

ACT 34

S.B. NO. 1479

A Bill for an Act Relating to the Motor Vehicle Repair Industry.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended to read:

"Sec. 437B-1 Definitions. As used in this chapter:

- (1) "Board" means the motor vehicle repair industry board.
- (2) "Department" means the department of regulatory agencies.
- (3) "Motor vehicle" means any passenger car, truck, truck tractor, motorcycle, or motor scooter, as defined in section 286-2.
- (4) "Motor vehicle repair dealer" means any person who is, or has in his employ, a motor vehicle mechanic registered under this chapter and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.
- (5) "Motor vehicle mechanic" means any person whether self-employed or employed by another, who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles, and may be classified as "intermediate" or "journeyman" as the terms are commonly used in the motor vehicle repair industry.
- (6) "Motor vehicle mechanic helper" means any person who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles under the supervision of a registered motor vehicle mechanic.
- (7) "Motor vehicle mechanic apprentice/trainee" means any person who is a party to an apprenticeship/trainee agreement registered with the Department of Labor and Industrial Relations in accordance with chapter 372.
- (8) "Registered mechanic" is a motor vehicle mechanic who has registered in accordance with this chapter.
- (9) "Registered-certified mechanic" is a motor vehicle mechanic who has been registered and certified in accordance with this chapter.
- (10) "Repair of motor vehicles" means all maintenance of and repairs to motor vehicles, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services, which the board by rule determines may be performed by persons without the skills and knowledge required of motor vehicle

mechanics and apprentices. No service shall be designated as minor, for purposes of this section, if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation."

SECTION 2. Section 437B-11, Hawaii Revised Statutes, is amended to read as follows:

"Sec. 437B-11 Prohibited practices. The following acts or omissions related to the repair of motor vehicles shall be grounds for invoking the enforcement procedures of section 437B-12:

- (1) Making or authorizing in any manner or by any means whatever any statement written or oral which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading;
- (2) Causing or allowing a customer to sign any work order which does not state the repairs requested by the customer or the automobile's odometer reading at the time of repair;
- (3) Failing or refusing to give a customer a copy of a document requiring his signature, as soon as the customer signs such document;
- (4) Any other conduct which constitutes fraud;
- (5) Conduct constituting gross negligence;
- (6) Failure to comply with this chapter or regulations adopted pursuant to it;
- (7) Any wilful departure from or disregard of accepted practices or workmanship;
- (8) Making false promises of a character likely to influence, persuade, or induce a customer to authorize the repair, service, or maintenance of a motor vehicle;
- (9) Having repair work subcontracted without the knowledge or consent of the customer unless the motor vehicle repair dealer, mechanic, or apprentice demonstrates that the customer could not reasonably have been notified;
- (10) Conducting the business of motor vehicle repair in a place other than stated on the registration except that mobile repair facilities may be permitted if the registration so indicates."

SECTION 3. Section 437B-23, Hawaii Revised Statutes, is amended to read:

"Sec. 437B-23 Certification program. (a) The board shall contract with the office of the state director of vocational education to develop and administer a certification program for motor vehicle mechanics.

(b) The certification program shall provide for issuing a certificate to mechanics generally skilled in the repair of motor vehicles and to mechanics who specialize in certain areas of motor vehicle repair. A person may be certified as being generally skilled in the repair of motor vehicles, specially skilled in one or more areas of motor vehicle repair, or both generally and specially skilled. Each area shall be separately tested and certified. The program shall provide for

apprenticeship leading to certification as a mechanic. The program may be an apprenticeship program registered with the Department of Labor in accordance with chapter-372. Nothing in this section or chapter shall prevent a student in a course leading to certification from repairing motor vehicles so long as the student is supervised by a mechanic.

(c) The certification test shall include both a written test and a performance test; provided that the written test shall be given orally upon the request of the person being tested. Each application for certification shall be accompanied by a non-refundable testing fee of \$10.

(d) The certification program shall be implemented prior to January 1, 1977. There shall be no limit on the number of times a person may apply for certification; provided that any person failing the examination must wait thirty days before retaking the test.

(e) All persons who take and pass the certification test shall be awarded a certificate which shall be posted in a prominent place at their place of business or employment and a patch which may be worn on clothing apparel. The office of the director of vocational education shall design and procure the certificate and patch."

SECTION 4. Statutory material to be repealed is bracketed. New material is underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.*

SECTION 5. This Act shall take effect upon approval.

(Approved May 5, 1977.)

*Edited accordingly.