

By: Murphy

H.B. No. 2211

A BILL TO BE ENTITLED

AN ACT

relating to licensing and regulation of automotive shops, automotive technicians, and automotive service writers, advisors, and estimators; providing penalties.

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

SECTION 1. Subtitle A, Title 14, Occupations Code, is amended by adding Chapter 2308 to read as follows:

CHAPTER 2308. AUTOMOTIVE SHOPS, TECHNICIANS, AND AUTOMOTIVE

SERVICE WRITERS, ADVISORS, AND ESTIMATORS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2308.001. DEFINITIONS. In this chapter:

(1) "Advisory board" means the automobile service and repair advisory board.

(2) "Automobile" means a passenger automobile or light truck.

(3) "Automobile service and repair" means replacing parts, changing fluids, diagnosing problems, painting, or modifying the frame or body of an automobile.

(4) "Automotive service writing, advising, and estimating" means evaluating the services and repairs needed to maintain or repair an automobile, estimating the cost of the services and repairs, and writing an order for the services and repairs.

(5) "Commission" means the Texas Commission of

1 Licensing and Regulation.

2 (6) "Department" means the Texas Department of
3 Licensing and Regulation.

4 (7) "Executive director" means the executive director
5 of the department.

6 [Sections 2308.002-2308.050 reserved for expansion]

7 SUBCHAPTER B. EXEMPTIONS

8 Sec. 2308.051. SERVICE AND REPAIR WITHOUT COMPENSATION.

9 This chapter does not apply to a person who performs automobile
10 service and repair and who does not receive or expect to receive
11 compensation for the person's labor or from the provision of parts
12 or materials.

13 Sec. 2308.052. EDUCATIONAL FACILITIES. This chapter does
14 not apply to a person who performs automobile service and repair at
15 an educational facility on automobiles owned by the facility.

16 Sec. 2308.053. AUTOMOBILE FLEET OWNERS. This chapter does
17 not apply to an automobile fleet owner or to a person who is
18 employed by an automobile fleet owner who performs automobile
19 service and repair on fleet automobiles.

20 Sec. 2308.054. FRANCHISED DEALERS. This chapter does not
21 apply to a franchised dealer, as defined by Section 2301.002, or to
22 a person employed by a franchised dealer, if the franchised dealer
23 performs automobile service and repair only on automobiles
24 manufactured or distributed under the dealer's franchise.

25 Sec. 2308.055. AGRICULTURAL VEHICLES. This chapter does
26 not apply to a person who performs automobile service and repair on
27 automobiles used primarily for the production, harvest, or

1 transportation of livestock or crops.

2 [Sections 2308.056-2308.100 reserved for expansion]

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 2308.101. GENERAL POWERS AND DUTIES. (a) The
5 executive director shall prescribe the design of an original and a
6 renewal license.

7 (b) The commission shall maintain a record of the
8 commission's proceedings under this chapter.

9 (c) The executive director may authorize disbursements
10 necessary to implement this chapter, including disbursements for
11 office expenses, equipment costs, and other necessary facilities.

12 (d) The commission by rule shall prescribe the term of a
13 license or certificate issued under this chapter. A license or
14 certificate issued under this chapter expires at the end of the
15 term.

16 (e) The executive director by rule shall approve continuing
17 education courses, course content, and course providers.

18 Sec. 2308.102. AMOUNT OF CERTAIN FEES. The commission may
19 base an automotive shop's license fee on the amount of work
20 performed by the shop.

21 Sec. 2308.103. INSURANCE REQUIREMENTS. (a) The executive
22 director shall set insurance requirements for automotive shops
23 licensed under this chapter.

24 (b) The executive director may waive the insurance
25 requirement for an automotive shop that does not engage in
26 automobile service and repair for the public.

27 [Sections 2308.104-2308.150 reserved for expansion]

1 SUBCHAPTER D. CONSUMER INTEREST INFORMATION AND COMPLAINTS

2 Sec. 2308.151. CONSUMER INTEREST INFORMATION. The
3 executive director shall make the information under Section 51.251
4 available to the public in the form of a pamphlet to be distributed
5 at each licensed automotive shop.

6 Sec. 2308.152. COMPLAINT INFORMATION. (a) The executive
7 director shall provide to the public information about each
8 unresolved complaint under this chapter.

9 (b) The executive director shall provide to the public a
10 list of licensed automotive shops that have no current unresolved
11 complaints.

12 Sec. 2308.153. CONSUMER INFORMATION HOTLINE. In
13 coordination with the telephone information system under Section
14 51.452, the department shall operate a telephone hotline to provide
15 information to consumers about the licensing and complaint
16 procedures under this chapter.

17 [Sections 2308.154-2308.200 reserved for expansion]

18 SUBCHAPTER E. AUTOMOBILE SERVICE AND REPAIR ADVISORY BOARD

19 Sec. 2308.201. ADVISORY BOARD MEMBERSHIP. The automobile
20 service and repair advisory board consists of 12 members appointed
21 by the commission. Four members of the board are representatives of
22 the public and eight are representatives of the automobile service
23 and repair industry.

24 Sec. 2308.202. ADVISORY BOARD DUTIES. (a) The advisory
25 board shall advise the commission in administering and enforcing
26 this chapter.

27 (b) The commission shall give the advisory board the

1 opportunity to review and comment on each proposed rule or
2 amendment to an existing rule under this chapter before adopting
3 the rule or amendment.

4 Sec. 2308.203. TERMS; VACANCY. (a) Advisory board members
5 serve staggered six-year terms. The terms of four elected members
6 expire on February 1 of each odd-numbered year.

7 (b) If a vacancy occurs during a member's term, the
8 presiding officer of the commission, with the commission's
9 approval, shall fill the vacancy for the remainder of the unexpired
10 term with a person who represents the same interests as the
11 predecessor.

12 Sec. 2308.204. PRESIDING OFFICER. The members of the
13 advisory board shall elect one member to serve as presiding officer
14 for a two-year term.

15 Sec. 2308.205. COMPENSATION; REIMBURSEMENT. An advisory
16 board member serves without compensation but is entitled to
17 reimbursement for actual and necessary expenses incurred in
18 performing functions as an advisory board member, subject to any
19 applicable limitation on reimbursement provided by the General
20 Appropriations Act.

21 Sec. 2308.206. MEETINGS. (a) The advisory board shall meet
22 at least every six months and may meet at other times at the call of
23 the presiding officer.

24 (b) The advisory board shall meet in this state at a place
25 designated by the board.

26 Sec. 2308.207. APPLICABILITY OF OTHER LAW. Chapter 2110,
27 Government Code, does not apply to the advisory board.

1 [Sections 2308.208-2308.250 reserved for expansion]

2 SUBCHAPTER F. AUTOMOTIVE SHOP LICENSE REQUIREMENTS

3 Sec. 2308.251. LICENSE REQUIRED. (a) Except as provided by
4 Subsection (b), a person may not operate a business that performs or
5 offers to perform automobile service and repair unless the person
6 holds an automotive shop license issued under this subchapter.

7 (b) A person that submits an application under Section
8 2308.253 may perform automobile service and repair for 90 days
9 after the date the person submits the application. If the executive
10 director denies the initial application for a license under this
11 subchapter, the person may engage in the business of automobile
12 service and repair for 90 days after the date the executive director
13 denies the initial application.

14 Sec. 2308.252. ELIGIBILITY REQUIREMENTS. (a) Each
15 applicant for an automotive shop license must have:

16 (1) a current garagekeeper's insurance policy and a
17 current liability insurance policy in amounts required by
18 commission rule;

19 (2) all occupational and business permits required by
20 the state and by each political subdivision having jurisdiction
21 over the shop;

22 (3) a sales tax permit for the shop issued by the
23 comptroller;

24 (4) a business checking account for the shop;

25 (5) a licensed automotive technician as an owner or
26 full-time manager of the shop;

27 (6) an Employer Identification Number issued by the

1 Internal Revenue Service;

2 (7) an invoice form for use in the shop that meets the
3 requirements of this chapter; and

4 (8) an estimate form for use in the shop that meets the
5 requirements of this chapter.

6 (b) In addition to the requirements in Subsection (a), an
7 applicant that will perform collision repairs must have:

8 (1) a paint spray booth that meets applicable air
9 quality standards;

10 (2) a frame pulling machine; and

11 (3) a frame dimension measurement system that includes
12 current frame dimension specifications.

13 (c) The commission by rule may adopt additional
14 requirements for an applicant for an automotive shop license.

15 Sec. 2308.253. APPLICATION; FEE. (a) An applicant for an
16 automotive shop license must submit a verified application on a
17 form prescribed by the executive director.

18 (b) The application must be accompanied by:

19 (1) evidence that the applicant meets the eligibility
20 requirements under Section 2308.252;

21 (2) a copy of the certificate of formation, articles
22 of incorporation, assumed name certificate, or other applicable
23 documentation establishing the applicant's business entity; and

24 (3) the application fee.

25 [Sections 2308.254-2308.300 reserved for expansion]

1 SUBCHAPTER G. AUTOMOTIVE TECHNICIAN CERTIFICATION REQUIREMENTS

2 Sec. 2308.301. AUTOMOTIVE TECHNICIAN CERTIFICATE REQUIRED.

3 An individual may not perform or offer to perform automobile
4 service and repair unless the individual holds an apprentice,
5 journeyman, or master automotive technician certificate issued
6 under this subchapter.

7 Sec. 2308.302. AUTOMOTIVE TECHNICIAN CERTIFICATE AREAS.

8 (a) The executive director shall issue automotive technician
9 certificates in the following repair areas:

- 10 (1) engine;
11 (2) automatic transmission and transaxle;
12 (3) manual drive train and axles;
13 (4) suspension and steering;
14 (5) brakes;
15 (6) electrical and electronic systems;
16 (7) heating and air conditioning;
17 (8) engine performance; and
18 (9) paint and collision.

19 (b) The commission by rule shall define the services that a
20 holder of a certificate in each area listed in Subsection (a) is
21 authorized to perform.

22 Sec. 2308.303. ELIGIBILITY REQUIREMENTS. The commission by
23 rule shall establish eligibility requirements for an automotive
24 technician certificate in each area. The commission may accept a
25 certification issued by a national organization, including the
26 National Institute for Automotive Service Excellence and the
27 Inter-Industry Conference on Auto Collision Repair, as

1 satisfaction of all or part of the eligibility requirements for an
2 area.

3 Sec. 2308.304. APPLICATION; FEE. (a) An applicant for an
4 automotive technician certificate must submit a verified
5 application on a form prescribed by the executive director.

6 (b) The application must be accompanied by the application
7 fee.

8 Sec. 2308.305. ISSUANCE OF CERTIFICATE. (a) The executive
9 director shall issue an apprentice certificate in an area listed in
10 Section 2308.302(a) to an applicant who pays the certification fee,
11 meets the eligibility requirements for the area, and has less than
12 two years of continuous, full-time employment related to the area.

13 (b) The executive director shall issue a journeyman's
14 certificate in an area listed in Section 2308.302(a) to an
15 applicant who pays the certification fee, meets the eligibility
16 requirements for the area, and has at least two years of continuous,
17 full-time employment related to the area.

18 (c) The executive director shall issue a master automotive
19 technician certificate to an applicant who pays the certification
20 fee, has at least five years of continuous, full-time experience in
21 automobile service and repair, and meets the requirements for a
22 certificate in each of the following repair areas:

- 23 (1) engine;
24 (2) automatic transmission and transaxle;
25 (3) manual drive train and axles;
26 (4) suspension and steering;
27 (5) brakes;

1 (6) electrical and electronic systems;

2 (7) heating and air conditioning; and

3 (8) engine performance.

4 (d) The executive director shall issue a master collision
5 repair technician certificate to an applicant who pays the
6 certification fee, has at least five years of continuous, full-time
7 experience in automobile collision repair, and meets additional
8 requirements established by commission rule.

9 Sec. 2308.306. CONTINUING EDUCATION. A certificate holder
10 must complete 30 hours of continuing education each year to renew
11 all certificates the individual holds.

12 [Sections 2308.307-2308.350 reserved for expansion]

13 SUBCHAPTER H. AUTOMOTIVE SERVICE WRITER, ADVISOR, AND ESTIMATOR

14 CERTIFICATION REQUIREMENTS

15 Sec. 2308.351. AUTOMOTIVE SERVICE WRITER, ADVISOR, AND
16 ESTIMATOR CERTIFICATION REQUIRED. (a) Except as provided by
17 Subsection (b), an individual may not provide or offer to provide
18 automotive service writing, advising, and estimating unless the
19 individual holds an automotive service writer, advisor, and
20 estimator certificate issued under this subchapter.

21 (b) This subchapter does not apply to a person employed by
22 an automotive shop that employs fewer than three employees.

23 Sec. 2308.352. ELIGIBILITY REQUIREMENTS. The commission by
24 rule shall establish eligibility requirements for an automotive
25 service writer, advisor, and estimator certificate. The commission
26 may accept a certification issued by a national organization,
27 including the National Institute for Automotive Service Excellence

1 and the Inter-Industry Conference on Auto Collision Repair, as
2 satisfaction of all or part of the eligibility requirements.

3 Sec. 2308.353. APPLICATION; FEE. (a) An applicant for an
4 automotive service writer, advisor, and estimator certificate must
5 submit a verified application on a form prescribed by the executive
6 director.

7 (b) The application must be accompanied by the application
8 fee.

9 Sec. 2308.354. CONTINUING EDUCATION. A certificate holder
10 must complete 12 hours of continuing education each year to renew an
11 automotive service writer, advisor, and estimator certificate.

12 [Sections 2308.355-2308.400 reserved for expansion]

13 SUBCHAPTER I. PRACTICE BY LICENSE HOLDER

14 Sec. 2308.401. CERTIFIED TECHNICIAN REQUIRED. A licensed
15 automotive shop may not provide a service unless the shop employs a
16 full-time automotive technician who holds a certificate that
17 authorizes the technician to perform the service.

18 Sec. 2308.402. DISPLAY OF CERTAIN INFORMATION. (a) Each
19 licensed automotive shop shall display in a place that is visible to
20 customers entering the shop:

- 21 (1) the shop's sales tax permit;
22 (2) the shop's license certificate; and
23 (3) the telephone number for the consumer information
24 hotline.

25 (b) Each shop shall display the telephone number at which
26 consumers may file a complaint with the department.

27 Sec. 2308.403. AVAILABILITY OF TECHNICIAN CERTIFICATES.

1 Each licensed automotive shop shall maintain a copy of the
2 automotive technician certificate for each technician employed by
3 the shop and shall provide the copies for inspection at the request
4 of a customer or a representative of the department.

5 Sec. 2308.404. ADVERTISING. Each licensed automotive shop
6 shall provide its license number in each advertisement for the
7 shop.

8 Sec. 2308.405. ESTIMATES. (a) Each licensed automotive
9 shop shall provide to each customer a clear written estimate of the
10 charges for repair and diagnostic services authorized by the
11 customer.

12 (b) Each estimate must include the automotive shop's
13 license number.

14 (c) An estimate for a diagnostic service must clearly state
15 whether the fee for the diagnostic service includes returning the
16 automobile to the condition it was in before the diagnostic
17 services were performed. Unless a licensed automotive shop receives
18 specific authorization from the customer, the shop may not charge a
19 fee for tearing down or inspecting an automobile if the fee was not
20 in the estimate provided to the customer.

21 (d) An estimate for a part must clearly state whether the
22 estimated price is for a new, used, rebuilt, or remanufactured
23 part.

24 (e) Each estimate must clearly indicate any service that
25 will be performed by another automotive shop.

26 (f) Each estimate must state whether the parts and labor in
27 the estimate include a warranty. If a warranty is included, the

1 estimate must include a statement of warranty.

2 (g) An estimate may provide the prices of parts and labor in
3 the form of a menu, but the estimate must separately list each type
4 of part and labor operation included in the total estimated price.

5 (h) A licensed automotive shop may not charge a customer a
6 total fee that exceeds by more than 10 percent or \$100, whichever is
7 less, the estimated amount, unless the shop first obtains the
8 customer's authorization.

9 (i) An automotive shop may provide an estimate
10 electronically, including by fax or electronic mail.

11 Sec. 2308.406. REPAIR ORDER FORM. (a) Each licensed
12 automotive shop shall develop and use an order form to allow
13 customers to authorize services. The form must include a signature
14 line on which a customer may authorize services at a predetermined
15 price and a separate line on which a customer may authorize services
16 without a prior estimate. The form must provide for recording the
17 date, automobile description, automobile mileage, license plate
18 number, vehicle identification number, and a description of the
19 customer's request or concern about the automobile.

20 (b) An automotive shop shall provide a copy of the completed
21 repair order form to the customer on request.

22 Sec. 2308.407. INVOICE. (a) Each licensed automotive
23 shop shall provide an invoice to each customer.

24 (b) The invoice must include:

25 (1) the name, address, and telephone number of the
26 shop;

27 (2) the shop's license number;

1 (3) a unique invoice number;

2 (4) the date the transaction is completed;

3 (5) a description of the automobile, including the
4 vehicle identification number and the automobile's mileage;

5 (6) the customer's name, address, and telephone
6 number;

7 (7) an itemized list of all labor performed, all
8 material used, and each part replaced, including parts and labor
9 covered under the automobile's warranty;

10 (8) a description of each part as new, used, rebuilt,
11 or remanufactured;

12 (9) a list of any repair performed by another shop;

13 (10) a list of any repairs that the shop considers
14 necessary and that the customer declined;

15 (11) the telephone number at which a consumer may file
16 a complaint with the department; and

17 (12) any applicable statement of warranty.

18 [Sections 2308.408-2308.450 reserved for expansion]

19 SUBCHAPTER J. DISCIPLINARY ACTION AND PROCEDURES

20 Sec. 2308.451. DISCIPLINARY ACTION. A person is subject to
21 the denial of an application or disciplinary action under Section
22 51.353 if the person violates this chapter or a rule adopted under
23 this chapter.

24 Sec. 2308.452. ADMINISTRATIVE PROCEDURES. A proceeding for
25 the denial of a license application or disciplinary action and an
26 appeal from that proceeding is governed by Chapter 2001, Government
27 Code.

1 [Sections 2308.453-2308.500 reserved for expansion]

2 SUBCHAPTER K. PENALTIES AND ENFORCEMENT PROVISIONS

3 Sec. 2308.501. EMERGENCY AND CEASE AND DESIST ORDERS. (a)

4 The executive director may issue an emergency order as necessary to
5 enforce this chapter if the executive director determines that an
6 emergency exists requiring immediate action to protect the public
7 health and safety.

8 (b) The executive director may issue the emergency order
9 without notice and hearing or with any notice and hearing the
10 executive director considers practicable under the circumstances.
11 The executive director shall set the time and place for a hearing to
12 affirm, modify, or set aside an emergency order that was issued
13 without a hearing.

14 (c) The executive director may issue a cease and desist
15 order.

16 Sec. 2308.502. CRIMINAL PENALTY. (a) A person commits an
17 offense if the person violates this chapter or a rule adopted under
18 this chapter.

19 (b) An offense under this section is a Class C misdemeanor.

20 Sec. 2308.503. TERMINATION OF UTILITY SERVICE. If the
21 commission determines that an automotive shop is operating without
22 a license required by this chapter, the executive director may
23 authorize a political subdivision to:

24 (1) discontinue utility service provided by the
25 political subdivision to the location where the violation is
26 occurring; or

27 (2) require a public utility operating with a

1 franchise to use the public right-of-way of the political
2 subdivision to discontinue utility service to the location where
3 the violation is occurring.

4 SECTION 2. Not later than November 1, 2007, the Texas
5 Commission of Licensing and Regulation shall appoint initial
6 members of the automotive service and repair advisory board. The
7 commission shall appoint four members to terms expiring February 1,
8 2009, four members to terms expiring February 1, 2011, and four
9 members to terms expiring February 1, 2013.

10 SECTION 3. Not later than January 1, 2008, the Texas
11 Commission of Licensing and Regulation shall adopt rules,
12 procedures, forms, and fees under Chapter 2308, Occupations Code,
13 as added by this Act.

14 SECTION 4. Regardless of whether the applicant meets the
15 requirements of Subchapter G, Chapter 2308, Occupations Code, as
16 added by this Act, the Texas Department of Licensing and Regulation
17 shall issue a journeyman automotive technician certificate in an
18 area listed in Section 2308.302(a), Occupations Code, as added by
19 this Act, to an applicant under this section who:

20 (1) applies for a certificate not later than December
21 31, 2008;

22 (2) demonstrates to the satisfaction of the department
23 that the applicant has at least five years of experience in the
24 area; and

25 (3) pays the application fee set by the Texas
26 Commission of Licensing and Regulation.

27 SECTION 5. Regardless of whether the applicant meets the

1 requirements of Subchapter H, Chapter 2308, Occupations Code, as
2 added by this Act, the Texas Department of Licensing and Regulation
3 shall issue an automotive service writer, advisor, and estimator
4 certificate to an applicant under this section who:

5 (1) applies for a certificate not later than December
6 31, 2008;

7 (2) demonstrates to the satisfaction of the department
8 that the applicant has:

9 (A) at least five years of experience in
10 automotive service writing, advising, and estimating; or

11 (B) at least 20 hours of automotive service
12 advisor training in the five years preceding the date the person
13 submits an application under this section; and

14 (3) pays the application fee set by the Texas
15 Commission of Licensing and Regulation.

16 SECTION 6. (a) Except as provided by Subsection (b) of
17 this section, this Act takes effect September 1, 2007.

18 (b) Subchapter I and Sections 2308.251, 2308.301, 2308.351,
19 and 2308.502, Occupations Code, as added by this Act, take effect
20 September 1, 2008.