

MOTOR VEHICLE REPAIR IN VIRGINIA

**REPORT OF THE
ADMINISTRATOR OF CONSUMER AFFAIRS
To
THE GOVERNOR
And
THE GENERAL ASSEMBLY OF VIRGINIA**



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Report of the
Administrator of Consumer Affairs

Richmond, Virginia

TO: THE HONORABLE LINWOOD HOLTON, *Governor of Virginia*
and
THE GENERAL ASSEMBLY OF VIRGINIA

I. Introduction

In recent years the increased complexity in automobile motors and accessories has created an aura of technical mystique as to the operation and repair of automobiles and a feeling of helplessness at the automotive repairmen. It has been the feeling of many consumers, legislators and nonmembers of the automotive repair trade itself, that as a result of the technical complexities involved in such repairs, there has been a large degree of consumer victimization in the form of overcharging, unnecessary repairs, and other similar acts and practices detrimental to the consumer and the industry as a whole. In order to study the need for legislation which might remedy this problem, the General Assembly enacted Senate Joint Resolution No. 89 directing the Administrator of Consumer Affairs to make a study and report on the advisability of enacting legislation for the certification and regulation of motor vehicle mechanics and repair shops.

SENATE JOINT RESOLUTION NO. 89

Whereas, the utilization of motor vehicles has greatly increased in a mobile society; and

Whereas, the Commonwealth has an interest, for the safety of her citizens, in regulating the use of such motor vehicles by insuring that they are in proper mechanical condition for operation on the highways; and

Whereas, the majority of the consumer population, utilizing the services of mechanics, are inexperienced and untrained regarding equipment and mechanical services their vehicles may need; and

Whereas, reliance and dependability must be left by the consumer to mechanics; and

Whereas, there are complaints of negligent and unworkmanlike repairs and there is a possibility of consumer victimization in unnecessary repairs overcharging, supply of faulty equipment and other unethical and negligent practices, and such complaints and possibilities are becoming more numerous; now, therefore, be it

Resolved by the Senate, the House of Delegates concurring, That the Administrator of Consumer Affairs is directed to make a study and report on the advisability of enacting legislation for the certification and regulation of motor vehicle mechanics and repair shops to the end that the consuming public may be confident of the honesty and competence of such mechanics and shops. The Administrator shall consider all aspects of the problem, including but not limited to, quality of work as well as fraudulent practices and may make such investigations as may be requisite to present data in support thereof. All agencies of the State shall assist the Administrator in his study upon request. The Administrator shall complete his study and report to the Governor and General Assembly no later than November one, nineteen hundred seventy-three.

To assist the Administrator of Consumer Affairs in his study and recommendations, the Commissioner of Agriculture and Commerce appointed a Committee of distinguished citizens from both the consumer and business segments of the community. The list of Committee Members is as follows:

Mrs. Nancy Larson
1606 Greenbrier Court
Reston, Virginia 22090

Mr. Landon R. Wyatt, Jr.
Owner, Wyatt-Burch Sales Company
2521 Riverside Drive
Danville, Virginia 24541

Mr. Malcolm A. Slagle
Executive Director
Independent Garage Owners Association
Post Office Box 9816
Richmond, Virginia 23228

Mr. Ronald Nowland
Executive Vice-President and General Manager
Virginia Auto Dealers Association
1800 West Grace Street
Richmond, Virginia 23220

Mr. Lewis A. Haskell, Jr.
Director, Virginia Gasoline Retailers Association
201 South Glebe Road
Arlington, Virginia 22204

Captain R. M. Terry
Safety Officer, State Police
Box 27, 472
Richmond, Virginia 23261

Mr. Douglas S. Wood
Assistant Attorney General
Virginia Department of Agriculture and Commerce
Post Office Box 1163
Richmond, Virginia 23209

Mr. Stand Yarkin
Director, Virginia Citizens Consumer Council, Inc.
1535 North Glebe Road
Arlington, Virginia 22207

Mr. Charles E. Hammond
Executive Assistant
Public Utilities Commission
Court House
Arlington, Virginia 22201

Mr. Joseph W. Folger
General Counsel
Virginia Gasoline Retailers Association and
Independent Garage Owners of Virginia, Inc.
Post Office Box 9816
Richmond, Virginia 23228

Also assisting the Committee in the study were Honorable S. Mason Carbaugh, Commissioner of Agriculture and Commerce, and Mrs. Ruth Herrink, Director of Department of Professional and Occupational Registration.

Legal advice and drafting assistance was provided by Mr. Douglas S. Wood, Assistant Attorney General of the Attorney General's Division of Consumer Counsel.

The study included four public hearings, one each in Richmond, Norfolk, Roanoke, and Fairfax. Hearings were conducted from 10:00 a. m., to 5:00 p. m., and 7:00 p. m., to 10:00 p. m., in all locations. Also, numerous meetings and conferences with the Committee were held, in appraisal of problems presented and possible solutions.

II. Problems Presented

A general consensus of problems and abuses present in the field of automotive repair was obtained through the testimony of consumers, business and business organizations and automotive dealer organizations. The most commonly mentioned problems were:

1. Improper or unworkmanlike repairs performed by unqualified or poorly trained repairmen, thereby causing a financial loss to consumers and creating real or potential safety hazards on the highways of the Commonwealth;
2. Performing of unnecessary or unauthorized repairs;
3. Failure to make repairs, or to replace parts, for which the customer was charged;
4. Unconscionable overcharges for work performed;
5. Unreasonable repair delays and inadequate repair warranties and guarantees by motor vehicle repair shops;
6. Difficulty in obtaining service on new cars still under warranty.

The above abuses were not the only ones cited and are not listed in any particular order. Testimony seemed to indicate that such practices were not isolated or uncommon in the repair of automobiles.

Mrs. Packard, Chairman of the Fairfax Board of Supervisors, proposed that the State license automotive repair shops and that the license fees generated initially and from yearly renewals be sufficient to maintain a self-sufficient regulatory program.

Mr. James Dillard, member of the Virginia House of Delegates from Northern Virginia, favored licensing of individual repair shops and a licensing/testing of individual mechanics. Recognizing political realities, Mr. Dillard suggested that the mechanic's licensing could be a voluntary program broken down into various fields of expertise. He was very much in favor of some type of badge or shingle being used by the shop or mechanic in order to inform the public of compliance with licensing procedures.

Mr. Carrington Williams, member of the Virginia House of Delegates from Northern Virginia, testified that shops should first be licensed and maybe eventually get down to the individual mechanic. He stressed the need for more training programs in community colleges.

Mr. Norman Worthington, with the Arlington Chamber of Commerce, suggested that the repair shops be licensed on a Statewide basis and that the shops be required to have bond or carry insurance to protect the consumer and remunerate him for shops liability.

Mr. Robert Smith, representing the Virginia Citizens Consumer Council, Inc., stated that they back the licensing of individual repair shops but not necessarily the individual mechanics.

Mr. Harold Scanbarough, representing the Virginia Gasoline Retailers Association, stated his organization opposed the licensing of individual mechanics due to the administrative cost involved, both to the shop, the State, and the consumer. He is worried about a mass exodus of mechanics who would leave the State rather than take the written tests. Mr. Scanbarough favors licensing the repair shop with enforcement of the license by a fine system of conjunctions with a point system leading to revocation of the license.

Mr. Ronald Howell, garage owner, testified he would welcome certification/licensing of both repair shops and mechanics if such a move would increase consumer confidence in the industry. He suggested a Statewide uniform regulation enforced along the lines of the State inspection program.

Mr. H. F. Ferguson, a certified auto mechanic with the firm of Ferguson and Son in Richmond, testified that the 1970 census determined that there are approximately 913,000 auto mechanics for 120 million vehicles and stated the general estimate is that 40 to 60% of the mechanics are competent. Mr. Ferguson suggested that money be spent on training rather than licensing mechanics, but definitely felt that the garage or shop should be licensed.

Mrs. Lawrence C. Shaw, Legislative Chairman, Virginia Federation of Women's Clubs, Colonial Heights, Virginia, stated that the Federation of Women's Clubs passed a resolution in 1965 seeking licensing of individual automobile mechanics. This resolution was reaffirmed in 1969 and April 1973, with a 100% vote. She further stated a garage with a licensed mechanic would automatically be licensed. Mrs. Shaw pointed out that women often travel alone and when trouble arises with their automobiles they are at the mercy of the mechanics.

A basic concern expressed at the hearings was the dearth of good mechanics, due in large part to a low pay scale with respect to other jobs. It was stated that low pay scales are related in part to the low profit margins in many garages. Dealers, for instance, are forced to use book rates for warranty work based on time estimates that are unreasonable. Therefore, when the actual work exceeds the allocated book time to do a job, they lose money. Independent garage owners are often forced to use less qualified mechanics who make mistakes and end up costing owners extra money in repairs.

Additional problems mentioned were:

1. Garage mechanics working on low paying repairs which reduces their overall salaries.
2. Customer lack of knowledge of the complexity of engines and cars in general.
3. Do it yourself repairs, parts which are gotten from auto stores which are done incorrectly making the car a dangerous instrument.
4. Overcharging the customer for repairs.
5. Charging for repairs that had not been made.

III. Approaches to Resolution of the Problem

Various forms of legislation and regulation have been suggested by various interest groups. These recommendations range from the suggestion that there should be no regulation whatsoever, to a recommendation that both motor vehicle repair mechanics and motor vehicle repair shops be required to obtain licenses.

Consumer organizations tended to favor mandatory licensing of shops and individual mechanics. While a limited number of representatives of the motor vehicle repair industry stated a belief that no regulation was necessary, the overwhelming majority testified in support of a mandatory program for repair shops, but a voluntary one for individual mechanics. They were particularly concerned that any licensing program should have stringent enforcement provisions rather than be merely a revenue producing measure.

IV. Analysis

The consensus of the testimony at the public hearings was that there was a need for some form of regulation to attempt to eliminate the problems present in the motor vehicle repair industry. The difficulty in determining which form of regulation would best solve these problems was increased by the fact that they are of two different types: ones dealing with honesty, and ones dealing with competence.

The Committee determined that the most effective way of attacking those problems relating to honesty was a mandatory licensing program for motor vehicle repair shops. Under the proposed program a repair shop cannot engage in the repair of motor vehicles without obtaining a license by making the required application to the Director of the State Department of Professional and Occupational Registration. This requirement is not intended as a revenue producing measure, but rather as a means of insuring that those engaged in operating a motor vehicle repair shop are of good moral character, do not engage in fraudulent practices, fulfill just obligations to their customers, and do not perform repairs in a dangerous or negligent manner.

Therefore applicants for a license must meet certain standards to obtain a license initially, and to renew this license annually. Broad powers were given to the Director so that he could refuse to grant a renewal, or suspend, licenses of persons who do not conform to these standards. Persons holding licenses to operate a motor vehicle repair shop will be responsible for the honesty of their employees.

The Committee faced a different type problem in its attempts to find a means of insuring the competency of the individual mechanics performing repairs on motor vehicles. At the public hearings it heard unanimous testimony from repair shop operators and individual mechanics that they were finding it increasingly difficult to hire competent mechanics. This condition appeared to result from both a lack of competent training facilities and the social stigma attached to being a mechanic. The Committee determined therefore that it should not recommend any regulation which would provide additional discouragement to persons considering the repair of motor vehicles as a vocation.

Conversely it heard a good deal of testimony from members of the consuming public concerning the dilemma they faced when attempting to choose where to have repair work performed on their car; i.e., they had no reliable means of evaluating the reliability and competence of either a particular repair shop or of a particular mechanic.

The mandatory licensing program for repair shops discussed above is intended to solve the first part of this dilemma by providing a procedure under which disreputable repair shops will be eliminated from the business of making repairs on motor vehicles.

The Committee determined, however, that the situation could be best handled with regard to individual mechanics by means of a voluntary certification program. It felt that this program could be used both to stimulate increased pride and proficiency among mechanics, and to provide the consuming public with a means of evaluating the competency of individual mechanics. The details of this program were purposely left to the discretion of the Board of the Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification due to the current lack of any universally accepted standards for measuring the competency of motor vehicle repair mechanics.

The Committee debated whether the day-to-day administration of these programs should be placed under the Division of Motor Vehicles or the State De-

partment of Professional and Occupational Registration. It decided on the latter because of the expertise of the staff in Professional and Occupational Registration in administering similar boards. The Committee felt, however, that the Board should be made the final authority on the adoption of all regulations rather than merely an advisory Board. It reached this decision because of its belief that extensive knowledge of the motor vehicle repair industry was essential to the development of regulations which would effect solutions to the identified problems. Therefore the Committee by design charged the Board with general areas of responsibility but placed few restrictions as possible on its discretion in deciding how best to fulfill these responsibilities.

The Committee also debated at length as to what should be the membership of the Board. The recommended composition represents a compromise of the varying proposals. The representatives of the motor vehicle repair industry felt it was essential that each of the three principal groups engaged in such repairs be represented. The consumer representatives contended it was essential the consuming public be well represented. They would have preferred such representatives constitute a majority on the Board but agreed to the recommended composition as a fair compromise. All members of the Committee recognized the value of having a representative of the profession of training motor vehicle repair mechanics, the Administrator of Consumer Affairs, and the Safety Officer of the Virginia State Police as members.

On the subject of financing the Committee felt that the regulatory program recommended would become self-supporting within one year of its enactment, but that an initial appropriation from the general fund would be required to see it through this first year. It was generally agreed that if additional financing became necessary it should come from the consuming public since they could anticipate extensive benefits from the program. The Committee suggested that such funds could be obtained by adding one dollar to the annual charge for State license plates.

There were two other areas of debate during the Committee's deliberations. The first concerned the settlement of consumer complaints. It was decided that the Director should not be charged with the task of arbitrating each and every complaint but that he should be given the discretion of proposing an equitable solution in cases where he deemed such action to be appropriate.

The second area involved the insuring consumers would have a means of satisfying court judgments against motor vehicle repair shops. It was decided not to require that each shop be bonded but only that it obtain liability insurance in amounts to be prescribed by the Board.

V. Recommendation

It is recommended that a consumer motor vehicle repair industry licensing and certification act be enacted in the form discussed above and contained in the proposed bill appended to this report (a copy of this proposed bill has been sent to the Division of Legislative Services for their preparation in bill form).

Respectfully submitted,



ROY L. FARMER
Administrator of Consumer Affairs

A B I L L

To amend and reenact § 54-864, as amended, of the Code of Virginia by adding in Title 54 a chapter numbered containing sections numbered 54- through 54- relating to the regulation of the consumer motor vehicle repair industry and providing for a bureau in the State Department of Professional and Occupational Registration; clerical, investigative and technical assistance; rules and regulations; Board; complaints and investigations; licensing of repair shops; fees; liability insurance; voluntary certification; prohibitions and penalties; how fees applied.

Be it enacted by the General Assembly of Virginia:

1. That § 54-864, as amended, of the Code of Virginia be amended and reenacted and that the Code of Virginia be amended by adding in Title 54 a chapter numbered containing sections numbered 54- through 54- as follows:

§ 54-864. Administration; certain powers and duties of Director with respect to boards.—It shall be the duty of the Director to perform the administrative duties of the following boards and agencies of the Commonwealth: (1) The State Board of Accountancy; (2) The State Board for the Examination and Certification of Architects, Professional Engineers and Land Surveyors; (3) The Virginia Board of Psychologists Examiners; (4) The State Board for the Certification of Librarians; (5) The Board of Examiners of Mines, created by chapter 150 of the Acts of the General Assembly of nineteen hundred forty; (6) The Board of Commissioners to Examine Pilots; (7) The Virginia Real Estate Commission; (8) The Board of Veterinary Examiners; (9) The Board of Barber Examiners; (10) The Virginia State Board of Opticians; (11) The Virginia State Board of Registered Professional Hairdressers; (12) The Virginia Board for Registration of Social Workers; (13) The Virginia Board of Hearing Aid Dealers and Fitters; (14) Board for Certification of Operators of Water and Wastewater Works; (15) The State Board of Sanitarian Examiners; (16) The State Board of Examiners for Nursing Home Administrators; ~~and~~ (17) The Virginia Board of Examiners for Audiology and Speech Pathology; and (18) The Board of the Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification.

Each of the boards designated in this section and § 54-865 is hereby transferred to the Department of Professional and Occupational Registration, and each shall be a separate board within said Department. All of the administrative functions of the boards designated in this section shall be under the direction and supervision of the Director, and it shall be the duty of the members of each of the several boards designated in this section to cooperate with the Director to the end that his powers of direction and supervision of the administrative functions of each board shall not be impaired.

In the performance and discharge of his duties hereunder with respect to the boards designated in this section only, the Director shall (1) be the secretary of each board; (2) maintain all records for each board; (3) collect and account for all fees prescribed by law to be paid into each board and account for and deposit the moneys so collected in the manner prescribed by the several acts creating said boards; (4) make and file annually with the Governor a consolidated report with respect to each board; (5) employ such personnel and assistance as may be required for the operation of said boards; (6) enforce all regulations promulgated by said boards; and (7) exercise such other powers as may be necessary to function as the sole administrative officer and director of each of said boards.

Chapter
Consumer Motor Vehicle Repair Industry Licensing
and Certification Act

§ 54- . Statement of purpose. — By establishing equipment standards for motor vehicles and requiring inspection of motor vehicles, the General Assembly has taken major steps to assure the mechanical safety of motor vehicles operated on the highways of this Commonwealth. The purposes of this act are to further highway safety by promoting the proper and efficient repair of motor vehicles and to protect the consumers of this Commonwealth from dishonest and fraudulent practices which may occur in the repair of motor vehicles. These purposes will be accomplished by the enactment of legislation to license those businesses engaged in repairing motor vehicles and to exclude from that practice those persons who engage in dishonest and fraudulent practices, and of legislation to promote increased proficiency of individual mechanics by creating a voluntary certification program and promoting education programs in the field of automobile repair.

§ 54- . Short title. — This act shall be known as the Consumer Motor Vehicle Repair Industry Licensing and Certification Act.

§ 54- . Definitions. — The following terms as used in this chapter shall have the meaning expressed in this section, unless the context clearly requires otherwise:

(a) “Person” shall include any natural person, firm, partnership, association or corporation.

(b) “Department” shall mean the State Department of Professional and Occupational Registration.

(c) “Director” shall mean the Director of the State Department of Professional and Occupational Registration or his authorized delegate.

(d) “Bureau” shall mean the Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification.

(e) “Board” shall mean the Board of the Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification.

(f) “Motor vehicle” shall mean every vehicle which is self-propelled or designed for self-propulsion and every vehicle drawn by or designed to be drawn by a motor vehicle and includes every device in, upon or by which any person or property is or can be transported or drawn upon a highway, except devices moved by human or animal power and devices used exclusively upon stationary rails or tracks, and vehicles used in this State, but not required to be licensed by the State.

(g) “Repair of motor vehicles” shall mean the diagnosis, repair or adjustment of motor vehicles for compensation.

(h) “Motor vehicle repair shop” shall mean any place in the State where the business of repairing motor vehicles is performed.

(i) “Motor vehicle repair mechanic” shall mean any individual who is engaged in the repair of motor vehicles.

(j) “Certified motor vehicle repair mechanic” shall mean any mechanic who has been certified in one or more areas of motor vehicle repair in accordance with standards established by the Board.

(k) “Place of business” shall mean the motor vehicle repair shop or

shops operated under the same name by the same owner or owners within a political subdivision.

§ 54- . Exemptions. — Except for provisions relating to voluntary certification, this chapter shall not apply to:

(a) Any employee of a motor vehicle repair shop, if the employee services motor vehicles for compensation only as such an employee.

(b) The repair of motor vehicles used in commercial, industrial, or governmental establishments when such work is performed by the establishment's own employees.

(c) Any business where only repairs or adjustments performed consist of fueling, changing oil, water or batteries, or such other similar servicing functions not directly related to the mechanical operation of a motor vehicle as the Board may prescribe.

§ 54- . Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification. — There is hereby created a Bureau of Consumer Motor Vehicle Repair Industry Licensing and Certification in the State Department of Professional and Occupational Registration under the supervision of the Director. The Director shall administer and enforce the provisions of this chapter and all rules and regulations adopted pursuant to these provisions.

§ 54- . Personnel. — The Director, in accordance with Chapter 2 of Title 2.1 of this Code, shall appoint, on a part-time or full-time basis, such clerical, investigative, and technical personnel as may be necessary to carry out the provisions of this chapter.

§ 54- . General duties of the Director. — (a) The Director shall enforce such rules and regulations as may be established by the Board for the general enforcement of the various provisions of this chapter. The Director shall distribute to each licensed motor vehicle repair shop and to each certified motor vehicle repair mechanic copies of this chapter and of the rules and regulations established thereunder.

(b) The Director shall keep a complete record of all licensed motor vehicle repair shops and certified motor vehicle repair mechanics and shall annually prepare a roster showing the names and addresses of all currently licensed or certified shops and mechanics. A copy of the roster shall be made available to any person requesting it upon the payment of such sum as shall be established by the Director as sufficient to cover the costs and mailing thereof.

§ 54- . Board. — (a) There is created in the Bureau a Board which shall consist of nine members appointed by the Governor, the first members of which shall be appointed not later than July one, nineteen hundred seventy-four.

(b) One member of the Board shall be a representative of the Virginia Auto Dealers Association. One member shall be a representative of the Independent Garage Owners Association. One member shall be a representative of the Virginia Gasoline Retailers Association. One member shall be engaged in the profession of training motor vehicle repair mechanics on a full-time basis. The Director of Consumer Affairs and the Safety Officer of the Virginia State Police shall be members of the Board. Three members shall be selected to represent the general public and shall have no connection financially or otherwise with the motor vehicle repair industry. The Board shall elect from its members, each for a term of one year, a chairman and a vice-chairman, and may appoint such committees as it deems necessary to carry out its duties. The Director shall serve ex officio as secretary of the Board but shall not be a member thereof.

(c) Seven members of the Board shall be appointed for a term of four years and shall hold office until the appointment and qualification of their successor. The Director of Consumer Affairs and the Safety Officer of the Virginia State Police shall hold office so long as they remain in their position and shall hold office until the appointment and qualification of their successor. The terms of the other seven members of the Board first appointed shall expire as follows: Two members, July one, nineteen hundred seventy-six; two members, July one, nineteen hundred seventy-seven; three members, July one, nineteen hundred seventy-eight. The terms shall thereafter be for four years. Vacancies occurring shall be filled by appointment to the unexpired term. No member except the Director of Consumer Affairs or the Safety Officer of the Virginia State Police shall serve more than two full terms.

§ 54- . Meetings of the Board; quorum. — (a) The Board shall hold its initial meeting no later than July thirty-one, nineteen hundred seventy-four. Subsequent to that date it shall meet at least twice a year. Additional meetings may be held upon the call of the Director, the Chairman, or at written request of any four members of the Board. All meetings of the Board shall be open and public unless the subject matter concerns the confidential business affairs of a person or persons engaged in the repair of motor vehicles.

(b) The quorum required for any meeting of the Board shall consist of five members, one of whom shall be a representative of the motor vehicle repair industry.

§ 54- . Duties of the Board. — The Board shall: (a) Develop and prescribe regulations and rules not later than March one, nineteen hundred seventy-five, to be implemented by July one, nineteen hundred seventy-five, for a system of standards which may include written tests, educational achievements, and practical experience under which a motor vehicle repair mechanic may establish his competency in one or more specific types of repair by obtaining certification in those areas;

(b) Develop and prescribe regulations and rules not later than March one, nineteen hundred seventy-five, to be implemented by July one, nineteen hundred seventy-five, for a corresponding system of standards under which a motor vehicle repair mechanic who obtains an initial certification pursuant to subsection (a) above may demonstrate his continued competency by renewing this certification;

(c) Develop and prescribe regulations and rules for a system of standards for educational programs and facilities related to the training of motor vehicle repair mechanics, in each of the specific areas for which a certification is established pursuant to subsection (a) above;

(d) Develop a program to encourage the development of training programs facilities engaged in the training of motor vehicle repair mechanics;

(e) Inquire into the practices of the consumer motor vehicle repair industry, the functions of the Bureau and the matter of the policy thereof, and make such recommendations with respect thereto as, after consideration, may be deemed important or necessary for the welfare and safety of the consuming public and the motor vehicle repair industry;

(f) Confer with and advise the Director as to how the Bureau may best fulfill its function;

(g) Consider and make appropriate recommendations in all matters submitted to it by the Director;

(h) Prescribe all other such reasonable rules and regulations as it shall deem necessary to carry out the provisions of this chapter.

§ 54- . Compensation of the Board. — The members of the Board shall be paid each the sum of thirty dollars per day for each day actually spent in the performance of their official duties, plus their actual and necessary expenses.

§ 54- . Complaint procedure. — (a) The Director shall establish procedures for accepting complaints of violations of this chapter and of any regulation established pursuant to its provisions by any motor vehicle repair shop, whether licensed or not, or by any employee, partner, officer or agent of any service dealer, or by any certified motor vehicle repair mechanic. The Director may also, on his own initiative, conduct spot check investigations of motor vehicle repair shops throughout the State on a continuous basis.

(b) If the complaint does not appear to state any violations of this chapter or of the regulations made pursuant to this chapter the Director shall so advise the complainant and take no further action.

(c) If such a complaint indicates a possible violation of this chapter or of the regulations made pursuant to this chapter, the Director shall advise the respondent of the contents of the complaint and, after the respondent has had reasonable opportunity to reply thereto, the Director shall make a summary investigation of the facts.

(d) If, upon summary investigation, it appears to the Director probable that a violation of this chapter, or the regulations thereunder, has occurred, the Director in his discretion, may suggest measures that in his judgment would compensate the complainant for the damages he has suffered as a result of the alleged violation. If the respondent accepts the Director's suggestions and performs accordingly, the Director shall give such fact due consideration in any subsequent disciplinary proceeding. If the respondent declines to abide by the suggestions of the Director, he may investigate further and may institute disciplinary proceedings in accordance with the provisions of this chapter. Nothing in this section shall be construed as requiring the Director to suggest such measures before instituting disciplinary proceedings.

(e) Upon completion of any investigation conducted pursuant to this chapter the Director shall report the findings together with documented evidence, if any, to the Board at its next meeting; provided, however, that such reporting shall not be a prerequisite to institution of enforcement or adjustment proceedings by the Director.

§ 54- . Results of investigations admissible as evidence. — If any person who files a complaint pursuant to this chapter brings an individual action for damages, certified copies of the results of any investigation of that complaint conducted by the Director shall be made available to the person who filed the complaint. These copies shall be admissible as evidence in the individual action for damages.

§ 54- . Licenses; application. — (a) On and after January one, nineteen hundred seventy-five, it shall be unlawful for any business which is not licensed pursuant to this chapter to engage in the repair of motor vehicles.

(b) An application for each license requested shall be filed in such form and detail as the Director shall prescribe, setting forth:

(1) The name and residence address of the applicant; if an individual, the name under which he intends to conduct business; if a partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation, the name and residence address of each of the officers and directors, and the name under which the business is to be conducted, if different from the name of the corporation.

(2) The place or places, including the complete address or addresses where the business is to be conducted.

(3) Such further information as the Director may prescribe. The Director may require the applicant to appear at such time and place as he may designate for examination to enable him to determine the accuracy of the facts set forth in the written application, either for an initial license or renewal thereof. Every application shall be affirmed as true by the applicant.

§ 54- . Licenses; fees.— Every application shall be accompanied by an application fee of fifteen dollars (\$15) which shall in no event be refunded. If an application is approved by the Director, the applicant shall be granted a license for each place of business, which license or licenses shall be valid for a period of one year, upon payment by the applicant of an additional fee of twenty-five dollars (\$25) for each place of business. The Director may, however, in his discretion, issue such licenses on a staggered expiration basis in which event such additional fee for each license initially issued for a period less than one year shall be two dollars (\$2) per month or part thereof during which such license is valid and for each license initially issued for greater than one year shall be twenty-five dollars (\$25), plus two dollars (\$2) per month for each month or part thereof, in excess of twelve months during which such license is valid. In the event a license is issued on a staggered expiration basis it shall expire on the date fixed by the Director. The annual fee for renewal of any license issued pursuant to this act shall be twenty-five dollars (\$25). The Director shall issue a license certificate to each applicant pursuant to the provisions of this act, which certificate shall be conspicuously displayed in the licensee's place of business for which such license was issued. In the case of loss, mutilation or destruction of a license certificate, the Director shall issue a duplicate certificate thereon upon proof of the facts and the payment of a fee of two dollars (\$2).

§ 54- . Licenses; identity of applicant(s). — (a) If a license under this act shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the license shall not expire thereupon so long as any one of the persons named in such license is a member of the partnership or carries on the business of the partnership as surviving member of the partnership. However, when any change occurs and the license does not expire, the partner or surviving member shall forthwith file with the Director a statement regarding such partnership in such form and give such information as the Director shall require, together with the fee of two dollars (\$2), and the Director shall issue a new license. Such new license shall expire on the expiration date of the license replaced.

(b) Where the business is conducted under a franchise, lease or other similar arrangement, the Director, in his discretion, may require the application to be submitted by the franchise holder, lessee or other person actually responsible for the person conducting the business.

§ 54- . Liability insurance. — No motor vehicle repair shop shall be licensed pursuant to this chapter until the applicant or applicants demonstrate they possess sufficient liability insurance to comply with minimum requirements established by the Board. No policy of insurance shall be accepted unless it is written by a company authorized to do business in this State.

§ 54- . Authorization for repairs. — No licensee under this chapter shall undertake repairs without authorization by the owner of the motor vehicle or his authorized agent. The authorization shall not be binding for any work that is not necessary, or that is not performed in a workmanlike manner, under prevailing standards of the profession as prescribed by the Board.

§ 54- . Written bill. — No person upon whose behalf repairs of a motor vehicle have been made shall be liable for payment thereof unless the charges are presented in a written bill containing at least the description of work performed, the cost of all labor itemized by operation, a word description of parts, the price of each part, and the total price of parts used. If used or reconditioned parts are utilized in making the repairs, this fact must be clearly stated on the written bill. If the repairs, or the parts, are covered by a warranty, the terms of this warranty must be presented in writing with the written bill. If no warranty is given, this fact must be clearly stated on the written bill.

§ 54- . Denial of application; suspension or revocation of license; penalties. — (a) The Director may deny the application of any person for a license and may suspend or revoke a license, or refuse to issue a renewal thereof if he determines that such applicant or licensee:

(1) Has made a material false statement or concealed a material fact in connection with his application;

(2) was the former holder of a license issued hereunder which was revoked or suspended by the Director;

(3) was, or that any officer, director, partner or stockholder holding more than ten per cent of the outstanding stock, was a culpable officer, director, partner or stockholder holding more than ten per cent of the outstanding stock in a corporation or partnership which was the former holder of a license issued hereunder which was revoked or suspended by the Director;

(4) has failed to furnish satisfactory evidence of good character, reputation and fitness;

(5) does not have a place of business as required by this act;

(6) is not the true owner of the repair shop, except where the Director has issued a license to a franchise holder or person actually conducting the motor vehicle repair business pursuant to the provisions of § 54- of this chapter;

(7) has been guilty of fraud or fraudulent practices or has practiced misleading or dishonest advertising;

(8) has been grossly negligent in the performance of any repair or adjustment covered by this act; or

(9) has failed to comply with the rules and regulations promulgated by the Board or any of the provisions of this act.

(b) The Director in addition to, or in lieu of, revoking or suspending the license of a licensee in accordance with the provisions of this chapter may in any one proceeding order the licensee to pay to the Commonwealth a penalty in a sum not exceeding one hundred dollars (\$100) for each violation, and not exceeding five hundred dollars (\$500) in the aggregate for all violations, and upon the failure of such licensee to pay such penalties within twenty days of the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such licensee, unless such order is stayed by an order of a court of competent jurisdiction may revoke the license of such licensee or may suspend the same for such period as he may determine. Penalties provided in this section may be recovered by action brought by the Director in any court of competent jurisdiction. Such penalties may be released or compromised by the Director before the matter has been referred to the Attorney General of the Commonwealth of Virginia and where such matter has been referred to the Attorney General any such penalties may be released or compromised and any action commenced to recover the same may be settled and discontinued by the Attorney General with the consent of the Director.

(c) Any licensee holding or possessing a license certificate which has been suspended or revoked pursuant to this act, who fails to deliver the same to the suspending or revoking officer or to any peace officer directed by the Director to secure possession thereof, is guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to undergo imprisonment for not more than six months or to pay a fine not exceeding five hundred dollars (\$500), or both.

§ 54- . Records. — Every licensee shall keep such records as the Director may by regulations require. Such records of the licensee shall be open to inspection by the Director or his representative at all times during reasonable business hours.

§ 54- . Certification of motor vehicle repair mechanics; applications, fees, renewals. — (a) The mechanics' certifications established by the Board pursuant to § 54- (a) of this chapter shall be granted by the Director to any natural person who meets the requirements established by the Board.

(b) The certification program created by the Board is intended to provide motor vehicle repair mechanics with a voluntary means of demonstrating their competency in one or more areas of repair to the consuming public. Certification is not a prerequisite to engage lawfully in the business of motor vehicle repair.

(c) Applications for certification under this chapter shall be made on forms furnished for such purpose by the Director and shall contain, in addition to other reasonable information of identity, information as to the basic requirements established by the Board pursuant to § 54- (a). Necessary affidavits shall be affixed thereto. Every application shall be affirmed as true by the applicant. Every application shall be accompanied by an application fee of five dollars (\$5) to cover the costs of processing.

(d) Each certification shall be renewed periodically in accordance with the regulations and rules established by the Board pursuant to § 54- (b).

§ 54- . Denial of application; suspension or revocation of certification. — The Director may deny the application of any person for certification and may suspend or revoke a certification, or refuse to issue a renewal thereof if he determines that such person has committed any of the following acts:

(a) conduct constituting gross negligence;

(b) acting for more than one customer in a transaction without the knowledge and consent of all parties thereto;

(c) any deceptive acts or practices; and

(d) failure in any material respect to comply with the provisions of this chapter or regulations promulgated thereunder.

§ 54- . Conduct of proceedings to deny an application for a license or certification, or to suspend or revoke a license or certification. — The Director shall not, however, suspend or revoke any license or certification, or impose any penalty until after a hearing is conducted, upon written notice, before the Director in accordance with Article 1.1 of Title 9 of this Code. Provided, however, that where a notice of hearing is mailed to a licensee or holder of a certification at the address shown in the records of the Director and such licensee or holder of a certification fails to attend such hearing, the Director may suspend his license or certification without a hearing. Upon the denial of an application for a license or certification the Director shall grant a hearing to an applicant therefor upon receipt of a request for such a hearing made within thirty days after the applicant is notified of such denial. In the event a license

or certification is revoked or an application is denied, no license or certification shall be issued to such former licensee, holder of a certification, or applicant for at least six months nor thereafter, except in the discretion of the Director. The applicant, holder of a certification, or licensee may be heard in person or by counsel. Such hearings shall be at such time and place as the Director shall prescribe. The Director shall have the power of subpoena and may bring before him any person in this Commonwealth, document, record or other relevant evidence. He shall have the power to administer oaths and take the testimony of any such person or cause his deposition to be taken. A subpoena issued under this chapter shall be regulated by the Virginia Rules of Civil Procedure.

§ 54- . Injunction. — In addition to any other penalties prescribed or authorized herein, for action or inaction declared illegal or unlawful, an injunction of a mandatory or restraining nature may also be granted by the court of record of the city or county wherein said illegality or unlawfulness has occurred, notwithstanding the existence of an adequate remedy at law. The application for such injunction shall be made by the appropriate attorney for the Commonwealth or the Attorney General at the request of the Director. The application shall be tried in the same manner and under the same rules of procedure as other civil actions are tried. The action shall be brought in the name of the Commonwealth.

§ 54- . No lien without valid license. — No person required to have a valid license under the provisions of this chapter shall have the benefit of any lien provided for in Title 43 of this Code, or of any other lien for labor or materials, unless he has such a valid license.

§ 54- . Fund; appropriations. — All fees payable under this chapter shall be collected by the Director and paid by him to the general fund of the State treasury. All money so collected, or so much thereof as may be necessary, is hereby appropriated to the Bureau for expenditure in carrying out the provisions of this chapter. In addition an initial appropriation of fifty thousand dollars (\$50,000) or so much thereof as may be necessary, is also appropriated to the Bureau for these expenditures.

