

ACT 199

S.B. NO. 2829

A Bill for an Act Relating to Motor Vehicle Repairs.

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

SECTION 1. Section 437B-1, Hawaii Revised Statutes, is amended as follows:

1. By adding a new definition to be appropriately inserted and to read as follows:

““Licensed mechanic” means a motor vehicle mechanic who has been licensed in accordance with this chapter.”

2. By amending the definitions of “motor vehicle mechanic helper” and “motor vehicle repair dealer” to read as follows:

““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] licensed motor vehicle mechanic.

“Motor vehicle repair dealer” means any person who is, or has in the person’s employ, a motor vehicle mechanic [registered] licensed under this chapter and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.”

3. By deleting the definition of “registered mechanic”.

[““Registered mechanic” is a motor vehicle mechanic who has registered in accordance with this chapter.”]

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

“§437B-2 Applicability of chapter. This chapter does not apply to:

- (1) Employees of the county, state, or federal governments when carrying out the functions of governmental employment; or
- (2) Employees of a commercial or business enterprise who engage in the repair of motor vehicles which are owned, maintained, and operated exclusively by such commercial or business enterprise and which are not leased or rented to others; provided that employees may voluntarily [register] be licensed pursuant to this chapter.”

SECTION 3. Section 437B-4, Hawaii Revised Statutes, is amended to read as follows:

“§437B-4 Powers and duties of board. In addition to any other powers and duties authorized by law, the board, in accordance with this chapter and chapter 91 shall:

- (1) Establish such qualifications for the [registration] licensing of motor vehicle repair dealers and motor vehicle mechanics as may be necessary for the welfare of the public and the motor vehicle repair industry[.]; provided that no person shall be [registered] licensed as a motor vehicle mechanic without first receiving certification as provided by this chapter;
- (2) Inquire into the practices and policies of the motor vehicle repair industry and make rules with respect to such practices and policies as may be deemed important and necessary by the board for the welfare of the public and the motor vehicle repair industry;
- (3) Contract and cooperate with the University of Hawaii in developing and administering the certification program provided for in this chapter;
- (4) Adopt, amend, and repeal such rules not inconsistent with this chapter, as the board deems appropriate for effectuating the purpose of this chapter and to ensure the welfare of the public;
- (5) Adopt rules pursuant to chapter 91 necessary to implement the provisions of this chapter relating to CFCs; and
- (6) Enforce this chapter and rules adopted pursuant thereto.”

SECTION 4. Section 437B-7, Hawaii Revised Statutes, is amended to read as follows:

“§437B-7 [Registration] License required. On or after January 1, 1976, it shall be unlawful for any person to engage in the repair of motor vehicles for compensation without [registering] being licensed as a motor vehicle repair dealer or motor vehicle mechanic in accordance with this chapter. Every motor vehicle repair dealer shall be a motor vehicle mechanic or shall have at least one motor vehicle mechanic in the dealer’s employ. No motor vehicle mechanic shall engage in the repair of motor vehicles unless that person is also [registered] licensed as a motor vehicle repair dealer or unless that person is in the employ of a motor vehicle repair dealer.”

SECTION 5. Section 437B-7.5, Hawaii Revised Statutes, is amended to read as follows:

“[§437B-7.5] Requirements for [registration] licensing of repair dealer; inspection. (a) Before a motor vehicle repair dealer [registration] license is granted by the board, the applicant shall establish that the applicant is or employs a full-time motor vehicle mechanic [registered] licensed with the board, and has a repair facility and the equipment necessary to properly perform work in the specialty or area of certification [in] for which [registration] licensure is requested.

(b) The board may inspect an applicant’s repair facility and equipment prior to [registration,] licensing, and may conduct subsequent inspections of repair facilities to verify continued compliance with subsection (a).”

SECTION 6. Section 437B-9, Hawaii Revised Statutes, is amended to read as follows:

“§437B-9 Fees: application; biennial renewals; [registration;] license; restoration. (a) The fees for each application, original biennial [registration,]

license, and renewal for the motor vehicle repair dealer and the motor vehicle mechanic shall be as provided in rules adopted by the department pursuant to chapter 91. At the time of [registration] license renewal, each [registrant] licensee shall submit a completed renewal application and all applicable fees, and shall demonstrate continued compliance with all [registration] license and certification requirements.

(b) Any motor vehicle repair dealer maintaining more than one motor vehicle repair facility shall separately [register] license each repair facility, providing the name of the full-time motor vehicle mechanic for the facility, and pay a fee for each facility.

(c) The renewal fee shall be paid to the board on or before June 30 of each odd-numbered year. Failure, neglect, or refusal of any [registrant] licensee to pay the biennial renewal fee before the date shall constitute a forfeiture of the [registration.] license. Any [registration] license may be restored within one year after the date of forfeiture upon compliance with the renewal requirements and upon written application and the payment of the required fee plus an amount equal to fifty per cent thereof. Any [registrant] licensee who fails to restore [registration] a license within one year from the date of forfeiture shall reapply for [registration] a license as a new applicant.”

SECTION 7. Section 437B-20, Hawaii Revised Statutes, is amended to read as follows:

“[[§437B-20]] **[Registration] License condition precedent to lien.** No person required to [register] be licensed under this chapter shall have the benefit of any lien for labor or materials or the right to sue on a contract for motor vehicle repairs done by the person unless the person was [registered] licensed at the time the person performed the contract.”

SECTION 8. Sections 437B-8, 437B-11, 437B-11.3, 437B-11.5, 437B-12, 437B-24, and 437B-26, Hawaii Revised Statutes, are amended by substituting the word “license”, or like terms, wherever the word “registration”, or like terms, appears, as the context requires.

SECTION 9. Sections 437B-3, 437B-8, 437B-10, and 437B-23.5, Hawaii Revised Statutes, are amended by substituting the word “licensed”, or like terms, wherever the word “registered”, or like terms, appears, as the context requires.

SECTION 10. Section 437B-11.3, Hawaii Revised Statutes, is amended by substituting the word “unlicensed”, or like terms, wherever the word “unregistered”, or like terms, appears, as the context requires.

SECTION 11. Sections 437B-8 and 437B-26, Hawaii Revised Statutes, are amended by substituting the word “licensee”, or like terms, wherever the word “registrant”, or like terms, appears, as the context requires.

SECTION 12. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 13. This Act shall take effect upon its approval.

(Approved July 17, 1998.)