(NEW AUTO BODY LICENSING LAW)

MOTOR VEHICLES - REPAIRS - LICENSE AND PERMITS

P.L.2001, c.053 (A1957 3R)CHAPTER 53

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

Be It Enacted by the Senate and General Assembly of the State of New Jersey:

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

C.39:13-1 Definitions.
1. For the purposes of this act:
"Auto body repair facility" means a business or person who for compensation engages in the business of repairing, removing, installing or painting integral component parts of a chassis or body of a motor vehicle damaged as a result of a collision.
"Director" means the Director of the Division of Motor Vehicles in the Department of Transportation.
"Motor vehicle" means a vehicle as defined in R.S.39:1-1 and which is required to be registered with the Division of Motor Vehicles, excluding motorcycles.

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

C.39:13-2 System for licensure of auto body repair facilities.
2. a. The director shall establish a system for the licensure of auto body repair facilities. This system may provide for licenses based upon the type or types of motor vehicles repaired by the facility and the equipment required for repair of the vehicles. At a minimum, the director shall provide for a full service auto body repair facility license, the qualifications for which are established under section 7 of this amendatory and supplementary act, and an automobile dealer sublet license, the qualifications for which are established under section 8 of this amendatory and supplementary act. All facilities licensed pursuant to this section may hold themselves out to the public as licensed auto body repair facilities.
b. No person may engage in the business of an auto body repair facility unless it is licensed by the director. An auto body repair facility shall be licensed by the director upon submission and approval of an application and payment of a reasonable application fee sufficient to cover the cost of implementing the provisions of this act and to be prescribed by the director. The director may require biennial renewal of applications for licensure and may stagger the renewal dates and adjust the application fees accordingly. Revenue received from application fees and renewals shall be annually appropriated to the Department

of Transportation for the use of the Division of Motor Vehicles in implementing and administering the provisions of P.L.1983, c.360 (C.39:13-1 et seq.), as amended and supplemented.

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

C.39:13-4 Fine; refusal to grant suspension, revocation of license.
4. The director may fine or refuse to grant or may suspend or revoke a license of an auto body repair facility for any of the following acts or omissions related to the conduct of the business of the auto body repair facility:
a. Making or authorizing any material written or oral statement which is known to be untrue or misleading;
b. Causing or allowing a customer to sign any estimate for repairs which does not state the repairs requested by the customer or the motor vehicle's odometer reading at the time of repair;
c. Failing to provide a customer with a copy of any estimate or document requiring his signature, as soon as a customer signs the estimate or document;
d. Making false promises or representations intended to influence, persuade, or induce a customer to authorize a repair of a motor vehicle which has been damaged as a result of a collision;
e. Giving an adjuster or appraiser directly or indirectly any gratuity or other consideration in connection with his appraisal service;
f. Making appraisals of the cost of repairing a motor vehicle which has been damaged as a result of a collision through the use of photographs, telephone calls, or any manner other than personal inspection;
g. Making an estimate for repairs or charging for repairs in such amount as to compensate the insured for the cost of the deductible applicable under an insurance policy;
h. A pattern of conduct which includes any of the acts or omissions prohibited in this section or any other unconscionable or fraudulent commercial practice prohibited by the director pursuant to regulations promulgated under the provisions of this act;
i. Failing to maintain its equipment and facilities in good operating condition, or failing to keep in force and effect any permits, accreditation, letter of credit or insurance required for licensure;
j. Operating an auto body repair facility without a license as required pursuant to section 2 of P.L.1983, c.360 (C.39:13-2).

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

C.39:13-5 Notification, hearing upon written request.
5. Upon refusal to grant a license or suspension or revocation of a license of an auto body repair facility, the director shall notify the auto body repair facility in writing by registered mail. The auto body repair facility shall be given a hearing by the director if, within 30 days thereafter, it files with the director a written request for a hearing concerning the refusal to grant a

license or suspension or revocation of the license.

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

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

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

C.39:13-8 Damage repairs reimbursable under insurance policy by negotiable instrument payable to insured and lienholder or lessor; statement and photograph as proof; inspection.
1. a. When a motor vehicle is repaired by an auto body repair facility as a result of damage to the vehicle and (1) the damage is reimbursable under a policy of insurance or is otherwise reimbursable by a third party; and (2) the proceeds of the reimbursement are in the form of a negotiable instrument issued by an insurer or other payer which is payable jointly to the owner or lessee of the vehicle and a lienholder or lessor, the auto body repair facility shall provide the lienholder or lessor with a statement of the repairs which have been made to the vehicle, which statement shall be attested by an authorized representative of the auto body repair facility. The statement shall constitute proof to the lienholder or lessor that all repairs have been made by an auto body repair facility. A color photograph of the repaired vehicle shall accompany the statement.
b. In the event that any lienholder or lessor should wish to inspect any motor vehicle to which repairs have been made as provided in subsection a. of this section, the lienholder or lessor shall conduct the inspection upon the premises of the auto body repair facility within three business days after receipt of the notice by certified mail that the repair has been completed. If an inspection is not made by a lienholder or lessor within the three-day period provided herein, the lienholder or lessor shall forfeit the right to make an inspection.
c. In the event a lienholder or lessor shall sell any motor vehicle to which repairs have been made as provided in subsection a. of this section prior to the payment or reimbursement of the auto body repair facility which repaired that motor vehicle, except for the amounts due that lienholder or lessor under the provisions of a perfected lien or security interest, the amount due the auto

body repair facility for those repairs shall supersede and have priority over all other liens or outstanding interests, including those payable by an insurer to the owner or lessee of the repaired motor vehicle. In such cases, if the insurer or other payor has received a statement and request demanding payment from the auto body repair facility, the proceeds, or portion thereof, shall be directed by the insurer or other payor to that auto body repair facility.
d. No lienholder or lessor shall deduct any amount from the aggregate proceeds of a negotiable instrument that was issued by an insurer or other payor to reimburse an auto body repair facility which, pursuant to the provisions of subsection a. of this section, repaired a damaged motor vehicle, but which is payable jointly to the owner or lessee and the lienholder or lessor, for the purpose of paying any delinquent amounts or outstanding installments that the owner or lessee may owe to the lienholder or lessor for the motor vehicle that has been repaired, nor shall any lienholder or lessor unreasonably withhold the endorsement of such instrument or, following endorsement, refuse to transmit the endorsed instrument to the owner or lessee. For the purposes of this act, "auto body repair facility" shall mean an auto body repair facility as defined in section 1 of P.L.1983, c.360 (C.39:13-1).

C.39:13-2.1 Qualification for full service license.
7. a. To qualify for a full service license an auto body repair facility shall:
(1) Have a building suitable for the conduct of all operations within the building, and a Certificate of Occupancy for an auto body repair facility issued by the applicable zoning authority. In the absence of evidence to the contrary, public operation as an auto body repair facility for a continuous period of five years shall create a presumption of compliance;
(2) Have all required licenses, permits and registrations required for the conduct of business including, but not limited to: a federal tax identification number; a New Jersey sales tax identification number; hazardous waste disposal systems that are in accordance with standards established by the State or federal government; stack permits; and any other licenses, permits and registrations as the director may find applicable;
(3) Maintain insurance coverage for damage to property and for liability arising from bodily injury, including, but not limited to: garage keepers' liability insurance in a minimum amount of $300,000 or a letter of credit in the amount of $300,000; workers' compensation insurance coverage in the amounts required pursuant to R.S.34:15-1 et seq.; fire insurance, and any other coverage required by the director;
(4) Possess and maintain an auto body repair facility reference source for estimating the cost of repairs, which reference source is generally accepted by the auto body repair industry. The reference source may be in either book or computerized form;
(5) Possess and maintain equipment to safely raise and support vehicles for inspection and repair;
(6) Possess and maintain a metal inert gas welder;
(7) Possess, maintain and utilize for all spray painting:

(a) an enclosed area for refinishing which complies with all applicable safety, fire, environmental and other regulations;
(b) the means to supply fresh air to workers within the spray area when using materials that require breathable air to be supplied; and
(c) a filtration method to reduce particles from the air exhausted from the spray area which is established in accordance with standards established by the State or federal government;
(8) Have equipment necessary to perform or the means for performing structural repair including, but not limited to: equipment to make multiple body and chassis pulls to straighten damaged vehicle components; equipment to anchor a unibody vehicle at four points; a three dimensional measuring device suitable to measure structural dimensions of symmetrical and non-symmetrical vehicles; and dimensional guides appropriate to the vehicles being repaired;
(9) Have equipment necessary to perform or the means for performing vehicle four-wheel alignment;
(10) Have (a) equipment necessary to perform or the means for performing vehicle air conditioner servicing including the means to evacuate, recycle, and recharge refrigerants and (b) a technician-employee certified to perform such repairs;
(11) Have equipment necessary to perform or the means for performing mechanical repairs necessitated by collision damage; and
(12) Provide evidence that at least one employee or ten (10%) percent, whichever is greater, of the employees performing repairs at the auto body repair facility have completed a recognized auto body repair related training course during the year immediately preceding the application for or renewal of licensure as a full service auto body repair facility. Training courses available through ICAR (Inter-Industry Conference on Auto Collision Repair), the manufacturer's representative or a generally recognized auto body repair training program shall qualify to satisfy the requirement.
b. An auto body repair facility may, however, qualify for a full service license if it meets all of the conditions established by paragraphs (1), (2), (3), (4), (5), (6), (7) and (12) of subsection a. of this section and has a written agreement to subcontract with another autobody repair facility licensee or other party to perform the work for which the equipment set forth in paragraph (8), (9), (10) or (11) of subsection a. of this section is required provided, however, that the other party meets the requirements set forth in those paragraphs with regard to equipment or the means for performing the required tasks and training.

C.39:13-2.2 Qualification for automobile dealer sublet license.
8. A person which sells new automobiles under an agreement with an automobile manufacturer and does not satisfy the equipment requirements of section 7 of this amendatory and supplementary act may qualify for an automobile dealer sublet license provided that the automobile dealer agrees in the sublet license application to use only auto body repair facilities licensed pursuant to the provisions of section 7 of this amendatory and supplementary act to perform auto body repairs.

C.39:13-2.3 Review of applications for licensure.
9. Applications for a new or renewal full service auto body repair facility license or a motor vehicle dealer sublet license shall be reviewed by the director and a license issued or denied within 90 days following receipt by the director of the completed application and supporting documents. Applicants for renewal or initial licensure filed after the effective date of this amendatory and supplementary act shall certify that the applicant has met the requirements of the act. Auto body repair facilities holding a license issued prior to the effective date of this amendatory and supplementary act shall be subject to the provisions of the act on the first renewal date of the license established by the director. The director may extend licenses issued under the provisions of P.L.1983, c.360 (C.39:13-1 et seq.), pending renewal of the licenses pursuant to the terms and conditions established by this amendatory and supplementary act. No later than the 45th day following the effective date of this amendatory and supplementary act, the director shall notify all licensed auto body repair facilities of the terms, conditions and requirements of the act.

C.39:13-2.4 Regulations.
10. Within 360 days of the effective date of this amendatory and supplementary act the director shall promulgate regulations, in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to implement the provisions of this amendatory and supplementary act and to revise any existing regulations to make them consistent herewith.

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

Approved April 10, 2001.