DRAFT

A bill for an act
relating to public safety; establishing licensing standards
for collision repair shops; requiring the
Department of Public Safety to promulgate rules;
proposing coding for a new law in
Minnesota Statutes, Chapter 299A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [299A.67.] LICENSURE OF AUTO BODY REPAIR FACILITIES.

Subd. 1. The Department of Public Safety shall administer a licensing program for auto body repair facilities.

Subd. 2. Definitions.

For purposes of this section, the terms defined shall have the meanings given them.

A. "Auto Body Repair Facility" means each location operated by 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.

B. "Commissioner" means the Commissioner of the Department of Public Safety.

C. "Motor vehicle" means any device propelled or drawn by any power other than muscular power, in, upon, or by which any person or property is, or may be transported or drawn upon a highway, excepting building and road construction equipment not subject to motor vehicle registration fees, snowmobiles, three-wheel off-road vehicles, boat, snowmobile, and other utility trailers, farm tractors, and agricultural machinery not designed primarily for highway transportation, but which may incidentally transport persons or property on a public highway, or any other device which may not be lawfully operated upon a highway at the time of sale.

Subd. 3. Minimum Licensure Requirements.

A. The Commissioner shall establish the following minimum requirements which an auto body repair facility must satisfy in order to secure a license.

1. Federal tax identification number;

2. State tax identification number;

3. Hazardous waste license and EPA identification number or evidence of exemption from such permits;

4. Air emissions permit, or evidence of exemption from such permits;

5. Proof of insurance necessary to protect customers' property and provide the public and employees with remedies for liability arising from the business operations including, but not limited to, garage keeper's liability insurance in a minimum amount required by state law; workers' compensation insurance coverage as required under Minn. Stat. §176.181, Subd. 2, and fire insurance;

6. Evidence that at least one employee or fifty (50%) 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 involving at least eight (8) hours of training annually. Current ASE Certification or completion of training courses available through ICAR (Inter-Industry Conference on Auto Collision Repair), industry manufacturers or trade associations or a generally recognized auto body repair training program shall qualify to satisfy this requirement;

7. Possession of a gas metal arc (GMA-MIG) welder and evidence that at least one employee is certified in proper welding techniques by ICAR, the American Welding Society or equivalent welding certification;

8. Availability of equipment to safely raise and support vehicles for inspection and repair;

9. Availability of a four-point anchoring system capable of holding a vehicle in stationary position during frame or unibody pulls;

10. Possess, maintain and utilize for all spray painting:

(a) an enclosed area for refinishing which complies with OSHA standards for spray finishing (29 CFR 1910.107 and 29 CFR 1910.94) and all other 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 accepted by the industry in accordance with standards established by the State or federal government.

11. Availability of equipment or the means for performing automobile four-wheel alignment;

12. Equipment necessary to perform or the means for performing vehicle air conditioner servicing including the means to evacuate, recycle, recharge and recover refrigerants and a technician-employee certified to perform such repairs;

13. Possess and maintain a current auto body repair facility reference source for estimating the cost of repairs in either book or computerized form which is accepted by the industry; and

14. Equipment necessary to perform or the means for performing mechanical repairs necessitated by collision damage.

Subd 4. Exclusions from Licensing.

1. An applicant for an auto body repair facility license which does not meet the requirements of this subdivision may satisfy those requirements by entering into and maintaining a written agreement or agreements to have work performed by an entity that meets the requirements of this subdivision.

2. Businesses which specialize solely in particular auto body repair services including paintless dent repair, bumper repair service, wheel reconditioning, leather and vinyl repair, air bag replacement, rust proofing, four wheel alignment, air conditioning services, mechanical repairs and/or structural (frame) repairs or glass replacement service are not required to obtain an auto body repair facility license to conduct their business.

3. Businesses solely engaged in repairing motor vehicles for a single commercial entity.

Subd. 5. Licensure Application.

The Commissioner shall develop a form which will require the provision of the name, address and contact person and evidence of compliance with licensure requirements established in this section for an auto body repair facility seeking a license from the state.

Subd. 6. Issuance or Suspension of License.

A. The Commissioner may not issue a license to an auto body repair facility unless it has met all of the requirements of subdivision 3.

B. The Commissioner shall suspend the license of an auto body repair facility for ten (10) days upon a violation within a twelve (12) month period of any of the licensure requirements established pursuant to this section. The suspension shall be lifted and the license restored to good standing upon

provision of evidence by the auto body repair facility that the facility has come into compliance with all licensure requirements.

C. The Commissioner may issue a temporary license for up to ninety (90) days at the request of an auto body repair facility to provide additional time to come into compliance with licensing standards such as training requirements which may require advance scheduling.

Subd. 7. Review of Applications for Licensure, Notification of Refusal to Grant a License or to Suspend a License; Hearing.

A. Applications for a new or renewal auto body repair facility license shall be reviewed by the Commissioner and a license issued or denied within ninety (90) days following receipt by the Commissioner of the completed application and supporting documents.

B. Upon refusal to grant a license or to suspend a license of an auto body repair facility, the Commissioner shall notify the auto body repair facility in writing by certified mail. The auto body repair facility shall be given a hearing by the Commissioner if, within thirty (30) days thereafter, it files with the Commissioner a written request for a hearing concerning the refusal to grant a license or suspension of the license.

C. Upon the sale or other transfer of ownership interest in a licensed auto body repair facility, the new owner may continue to operate under the previous owner's license for a period of ninety (90) days during which time the new owner must submit an application for licensure on their own behalf.

Subd. 8. Investigations.

The Commissioner shall, at his or her own initiative or in response to complaints, investigate on a continuing basis and gather evidence of violations of this chapter, or of any regulation adopted pursuant to this chapter, by auto body repair facilities.

Subd. 9. Penalties.

The Commissioner shall have the authority to impose penalties in the form of fines in an amount not to exceed $2,500 for a first offense of conducting business as an auto body repair facility without a license and an amount not to exceed $5,000 for any subsequent such offenses.

Subd. 10. License Fee.

The Commissioner shall establish an annual fee for the issuance of an auto body repair facility license. Such fee shall not exceed $250.00 for the first year that a shop receives a license. An annual renewal fee for an auto body repair facility's license shall be in an amount

not greater than $100.00 per year. A facility which has its license suspended in any given year must secure a license by submitting a new application to the Commissioner and paying a $250.00 licensure fee as if the auto body repair facility was receiving a new license.

Subd. 11. Roster of Licensed Auto Body Repair Facilities.

The Commissioner shall maintain a roster of currently licensed auto body repair facilities which shall be available electronically via the Department's website.

Subd. 12. Display of License.

A licensed auto body repair facility must display their current license in a prominent location which is readily visible by the business's customers.

Section 2. MINN. STAT. § 72B.092 IS AMENDED AS FOLLOWS:

Subd 1. Prohibitions on insurer. No adjuster or insurer, director, officer, broker, agent, attorney-in-fact, employee, or other representative of an insurer shall in collision cases:

(a) limit the freedom of an insured or claimant to choose the shop;

(b) require that an insured or claimant present the claim or the automobile for loss adjustment or inspection at a "drive-in" claim center or any other similar facility solely under the control of the insurer;

(c) engage in boycotts, intimidation or coercive tactics in negotiating repairs to damaged motor vehicles which they insure or are liability to claimants to have repaired;

(d) attempt to secure, except in an emergency, the insured's or claimant's signature authorizing the party securing the signature to act in behalf of the insured or claimant in selection of a repair shop facility;

(e) adjust or pay a claim for repairs of an insured's or claimant's vehicle with an auto body repair facility which does not have a current auto body repair facility license pursuant to Minn. Stat. § 299A.67. An insurer shall make reasonable efforts to determine that an auto body repair facility with which they seek to process or adjust a claim for repairs is properly licensed and that upon finding that an auto body repair facility is not properly licensed, report that finding to the Commissioner; or

(f) rely upon rates paid to an unlicensed auto body repair facility to calculate the insurer's prevailing rate for payment of repair services.

Section 3. Effective Date: April 1, 2009

Subd. 1