

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1056

Short Title: Licensure/Motor Veh. Repair Shops/Coll. Rep. (Public)

Sponsors: Senators Lucas; and Kinnaird.

Referred to: Commerce.

March 24, 2005

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH LICENSURE REQUIREMENTS FOR CERTAIN MOTOR
3 VEHICLE REPAIR SHOPS, COLLISION REPAIR ESTIMATORS, AND
4 COLLISION REPAIR TECHNICIANS.

5 The General Assembly of North Carolina enacts:

6 "Article 19.

7 "Motor Vehicle Repair Shops and Collision Repair Estimators and Technicians.

8 "**§ 20-420. Short title.**

9 This Article shall be known as the North Carolina Motor Vehicle Repair Shops and
10 Collision Repairs Licensure Act.

11 "**§ 20-421. Purpose.**

12 The General Assembly declares that in order to protect the safety and welfare of the
13 people of North Carolina against unqualified motor vehicle repair shops, collision repair
14 estimators, and collision repair technicians or improper motor vehicle or collision
15 repair, it is necessary to provide for the licensing and regulation of certain motor vehicle
16 repair shops, collision repair estimators, and collision repair technicians.

17 "**§ 20-422. License required; exemptions.**

18 (a) After July 1, 2006, no person shall own or operate a motor vehicle repair shop
19 or engage in business as a collision repair estimator or collision repair technician, unless
20 the person has been properly licensed under the provisions of this Article. Any person
21 violating the provisions of this Article shall be guilty of a Class 3 misdemeanor.

22 (b) Nothing in this Article shall be construed to prohibit or affect:

23 (1) Practice by persons employed by any federal, State, or municipal
24 agency.

25 (2) Practice by a person who is a student in an educational or certification
26 program approved by the Board.

27 (3) Employees of industrial firms that provide motor vehicle or collision
28 repairs for its customers on its own or leased premises.

- 1 (4) A person who repairs or maintains a motor vehicle owned or leased by
2 that person.

3 **"§ 20-423. Definitions.**

4 The following definitions apply in this Article:

- 5 (1) Board. – The North Carolina Board of Examiners for Motor Vehicle
6 Repair Shops and Collision Repairs.
7 (2) Collision repair. – The act of fixing damaged motor vehicles.
8 (3) Collision repair estimator. – A person who inspects a damaged vehicle
9 and determines the cost required to restore the vehicle to the condition
10 it was in before the damage.
11 (4) Collision repair technician. – A person who fixes damaged motor
12 vehicles.
13 (5) Licensee. – A person who has been issued a license under this Article.
14 (6) Motor vehicle repair. – Any maintenance of or modifications or repairs
15 to motor vehicles or diagnostic work incident to the repairs, including
16 the rebuilding or restoring of rebuilt vehicles, bodywork, painting, and
17 warranty work.
18 (7) Motor vehicle repair shop. – Any building or part thereof where motor
19 vehicle repairs are performed for pay or reward, whether direct or
20 indirect.

21 **"§ 20-424. North Carolina Board of Examiners for Motor Vehicle Repair Shops**
22 **and Collision Repairs.**

23 (a) Composition and Terms. – The North Carolina Board of Examiners for Motor
24 Vehicle Repair Shops and Collision Repairs is created. The Board shall consist of seven
25 members who shall serve staggered terms. The initial Board members shall be
26 appointed on or before January 1, 2006, as follows:

- 27 (1) The General Assembly, upon the recommendation of the President Pro
28 Tempore of the Senate, shall appoint three members. One of these
29 members shall be the owner or operator of a motor vehicle repair shop
30 who shall serve a three-year term, one shall be a collision repair
31 estimator who shall serve a two-year term, and one shall be a collision
32 repair technician who shall serve a one-year term.
33 (2) The General Assembly, upon the recommendation of the Speaker of
34 the House of Representatives, shall appoint three members. One of
35 these members shall be the owner or operator of a motor vehicle repair
36 shop who shall serve a three-year term, one shall be a collision repair
37 estimator who shall serve a two-year term, and one shall be a collision
38 repair technician who shall serve a one-year term.
39 (3) The Governor shall appoint one public member who is a consumer of
40 motor vehicle repair or collision repair services or has an interest in the
41 rights of consumers who shall serve a three-year term.

42 Initial Board members appointed on or before January 1, 2006, do not have to be
43 licensed upon appointment. However, once licensure requirements are established, those

1 initial Board members shall satisfy the applicable requirements for licensure pursuant to
2 this Article.

3 Upon the expiration of the terms of the initial Board members, each member shall be
4 appointed for a term of three years and shall serve until a successor is appointed and
5 qualified. No member may serve more than two consecutive terms.

6 (b) Qualifications. – All members of the Board shall reside in this State and shall
7 represent the various geographical areas or congressional districts of the State.

8 (c) Vacancies. – A vacancy shall be filled in the same manner as the original
9 appointment, except that all unexpired terms in seats appointed by the General
10 Assembly shall be filled in accordance with G.S. 120-122. Appointees to fill vacancies
11 shall serve the remainder of the unexpired term and until their successors have been
12 duly appointed and qualified.

13 (d) Removal. – The Board may remove any of its members for neglect of duty,
14 incompetence, or unprofessional conduct. A member subject to disciplinary proceedings
15 as a licensee shall be disqualified from participating in the official business of the Board
16 until the charges have been resolved.

17 (e) Compensation. – Each member of the Board shall receive per diem and
18 reimbursement for travel and subsistence as provided in G.S. 93B-5.

19 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other
20 officers deemed necessary by the Board to carry out the purposes of this Article. All
21 officers shall be elected annually during the first meeting of the calendar year by the
22 Board for one-year terms and shall serve until their successors are elected and qualified.

23 (g) Meetings. – The Board shall hold at least two meetings each year to conduct
24 business and to review the standards and rules for issuing licenses under this Article.
25 The Board shall adopt rules governing the calling, holding, and conducting of regular
26 and special meetings. A majority of Board members shall constitute a quorum.

27 **§ 20-425. Powers and duties.**

28 The Board shall have the following powers and duties:

29 (1) Administer and enforce the provisions of this Article.

30 (2) Adopt rules as may be necessary to carry out the provisions of this
31 Article.

32 (3) Examine and determine the qualifications and fitness of applicants for
33 licensure and renewal of licensure.

34 (4) Issue, renew, deny, suspend, or revoke licenses and conduct any
35 disciplinary actions authorized by this Article.

36 (5) Set fees as provided in G.S. 20-429.

37 (6) Establish and approve continuing education requirements for persons
38 licensed under this Article.

39 (7) Receive and investigate complaints from members of the public.

40 (8) Conduct investigations for the purpose of determining whether
41 violations of this Article or grounds for disciplining licensees exist.

42 (9) Conduct administrative hearings in accordance with Article 3A of
43 Chapter 150B of the General Statutes.

- 1 (10) Maintain a record of all proceedings conducted by the Board and make
2 available to licensees and other concerned parties an annual report of
3 all Board action.
- 4 (11) Maintain a list of the names and addresses of all persons licensed by
5 the Board.
- 6 (12) Employ and fix the compensation of personnel that the Board
7 determines is necessary to carry out the provisions of this Article and
8 incur other expenses necessary to perform the duties of the Board.
- 9 (13) Adopt a seal containing the name of the Board for use on all licenses
10 and official reports issued by the Board.
- 11 (14) Prescribe standards of ethical conduct for automotive glass work,
12 automotive glass repair work, and flat glass work.

13 **"§ 20-426. Qualifications for licensing collision repair estimators and collision**
14 **repair technicians; examination.**

15 (a) An applicant shall be licensed as a collision repair estimator if the applicant
16 meets all of the following qualifications:

- 17 (1) Has obtained a high school diploma or equivalent.
- 18 (2) Is at least 18 years of age.
- 19 (3) Is of good moral and ethical character.
- 20 (4) Has successfully completed the application process.
- 21 (5) Has completed a collision repair estimator course through a nationally
22 recognized organization as approved by the Board, a Board-approved
23 community college program, or other Board-approved certification
24 program.
- 25 (6) Provides evidence that he or she has met all proper safety training
26 requirements for collision repair work.
- 27 (7) Has at least one year of work experience as a collision repair estimator
28 before applying for licensure under this Article.
- 29 (8) Has successfully passed an examination administered or approved by
30 the Board.
- 31 (9) Pays the required fee under G.S. 20-429.

32 (b) An applicant shall be licensed as a collision repair technician if the applicant
33 meets all of the following qualifications:

- 34 (1) Has obtained a high school diploma or equivalent.
- 35 (2) Is at least 18 years of age.
- 36 (3) Is of good moral and ethical character.
- 37 (4) Has successfully completed the application process.
- 38 (5) Has completed a collision repair technician course through a nationally
39 recognized organization as approved by the Board, a Board-approved
40 community college program, or other Board-approved certification
41 program.
- 42 (6) Provides evidence that he or she has met all proper safety training
43 requirements for collision repair work.

- 1 (7) Has at least one year of work experience as a collision repair
- 2 technician before applying for licensure under this Article.
- 3 (8) Has successfully passed an examination administered or approved by
- 4 the Board.
- 5 (9) Pays the required fee under G.S. 20-429.

6 (c) At least twice a year, the Board shall cause the examination required in this
 7 section to be given to the applicants at a time and place to be determined by the Board.
 8 Any applicant who fails to pass the first examination may retake the examination in
 9 accordance with rules adopted by the Board.

10 **"§ 20-427. Licensing of motor vehicle repair shops.**

11 (a) The Board shall issue a license to operate a motor vehicle repair shop to any
 12 applicant who submits a properly completed application, on a form approved by the
 13 Board, pays the required fee, and is determined, after inspection, to be in compliance
 14 with the provisions of this Article and rules adopted by the Board.

15 (b) The applicant shall list all persons who perform motor vehicle repairs in the
 16 shop and shall identify each as an employee.

17 (c) A motor vehicle repair shop shall be allowed to operate for a period of 30
 18 days while the Board inspects and determines the shop's compliance with this Article
 19 and the Board's rules. If the Board is unable to complete the inspection within 30 days,
 20 the shop will be authorized to operate until the inspection can be completed.

21 (d) A license to operate a motor vehicle repair shop shall not be transferable from
 22 one location to another or from one owner to another.

23 **"§ 20-428. Reciprocity.**

24 Upon filing an application and payment of the required fee, the Board may issue a
 25 license without examination to an applicant who is licensed to operate a motor vehicle
 26 repair shop or licensed as a collision repair estimator or a collision repair technician in
 27 another state or territory if the requirements for licensure in that state or territory are
 28 substantially equal to the requirements for licensure in this State as determined by the
 29 Board.

30 **"§ 20-429. Fees.**

31 The Board shall establish fees not to exceed the following amounts:

| | |
|---|------------------|
| 32 (1) <u>Issuance of a license</u> | <u>\$200.00</u> |
| 33 (2) <u>Renewal of a license</u> | <u>\$200.00</u> |
| 34 (3) <u>Examination</u> | <u>\$250.00</u> |
| 35 (4) <u>Reinstatement</u> | <u>\$150.00</u> |
| 36 (5) <u>Late fees</u> | <u>\$150.00.</u> |

37 **"§ 20-430. Motor vehicle repair shop records.**

38 (a) Each motor vehicle repair shop shall maintain repair records, which shall
 39 include written repair estimates and repair invoices. A customer's records shall be
 40 available to the customer for inspection and copying for a period of at least 12 months.
 41 The motor vehicle repair shop may charge a reasonable fee for copying. The customer
 42 may not remove the original records from the premises. The Board shall have access to
 43 these records and may inspect or copy these records during regular business hours as
 44 necessary.

1 (b) The Board shall establish rules for written motor vehicle repair estimates,
2 disclosure statements, and repair invoices.

3 **"§ 20-431. License renewal; display of license; license nontransferable.**

4 (a) All licenses shall expire one year after the date they were issued unless
5 renewed. At least 30 days before the expiration date of a license, the Board shall send
6 the licensee an application and notice of renewal of license. All applications for renewal
7 shall be filed with the Board and shall be accompanied by the renewal fee as required by
8 G.S. 20-429. A license that has expired for failure to renew may be reinstated after the
9 applicant pays the late and reinstatement fees as required by G.S. 20-429. The Board
10 may establish any other license renewal requirements as necessary pursuant to rules
11 adopted by the Board.

12 (b) The Board shall replace any license that is lost, destroyed, or mutilated,
13 subject to rules established by the Board.

14 (c) Every motor vehicle repair shop, collision repair estimator, or collision repair
15 technician issued a license under this Article shall display the license prominently in his
16 or her place of business, and the license number shall appear on all proposals, contracts,
17 or requests for permits issued by municipalities.

18 (d) A license may not be transferred or assigned.

19 **"§ 20-432. Grounds for disciplinary action.**

20 The Board may deny, revoke, suspend, refuse to renew, censure, or reprimand a
21 licensee or an applicant or place a licensee on probation for any of the following:

- 22 (1) Operating a motor vehicle repair shop or practicing as a collision
23 repair estimator or collision repair technician in violation of the
24 provisions of this Article or any rules adopted by the Board.
- 25 (2) Obtaining or attempting to obtain a license by fraud or
26 misrepresentation.
- 27 (3) Having been convicted of a felony in the courts of this State or any
28 other state.
- 29 (4) Gross negligence in operating or working in a motor vehicle repair
30 shop or in the provision of collision repair services that results in
31 injury to another.
- 32 (5) Engaging in dishonorable, unethical, or unprofessional conduct of a
33 character likely to deceive, defraud, or harm the public.
- 34 (6) Habitual intoxication or addiction to the use of drugs.
- 35 (7) Directly or indirectly giving or receiving a fee, commission, rebate, or
36 other form of compensation for a service not actually rendered.
- 37 (8) Failure to respond to a written request for information by the Board
38 within 60 days.
- 39 (9) Having had a license or certification revoked or suspended or other
40 disciplinary action taken by authorities of another state or territory.
- 41 (10) Aiding or abetting a person not licensed in this State who directly or
42 indirectly operates a motor vehicle repair shop or performs collision
43 repair services requiring a license.

- 1 (11) Has made material misstatements in the application for licensure or
2 renewal.
3 (12) Has demonstrated gross negligence, incompetency, or misconduct in
4 operating or working in a motor vehicle repair shop or in the
5 performance of collision repair services.

6 **"§ 20-433. Injunctive relief.**

7 The Board may apply to the superior court for an order enjoining violations of this
8 Article. Upon a showing by the Board that any person has violated this Article, the court
9 may grant injunctive relief."

10 **SECTION 2.** Any person who submits proof to the Board that the person
11 has owned or operated a motor vehicle repair shop or practiced as a collision repair
12 estimator or collision repair technician full-time for at least five consecutive years prior
13 to the effective date of this act, has completed a nationally recognized certification
14 program in motor vehicle repair or collision repair services as approved by the Board, or
15 is certified as a collision repair estimator or collision repair technician by a nationally
16 recognized organization approved by the Board, may be granted the appropriate license
17 upon completion of an inspection, in the case of a motor vehicle repair shop, and
18 investigation of the applicant's work history by the Board and payment of the required
19 fee under G.S. 20-429, enacted in Section 1 of this act, without having to satisfy the
20 requirements of G.S. 20-426, enacted in Section 1 of this act. All persons who do not
21 make application to the Board within one year of the effective date of this act shall be
22 required to complete all requirements prescribed by the Board and to otherwise comply
23 with the provisions of Article 18 of Chapter 20 of the General Statutes, enacted by
24 Section 1 of this act.

25 **SECTION 3.** This act is effective when it becomes law.