action brought pursuant to this act or an assurance under this act shall immediately forward written notice of the alleged violation together with any information he may have to the office of the administrator.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1325 Action by administrator not restricted by expiration or absence of registration, certificate, or permit.

Sec. 25. The expiration or absence of a registration, certificate, or permit of a facility or person shall not restrict the administrator from proceeding with an investigation, petition, disciplinary proceeding, or other action authorized by this act against a facility or person.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1326 Public or private investigation by administrator; additional powers of administrator.

Sec. 26. (1) The administrator shall on his own initiative or in response to complaints, make reasonable and necessary public or private investigations within or outside of this state and gather evidence against a person who violated or is about to violate this act or a rule or order hereunder.

(2) The administrator may:

(a) Require or permit a person to file a statement in writing or otherwise as the administrator determines as to all the facts and circumstances concerning the matter to be investigated.

(b) Mediate disputes between parties arising from violations of this act or an administrative rule.

(c) Develop conditions of probation or operation for the facility or mechanic mutually agreed upon and signed by the facility or the mechanic and the administrator instead of further disciplinary proceedings.

(d) On his own initiative, conduct spot check investigations of motor vehicle repair facilities registered or required to be registered throughout the state on a continuous basis to determine whether or not the facility is in compliance with this act and rules promulgated hereunder. The administrator may not alter the odometer on a vehicle employed in such investigations or deliberately misrepresent the condition of the vehicle.

(e) Conduct mechanical and diagnostic examinations of vehicles when there are reasonable grounds to believe that an unlawful act or practice was used to produce the repair or to make the repair.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1327 Voluntary assurance of discontinuance of alleged violation.

Sec. 27. In mediating a dispute between parties contesting a violation of this act or administrative rule, the administrator may take from a motor vehicle repair facility a voluntary assurance that the facility will discontinue an alleged violation of this act or an administrative rule. The assurance shall be filed in the records of the administrator, shall be open for public inspection, and shall not constitute on the part of the facility making the assurance an admission of any issue of law or fact. The assurance subject to agreement by all parties, may contain provisions whereby:

(a) The facility will refund to an individual consumer an amount of money agreed upon by the parties.

(b) A facility shall take such affirmative action as is appropriate in the judgment of the administrator to correct an alleged violation of this act or a rule.

(c) A facility shall place in escrow a sum of money for the purposes of restitution to an aggrieved consumer pending the outcome of an action pursuant to this act. If the facility accepts the administrator's suggestions and performs accordingly, that fact shall be given due consideration in any subsequent disciplinary proceeding. The assurance shall constitute a contract which may be enforced by the parties in the

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circuit court upon application being made to the court for that purpose.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1328 Oaths or affirmations; subpoena; order compelling compliance; contempt.

Sec. 28. (1) For the purpose of an investigation or proceeding under this act, the administrator or an officer designated by him may administer oaths or affirmations, and upon motion of the attorney general or upon the motion of a party to a proceeding, make application to the circuit court for Ingham county for a subpoena, and if in the judgment of the court there is reasonable grounds to believe a subpoena should be issued, the court shall issue a subpoena to compel the attendance of the designated person, take evidence, or require the production of any matter which is relevant to the investigation or proceeding before the administrator or other officer conducting a proceeding.

(2) Upon failure to obey a subpoena of the court or to answer questions propounded by the administrator or other officer conducting the investigation or proceeding, after reasonable notice to the persons affected thereby, an application may be made to the circuit court for Ingham county for an order compelling compliance. Failure to comply with the order of the court shall be punished as a contempt.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1329 Service of process.

Sec. 29. If a person, including a nonresident of this state, engages in conduct prohibited by this act or a rule or order and has not filed an irrevocable appointment of the secretary of state as an agent for service of process, and personal jurisdiction over him cannot otherwise be obtained in this state, the conduct itself authorizes the administrator to receive service of process in a noncriminal proceeding against that person or his successor, if that proceeding originates in conduct that is a violation of this act or an administrative rule hereunder. The service shall have the same force and validity as if served on the person personally.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1330 Fees; duration of original and renewal registrations, certificates, and permits.

Sec. 30. (1) The registration fee for the registration of a facility shall be determined by a sliding fee scale based upon the gross annual revenue of the facility as follows:

GROSS ANNUAL REVENUE	FEE
under $5,000.00	$ 25.00
$5,001.00 to $15,000.00	50.00
$15,001.00 to $25,000.00	75.00
$25,001.00 to $40,000.00	100.00
$40,001.00 to $60,000.00	125.00
$60,001.00 to $80,000.00	150.00
$80,001.00 to $100,000.00	175.00
$100,001.00 to 120,000.00	200.00
$120,001.00 to 140,000.00	225.00
$140,001.00 to $160,000.00	250.00
$160,001.00 to $180,000.00	275.00
$180,001.00 to $200,000.00	300.00
$200,001.00 to $220,000.00	325.00
$220,001.00 to $240,000.00	350.00
$240,001.00 to $260,000.00	375.00
$260,001.00 to $280,000.00	400.00
$280,001.00 to $300,000.00	425.00
$300,001.00 to $320,000.00	450.00
$320,001.00 to $340,000.00	475.00
over $340,000.00	500.00

(2) The certificate fee for the certification of specialty and master mechanics and the permit fee of mechanic trainees shall be set by rule.

(3) The fee for the renewal of the registration of a facility, certification of a specialty or master mechanic, including a permit of a mechanic trainee shall be set by rule. The effective length of original and renewal registrations, certificates, and permits shall be set by rule and shall not be less than 1 year in duration. The renewal fee for a registration, certificate, or permit that has expired shall be 1-1/2 times the fee for the renewal of a registration, certificate, or permit that has not expired.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976;—Am. 1988, Act 254, Eff. Oct. 1, 1989.

Administrative rules: R 257.101 et seq. of the Michigan Administrative Code.

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257.1331 Acts or practices barring action on contract, action for collection of compensation, or assertion of lien; recovery of amount paid unregistered facility.

Sec. 31. A person who engages or attempts to engage in the business or trade of a motor vehicle repair facility or specialty or master mechanic without a registration or certificate, or engages in an act or practice in violation of this act or a rule is barred from bringing or maintaining an action at law or equity on a contract or for the collection of compensation for work performed or materials or parts provided to any other person. In addition, the person is barred from asserting a mechanic's, garageman's, or similar lien upon a motor vehicle, including the repossession of a motor vehicle. A customer is entitled to recover any amount paid to an unregistered facility for the repair of a motor vehicle belonging to that customer.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1332 Written estimate required; consent to excess charge; payment of actual cost if cost less than estimate; cost of returning vehicle to original condition; cost of diagnosis; waiver of rights.

Sec. 32. (1) A motor vehicle repair facility shall give to the customer a written estimate, itemizing as closely as possible the price for labor and parts necessary for a specific job prior to the commencement of work. A facility shall not charge for work done or parts supplied in excess of the estimated price or in excess of the limit stated by the customer in the waiver provided for in subsection (3) without the knowing written or oral consent of the customer which shall be obtained at some time after it is determined that the estimated price or stated limit is insufficient and before any work not estimated or in excess of the limit is done or the parts not estimated or in excess of the limit are supplied. If a waiver is not signed as provided in subsection (3) and the estimated price is exceeded by not more than 10% or $10.00 whichever is lesser, the written or oral consent of the customer for the excess charge need not be obtained unless specifically requested by the customer. This section shall not be construed as requiring a motor vehicle repair facility, mechanic, or mechanic trainee to give a written estimated price if he agrees not to perform the requested repair. If the actual cost of repair is less than the agreed upon estimated cost, the customer shall pay only the actual cost.

(2) If the facility or mechanic informs the customer that the price for repair will exceed the written estimate or the stated limit in the waiver and the customer does not want the repair work performed then the customer is liable for all reasonable costs to return the vehicle to the condition it was when it entered the facility. These costs should be indicated in written form itemizing the costs as closely as possible with a copy given to the customer. The cost of a diagnosis to be made, whether or not the customer authorizes repairs to be performed, shall be contained in the written estimate before the diagnosis is undertaken.

(3) If a customer initiates a request for service or parts for the repair of a motor vehicle without receiving a written estimate and voluntarily agrees to pay all reasonable costs of repair up to an amount stated by the customer, a repair facility may obtain from the customer a waiver of his right to receive a prior estimate of repair costs. The waiver shall be in 14 point or larger bold capital type face and executed with 1 copy to the customer requesting the repairs and shall read as follows:

"I, _____, voluntarily request _____ to provide services or parts in the repair of the below described motor vehicle without receiving an estimate of repair costs. By signing this form, I understand that I will give up my right to:

1. Receive a written estimate of the cost for repairs;
2. Approve in advance any repairs or costs with a total cost under $ _____; and
3. Refuse to pay for repairs with a total cost less than the amount stated above.

The facility may exceed the amount stated above only after I give my written or oral approval.

Motor vehicle description:

Customer signature _____

Date _____

Time _____"

This waiver shall not be effective unless given by the customer voluntarily and with full knowledge of the implications of the waiver. A motor vehicle repair facility or anyone in its employ shall not make use of the waiver in an attempt to evade this act.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1333 Right to receive or see replaced parts; notice; sign at entrance of facility.

Sec. 33. (1) The administrator shall determine by rule the time and manner in which the motor vehicle repair facility shall return replaced parts to the customer at the time of the completion of the work. This requirement does not apply to parts exempted by the administrator because of size, weight, or similar factors

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from this requirement, and except for parts that the motor vehicle repair facility or mechanic is required to return to the manufacturer or distributor under a warranty or exchange arrangement. If the parts must be returned to the manufacturer or distributor, the facility or mechanic shall offer to show and upon acceptance of the offer or upon request shall show the parts to the customer upon completion of the work, except the facility shall not be required to show a replacement part when a charge is not being made for the replacement thereof.

(2) A customer shall be informed of his right to receive or see replaced parts as provided in this section prior to the customer executing any document or engaging the facility or mechanic for the work. The information shall be given to the customer on the face of any contract, work order form, or sign, or other document evidencing the engagement of the facility or mechanic or by separate written document, in at least 12 point boldface type as follows:

YOU ARE ENTITLED BY LAW TO THE RETURN OF ALL PARTS REPLACED, EXCEPT THOSE WHICH ARE TOO HEAVY OR LARGE, AND THOSE REQUIRED TO BE SENT BACK TO THE MANUFACTURER OR DISTRIBUTOR BECAUSE OF WARRANTY WORK OR AN EXCHANGE AGREEMENT. YOU ARE ENTITLED TO INSPECT THE PARTS WHICH CANNOT BE RETURNED TO YOU.

(3) The motor vehicle repair facility shall display a clearly legible sign in a conspicuous place at the entrance of the facility indicating that inquiries concerning repair service or complaints may be made to the administrator and shall contain the address and telephone number of the department.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1334 Written statement required upon return of repaired vehicle.

Sec. 34. A motor vehicle repair facility, including a gasoline service station which performs any of the repairs listed in the repair categories of certification for specialty mechanics or developed by the administrator by rule, shall give to each customer a written statement upon return of the repaired vehicle to the customer. The statement shall disclose:

(a) Repairs needed, as determined by the facility.

(b) Repairs requested by the customer.

(c) Repairs authorized by the customer.

(d) The facility's estimate of repair costs.

(e) The actual cost of repairs.

(f) The repairs or services performed, including a detailed identification of all parts that were replaced and a specification as to which are new, used, rebuilt, or reconditioned.

(g) A certification that the repairs were completed properly or a detailed explanation of an inability to complete repairs properly. The statement shall be signed by the owner of the facility or by a person designated by the owner to represent the facility. The name of the mechanic or mechanics who performed the diagnosis and the repair shall also appear on the statement.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1334a Written estimate not required if total cost less than $20.00; final invoice required.

Sec. 34a. Unless otherwise requested by the customer, the requirement to furnish a written estimate shall not apply to repair work performed by a motor vehicle repair facility when the total cost for services and parts is less than $20.00. Nothing in this, or any other section, shall cause any repair facility to fail to furnish to the customer a final invoice for the repairs performed and the parts supplied.

History: Add. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1335 False statement, misrepresentation, or failure to comply with cease and desist order.

Sec. 35. A resident agent, director, officer, or partner of a motor vehicle repair facility who knowingly authorizes, directs or makes a false statement or misrepresentation concerning the method or price of repair of a motor vehicle, or who knowingly fails to comply with the terms of a final cease and desist order is subject to penalties under this act. Each violation constitutes a separate offense.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1336 Liability for damage or injury.

Sec. 36. A facility that violates this act or who, in a course of dealing as set forth in this act or rules, engages in an unfair or deceptive method, act, or practice, is liable as provided in this act to a person who suffers damage or injury as a result thereof in an amount equal to the damages plus reasonable attorney fees

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and costs. If the damage or injury to the person occurs as the result of a wilful and flagrant violation of this act, the person shall recover double the damages plus reasonable attorney fees and costs.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1337 Mechanic or mechanic trainee as agent; joint and several liability; right to contribution.

Sec. 37. (1) If a mechanic or mechanic trainee is employed by, or enters into a contract with, a motor vehicle repair facility, that mechanic or mechanic trainee for the purposes of a civil action brought pursuant to this act shall be considered to be an agent of the motor vehicle repair facility and the methods, acts, and practices of the mechanic or mechanic trainee shall be construed as the methods, acts, and practices of the motor vehicle repair facility.

(2) A person who directly or indirectly controls a motor vehicle repair facility or its employees, as well as a general partner, officer, or director of the facility shall be jointly and severally liable among themselves for a violation of this act, unless that person can demonstrate that he did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the violation occurred. There is a right to contribution as in cases of contract among persons so liable.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1338 Violation; penalty.

Sec. 38. Any person, agent, or employee of a registrant under this act who knowingly violates this act is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or a fine of not more than $1,000.00, or both, for the first conviction under this act and not more than 1 year or a fine of not more than $5,000.00, or both, for any subsequent conviction.

History: 1974, Act 300, Eff. Apr. 1, 1975;—Am. 1976, Act 12, Imd. Eff. Feb. 20, 1976.

257.1339 Rules; effective date.

Sec. 39. The department shall promulgate the rules to implement this act within 6 months after the effective date of this act. The remaining portions of this act, except as provided in section 5, shall become effective 6 months after the rules are promulgated.

History: 1974, Act 300, Eff. Apr. 1, 1975.

257.1340 Disposition of fees.

Sec. 40. The fees collected pursuant to this act shall be credited to the general fund of the state.

History: 1974, Act 300, Eff. Apr. 1, 1975.

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