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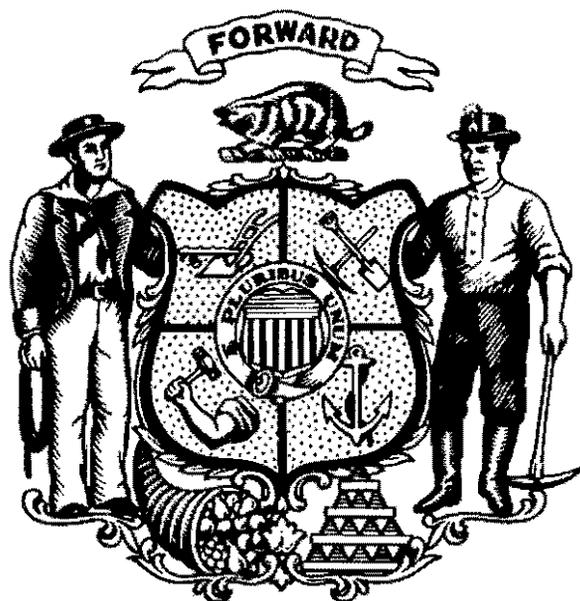
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AUTO REPAIR REGULATION: A STATUS REPORT

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AUTO REPAIR REGULATION: A STATUS REPORT

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AUTO REPAIR REGULATION: A STATUS REPORT

I. INTRODUCTION

Nature of the Problem

The automobile, one of the most significant forces in shaping the character of twentieth century America, is also the source of some of the most pressing problems besetting our industrialized society. Although the most urgent of these automobile related problems involve air pollution and urban congestion, the repair and servicing of the automobile has consistently ranked as one of the most frequent and troublesome sources of consumer complaint. The Council of State Governments' Committee on Suggested State Legislation described the automobile repair situation in the following terms in a preface to its prototype draft for regulatory legislation:

At a time of increased governmental interest in consumer protection and automobile safety, there is increasing evidence of nationwide dissatisfaction with the quality and cost of automobile repairs. Auto repairs and maintenance are costing the consumer an estimated \$20 to \$25 billion annually. Overcharging, needless repairs, and the necessity of having faulty work redone accounts for a high percentage of this cost.

By taking advantage of apparent expertise, and lack of customer knowledge, unscrupulous repairmen are able to deceive the unwary consumer. A further problem is the case of the untrained or unqualified repairman who, while honest, is incapable of performing skilled or even adequate work. Improper repairs are not only costly, they endanger the life of the consumer and his family.

The majority of repair problems faced by automobile owners can be divided into the two categories of dealer fraud and mechanic incompetence. While it is often difficult to distinguish between deception and incompetence, since elements of both are frequently found to be present, most auto repair complaints can be assigned to one of the two categories for purposes of discussion. One survey of automobile repair practices, under the heading of dealer fraud, identified 7 of the more common abuses:

1. Misleading advertising relying on "bait and switch" tactics. This technique usually involves advertising a low price for specific repairs and after the customer is lured into the shop, attempting to sell more costly repairs or parts by downgrading the safety of the bargain service.
2. Fraudulent discounts and guarantees. This abuse manifests itself in instances where huge savings are offered without revealing the regular price and in the offering of worthless guarantees that provide no protection.
3. Inaccurate estimates. In some cases, after an initial estimate is given and repair work is begun, the dealer informs the customer that additional repairs are needed which substantially raise the cost. If the customer refuses to have the additional work done, he is told that he must still pay the original price to have his car reassembled even though it will not have been repaired.
4. Unnecessary repairs. This typically befalls a customer who is obviously ignorant of mechanical matters and involves the replacement or "repair" of properly functioning parts.
5. Fraudulent charges. Closely related to the preceding ploy, this abuse involves charging for services not performed.
6. Selling used parts as new. While not necessarily representing used parts as new parts, the unethical dealer does not inform the customer that the parts are used.
7. Method of compensating mechanics. Frequently mechanics are paid a commission computed on the total cost of parts sold, thus creating an incentive to install as many parts as possible. Another practice, also antithetical to the best interests of the consumer, is the "flat-rate" price schedule which lists the time theoretically required for a specific repair. Since the mechanic is paid according to the listed time and not the time actually spent on the repair, he is encouraged to work at top speed, which could potentially have an adverse effect on quality or safety.

The problem of unqualified mechanics is equally as serious as dealer fraud in terms of unnecessarily raising repair and maintenance costs. Not only is incompetent repair work more difficult to detect and prove than outright fraud, it is more difficult to remedy. Because of the highly technical nature of most repairs and a corresponding lack of knowledge by the car owner, consumers usually have no reliable way of assessing the competency of a particular mechanic. A number of surveys by automobile clubs, consumer groups and state investigatory agencies have found that from 35% to 90% of all automobile repairs are performed unsatisfactorily.

A basic cause of mechanic incompetence is inexperience and a lack of proper training. However, it is not the sole cause, since numerous training opportunities for mechanics are available through programs conducted by automobile manufacturers and oil companies. One commentator has suggested that the root of the problem goes beyond poor training and is related to the low wages and esteem accorded to the automobile mechanic. Thus, this view sees the untrained mechanic as a symptom and not a cause of incompetence; the underlying problem is the unattractiveness of repair work as a career for many potential mechanics. If this theory is correct, the solution to the problem of poor automobile repair work requires more than increased training and involves assigning a greater value to the occupation of auto mechanic both in terms of pay and prestige.

Solving the Problem

Most proposals to establish closer control over the auto repair industry have involved either the certification of mechanics or the licensing of repair shops. In general, the former approach is designed to eliminate mechanic incompetence by establishing standards of performance, while the latter proposals are usually directed toward combating the problem of dealer fraud and deception.

Several states including California, Maryland and New York have recently adopted laws reflecting the licensing approach. California became the first state to enact comprehensive legislation regulating automobile repairs when it passed the Automotive Repair Act of 1971. The act created a Bureau of Automotive Repair which has subsequently been hailed as a model for other jurisdictions considering the licensing of repair dealers. No correspondingly successful mechanic certification program has yet been initiated by state government. However, proponents usually assume that a program combining both dealer registration and mechanic certification is needed to effectively regulate the auto repair industry and protect the interests of the consumer.

In Wisconsin, regulation has taken the form of administrative rules governing repairs performed by automobile dealers. However, dissatisfaction with the limited applicability of the rules has resulted in their suspension pending the resolution of questions involving the jurisdiction of state agencies to administer the rules and the proper role of the state in regulating auto repairs. At the present time, the Department of Agriculture is in the process of drafting new rules which extend to all businesses engaged in the offering of automobile repair services.

Thus, a primary focus of this bulletin is the attempt to develop a workable program for regulating the repair of automobiles in Wisconsin. Attention is also given to attempts by other states to enact auto repair legislation. Since the California Bureau of Automotive Repair is the only state agency presently administering a comprehensive repair dealer registration program, major emphasis is given to examining its operation. A final area of inquiry is the effort by auto industry representatives to institute self-regulating programs to insure the quality of repair service.

II. THE STATUS OF AUTO REPAIR REGULATION IN WISCONSIN

The Need for Regulation

The Wisconsin Council for Consumer Affairs, an agency created by Governor Lucey in March 1972 to receive and coordinate consumer complaints and to advocate corrective action, conducted a series of three tests from March 1973 to April 1974 in an attempt to assess the reliability and competence of Wisconsin auto repair services. The survey involved service stations, new car dealers, general garages and franchise repair specialists in Madison, Green Bay and Milwaukee. If the results accurately reflect the quality of auto repair services in the rest of the state, almost 80% of Wisconsin's auto repair dealers cannot be counted on to provide accurate diagnoses and estimates of necessary repairs. The survey was conducted with pretested state vehicles which needed only wheel balancing or alignment to put them in perfect operating condition. Thirty-nine of the 50 repair shops that were contacted for estimates recommended unnecessary repairs ranging in cost up to \$110.

Lieutenant Governor Martin Schreiber, chairman of the council, saw the results of the test as underscoring the need for legislation to regulate the automotive repair industry.

While there has been a grudging agreement that some type of control over the auto repair industry is necessary, the form that this regulation should take has been a major issue in Wisconsin. For the past three years the development of a workable set of administrative rules to regulate auto repairs has been a controversial task involving the Executive Office; the Legislature; the Departments of Justice, Agriculture and Transportation; the automobile industry and the consumer. Although the Division of Motor Vehicles originally drafted administrative rules regulating motor vehicle trade practices which became effective July 1972, subsequent developments have involved suspension, revision, delays and finally legal action to prevent enforcement of the regulations. At the present time, the Department of Agriculture is engaged in the drafting of new rules with wider application and, hopefully, wider acceptance.

A Brief History of MVD 24

Following a series of eight public hearings held at various locations around the state during 1971, the Division of Motor Vehicles, supported by the Department of Justice's Office of Consumer Protection, promulgated comprehensive administrative rules regulating motor vehicle trade practices effective July 1972. In its original form, MVD 24.06 of the Administrative Code, relating to repairs and services, required auto dealers to provide written estimates on all repair work over \$10. In addition, repair dealers were required to notify the car owner if the cost of authorized repairs exceeded the original estimate by 10% or more. Other provisions directed repair dealers to provide customers with an itemized list of repairs performed and information on whether the parts installed were new, used or rebuilt; a statement indicating the number of hours of labor charged; and the identity of the person performing the repairs.

Reaction to the code by auto dealer groups was generally unfavorable, with the strongest criticism directed at those sections regulating motor vehicle repairs and services. Critics labeled the code discriminatory because Division of Motor Vehicle regulations applied only to new car dealers. The rules were also attacked by industry representatives on the grounds that they would raise costs, create unnecessary and burdensome paperwork, and ultimately force small operators out of business. In reaction to the controversy the rules precipitated, the division held additional public hearings on MVD 24 in August 1972 to assess dealer, public and industry views prior to revising the code.

A revised version of MVD 24 was drafted and scheduled for implementation in April 1973. The revised code instituted a "repairs and services form" to be filled out by the repair dealer and presented to the customer before the start of any repair work. The purpose of the form was to inform the customer that he was entitled to a written estimate on repairs costing over \$25 and that he must be notified if the estimate is raised by 10% or more. Although the car owner was granted similar protection under the previous regulations, no method of insuring dealer compliance had been provided.

The revised code was received with little favor by industry trade groups and the same arguments critical of the original rules were again advanced. Five days after the rules took effect, the Joint Committee for Review of Administrative Rules voted unanimously to suspend temporarily that portion of MVD 24 pertaining to auto repairs and services pending final action by the Legislature. 1973 Senate Bill 531, introduced by the Committee on Transportation by request of the Joint Committee for Review of Administrative Rules, provided for the permanent suspension of MVD 24.06. Subsequent to its introduction in April 1973, the bill was passed by the Senate in February 1974 and concurred in by the Assembly the following month.

However, in May 1974, Governor Lucey, acting with the support of the Department of Justice and the Council for Consumer Affairs, vetoed Senate Bill 531, thus reinstating MVD 24.06. In his veto message of May 31, 1974, the Governor expressed the view that the continued enforcement of the rules, despite their limited applicability, would provide the consumer with some degree of protection from auto repair abuses:

The principal criticism of the rule is that it is not broad enough because its coverage is limited only to automobile dealers and does not include regulation of service stations, private garages and others in the automobile repair business... However, neither the limited coverage of MVD 24.06 nor the prospect of broader rules justifies a repeal at this time of the rule covering motor vehicle dealers. To permit such a repeal would undermine what should be a continuing effort to provide effective protection of the consumer of automobile repair services.

Following the Governor's veto, the Division of Motor Vehicles made preparations to begin enforcing the rules on August 1, 1974. However, enforcement was delayed when the division agreed to a request by the Wisconsin Automotive Trades Association to postpone enforcement of the rules until October 1 to give repair dealers additional time to prepare the forms required by the code. The association, a long-time opponent of MVD 24.06, simultaneously took action to block enforcement of the rules by petitioning Dane County Circuit Court to issue a temporary injunction pending the resolution of a suit alleging that the rules discriminated against new car dealers. At a hearing on the suit held September 13, 1974, Circuit Court Judge Richard Bardwell delayed hearing arguments pending the adoption of broader regulations by the Department of Agriculture which would apply to all types of repair facilities. In anticipating development of such rules before the end of the year, Judge Bardwell continued the suspension of the Division of Motor Vehicle rules.

Department of Agriculture Rules

In August 1974 the Department of Agriculture issued a preliminary draft of administrative rules regulating automobile repairs. The department had been directed to prepare such rules by the Joint Committee for Review of Administrative Rules in June 1974. The proposed rules, grounded in the authority to regulate trade practices granted to the Department of Agriculture by Chapter 100 of the Wisconsin Statutes, apply to all types of repair shops and thus avoid the criticism that was directed against the more narrowly applicable Division of Motor Vehicle rules. Exempted from regulation, however, are service stations primarily engaged in vehicle maintenance and such minor repairs as the changing of tires, belts, bulbs and similar services.

The proposed Motor Vehicle Repair and Service Unfair Trade Practices Code requires repair dealers to provide all customers with an invoice containing information on the repairs made and parts provided; the use of new, rebuilt or used parts; a separate listing of labor and parts charges; and the identity of the person performing the repairs. If requested by the customer, the dealer is also required to divulge the actual time required to complete the repairs if labor charges are based on the flat-rate system.

Prior to the commencement of any repair work, the rules require repair dealers to furnish the customer with a written work order containing information describing the work to be done. This order must be signed by both the customer and the dealer. The rules specify that each work order must contain the following statement:

UNDER WISCONSIN LAW YOU ARE ENTITLED TO AN ESTIMATE OF THE COST OF REPAIRS AND SERVICES YOU HAVE AUTHORIZED. THIS ESTIMATE CANNOT BE EXCEEDED BY MORE THAN 10% WITHOUT YOUR PERMISSION. YOU ARE ENTITLED TO SELECT FROM THE FOLLOWING ALTERNATIVES. YOUR SIGNATURE WILL INDICATE YOUR SELECTION.

The customer is given four alternatives to choose from: a written estimate, a verbal estimate, notification by telephone if the repairs exceed a predetermined limit, and waiver of an estimate. The repair dealer is permitted to levy a "reasonable" charge for providing an estimate.

Other provisions of the code require dealers to return replaced parts to the customer if requested; maintain repair records indicating the names of customers and the services performed; and display prominently a sign informing customers of their right to obtain an estimate, the return of replaced parts and information regarding the actual time required to perform repairs. The final section of the rules, "Prohibited Shop Practices", prohibits dealers from misrepresenting the need or cost of repairs.

As of October 1, 1974, adoption of the rules was awaiting action by the Joint Committee for Review of Administrative Rules.

Legislation Introduced in the 1973 Session of the Legislature

During the 1973 session of the Wisconsin Legislature, four bills were introduced relating to automobile repairs. Two of the bills would have created an Automotive Repair Council responsible for licensing auto repair dealers; a third bill required repair dealers to provide written estimates on all repairs costing more than \$50. None of these bills was enacted into law. In addition to these measures, Senate Bill 531, described previously, was passed by the Legislature to repeal Rule MVD 24.06 of the Administrative Code but was subsequently vetoed by the Governor.

Assembly Bill 848 was introduced by Representatives Berger, Jackamonis, Schneider, Flintrop and Nager by request of the Wisconsin Council for Consumer Affairs. The bill, the major repair legislation considered by the 1973 Legislature, represented a comprehensive approach to the

regulation of automobile repairs and set forth detailed standards and trade practices that repair dealers were required to follow. Many of the provisions were similar to those contained in the proposed Department of Agriculture rules described previously.

A new provision -- it was first proposed in the bill -- was the establishment of an Automotive Repair Council in the Department of Transportation. The council was to be comprised of 11 appointees of the Secretary of Transportation to represent both consumer groups and the automotive repair industry. A primary function of the repair council was to advise the secretary on repair-related matters and stimulate and coordinate educational programs for both consumers and industry groups.

Under terms of the bill, responsibility for the licensing of repair dealers and the promulgation of requisite rules was assigned to the Secretary of Transportation. The secretary was authorized to receive and investigate complaints and take appropriate action by obtaining temporary or permanent injunctions or by referring violations to the Attorney General or district attorneys for prosecution. All repair dealers were required to pay a \$50 annual fee and submit an application for licensing. The secretary was empowered to refuse licensing or suspend a previously issued license if, upon hearing, it was determined that a violation or fraudulent action occurred.

Another section of 1973 AB-848 required repair dealers to provide customers with an invoice describing all work performed, parts used, and the identity of the person making the repairs. If requested, a written estimate must be provided which cannot subsequently be exceeded by over 10% without prior permission from the customer. The customer also had the right to request that all replaced parts be returned if practical to do so.

Other provisions required repair dealers to maintain records of repairs made and to display a sign informing customers of their right to obtain an estimate of repair costs. The sign was also required to note that inquiries regarding service and repairs could be made through the Department of Transportation.

In addition, the bill listed a number of prohibited practices, which, if violated, could result in a fine of \$1,000, imprisonment for not more than 6 months, or both. These included making unnecessary repairs or falsely representing that repairs have been performed. Dealers were also prohibited from basing salaries paid to employees on the amount or value of parts replaced.

A fiscal note to the bill prepared by the Division of Motor Vehicles estimated that the cost of licensing Wisconsin's approximately 5,200 automobile repair dealers would be \$146,200 in 1973-74 and \$194,000 in 1974-75. It was also estimated that fifteen positions would have to be added to the Division's Dealer Investigation Section in order to implement the licensing program.

Although the Committee on State Affairs recommended passage of an amended version of Assembly Bill 848 after a public hearing had been held in April 1973, the bill did not progress to the third reading stage and, thus, was not voted upon by the entire Assembly. A number of amendments were adopted, however, which had the effect of limiting the scope of the bill. These included exempting service stations from regulation, limiting the authority of the Division of Motor Vehicles to investigate dealers unless a complaint had been filed by a consumer, and reducing the period of time an estimate remained valid.

Senate Bill 456, introduced by request of the Wisconsin Council for Consumer Affairs by Senator La Fave and 11 other Senators, and cosponsored by 7 Representatives, was an identical counterpart to Assembly Bill 848. The bill was referred to the Committee on Transportation, where it remained without further action.

Assembly Bill 991, introduced by Representative Ellis, required all auto repair dealers to provide written estimates on all work costing more than \$50. The bill also required that the estimate specify a minimum and maximum charge, with the latter not to exceed the former by more than 50%. At a public hearing held by the Assembly Commerce and Consumer Affairs Committee, industry representatives criticized the bill as being "too complex". No further action was taken on the bill subsequent to the public hearing.

III. THE CALIFORNIA EXPERIENCE

The California Automotive Repair Act of 1971

California enacted comprehensive legislation in 1971 to regulate automobile repair dealers. The California Automotive Repair Act (Chapter 1578, Laws of 1971), which went into effect March 4, 1972, established the first state agency in the nation with both the authority to license auto repair dealers and the means to ensure compliance with departmental rules prescribing standards of conduct. The law requires all businesses engaged in repairing, maintaining, or diagnosing malfunctions of motor vehicles to register with the Bureau of Automotive Repair and pay an annual \$50 license fee. The primary enforcement tool of the bureau is its authority to temporarily or permanently suspend the license of a dealer for failure to follow acceptable business practices. The act enumerates a number of specific acts which may lead to the invalidation of a dealer's registration. These include: Making any statement which is known to be untrue or misleading, allowing a customer to sign a work order which does not specifically list the requested repairs and the vehicle's odometer reading, failing to provide a customer with a copy of any document requiring his signature, failing to comply with accepted trade standards for good and workmanlike repair, failing to record on an invoice all repairs made including charges for both parts and labor, and failing to provide the customer with a written estimate of repair costs and with replaced parts if requested (Sections 9884.7-9884.10, California Business and Professions Code). The law also requires dealers to maintain records available for inspection by bureau and law enforcement officials.

The 1971 Automotive Repair Act had a successful forerunner in a 1963 act which created a Bureau of Electronic Repair Dealers Registration to deal with consumer complaints involving the radio and television repair industry. A 1968 amendment changed the name to the Bureau of Repair Services and established a registration procedure similar to the one later adopted for automotive repair dealers.

Organization and Functions of the Bureau of Automotive Repair

The Bureau of Automotive Repair is located within the Department of Consumer Affairs and is headed by a chief, who is appointed by the Governor and serves under the direction of the Director of Consumer Affairs. A 9-member advisory board is responsible for recommending policy and assisting the bureau in performing its duties. The Governor appoints all 9 members of the board but is statutorily required to select 5 public members with no ties to the auto repair industry and 4 industry representatives who have at least 5 years experience in the auto repair industry.

The bureau employs a staff of 95 including 15 consumer service representatives assigned to the central office and 7 investigators who are assigned field duties. Additional field assistance is provided by a central pool of investigators working out of the Division of Investigation of the Department of Consumer Affairs.

The bureau is almost entirely self-financed with about \$2 million of its 1972 budget of \$2.8 million derived from the \$50 licensing fee paid by registered dealers. The remaining revenue came from the sale of inspection stickers under the state's inspection program.

The primary responsibilities of the bureau include the registration of automobile repair dealers and the investigation of consumer complaints regarding automobile repairs. During the first full year of operation (July 1972-July 1973), approximately 38,000 repair facilities were registered. The remainder of California's 77,000 repair facilities were not required to register since they qualified for various exemptions written into the act.

The bureau received approximately 30,000 complaints during this same period, with 10,504 of them falling under its jurisdiction. The majority of complaints are received by telephone through 5 toll-free, statewide consumer complaint lines. A staff of 15 consumer service representatives are assigned the task of receiving telephone complaints. About 60 percent of all complaints received by the bureau are successfully resolved by the service representatives, who attempt to work out an agreement between the consumer and the repair dealer. Problems which cannot be resolved in this manner are usually turned over to a field representative for further investigation. The field representative, a qualified mechanic, then makes a determination of whether fraudulent practices on the part of the dealer were involved and, accordingly, whether criminal prosecution is warranted.

In prosecuting violators, the bureau may pursue one of two courses. It may take administrative action by initiating disciplinary proceedings against a dealer which can result in the temporary or

permanent invalidation of the dealer's registration. The bureau also has the option of filing charges with the local district or city attorney and having the case decided by the courts.

Types of Complaints Received

Of the 10,504 complaints processed by the bureau during its initial year of operation, the largest number related to the failure to provide advance written estimates of repair work as required by the Automotive Repair Act. The following tabulation indicates the categories and number of complaints handled by the bureau from July 1972 to July 1973:

Complaint	Number
Failure to provide advance written estimate	6,249
Repairs exceed written estimates	2,289
False promises	2,238
Unnecessary repairs	903
Failure to provide itemized invoice	786
Misleading statements	517
Gross negligence	368
Willful departure from accepted trade standards	271
Operating without repair license	239
Used parts not returned as requested	208
Unauthorized subletting of repair work	116
Failure to provide copy of signed agreement	69
Failure to note odometer reading	55

A Preliminary Assessment: The Need to License Mechanics

As noted previously, the California Automotive Repair Act is the first comprehensive state law regulating automobile repair dealers and has served as a model for other states contemplating similar legislation. Although reaction to the law has generally been favorable, several limitations have been noted by state officials and consumer groups. The most frequently cited deficiency, and the one deemed to be the most critical by those administering the act, is lack of authority to deal with mechanic incompetency. The chief of the California bureau, Robert Alexander, has been quoted as saying that mechanic incompetency occurs more frequently and is a greater problem than outright fraud. Accordingly, Mr. Alexander and other California officials have advocated amending the Automotive Repair Act to provide for the certification of mechanics.

As originally introduced, the 1971 bill creating the Automotive Repair Bureau provided for the certification of mechanics. However, opposition from automobile dealers and labor officials who argued that technical competency should be judged by the unions and not the state, forced deletion of the voluntary certification provision. The author of the 1971 bill, State Senator Anthony Beilenson, subsequently introduced legislation in 1972 and 1973 which would establish licensing and testing standards for mechanics and repair dealers within the Bureau of Automotive Repair. The 1972 bill introduced by Senator Beilenson empowered the Bureau of Automotive Repair to administer written, oral and practical tests to mechanics to determine if they qualified for certification. Although the tests were voluntary and uncertified mechanics were allowed to remain in business, the intent of the bill was to influence consumers to have their cars serviced by certified, and thus competent, mechanics. Theoretically, the decline in business would motivate uncertified mechanics to seek certification.

A more recent bill introduced by Senator Beilenson (1973 Senate Bill 1331) made certification mandatory by prohibiting uncertified mechanics from performing repair work after June 30, 1977. At the present time, legislation proposing either voluntary or mandatory certification of mechanics has yet to be adopted.

Another criticism of the California bureau also relates to its limited jurisdiction. Since almost one-half of all complaints received involve new cars or warranty problems, they fall outside of the

bureau's authority. The Auto Repair Act gives the bureau no control over new or used car warranties, overpricing, product defects, poor workmanship and similar complaints.

Other problems experienced by the bureau during its relatively brief life are administrative in nature and involve insufficient budgeting and staffing. These factors have tended to restrict investigations and hinder efforts to ensure full enforcement of the law. Despite limited authority, staff and budgeting, however, the bureau has been viewed favorably by both consumers and repair dealers and has been widely hailed as a positive step in eliminating repair abuses.

IV. STATE LEGISLATION REGULATING AUTOMOBILE REPAIRS

U.S. Office of Consumer Affairs Report

In June 1974 the Office of Consumer Affairs of the U.S. Department of Health, Education and Welfare issued a preliminary report on state regulation of the automobile repair industry. The report was the product of study conducted by the Office of Consumer Affairs which involved a survey of state activity in the area of auto repair regulation during the period of 1967 to 1972. A questionnaire was sent to all state consumer affairs offices in August 1972 requesting information on a number of auto repair related subjects, including the types and number of consumer complaints involving auto repair services, existing state laws or administrative rules, and recent proposals to regulate the automobile repair industry.

Of the 29 states responding to the survey, 17 reported that some type of regulatory legislation had been introduced during the survey period. This was reflective of the fact that virtually all states reported that automobile repair complaints increased both in total numbers and as a percentage of all categories of consumer complaints received. However, the responses to the questionnaire also revealed that little in the way of concrete action had resulted from the numerous proposals to institute some form of controls over the automobile repair industry. The most frequently cited reason for the failure of legislation was strong industry opposition channeled through effective lobbying.

The licensing of repair shops or mechanics was the most commonly reported approach to the problem of regulating the auto repair industry. A total of 11 states indicated that some form of licensing bill had been introduced during the period from 1967 to 1972. Bills limited to the licensing of repair shops were introduced in six states (California, Florida, Hawaii, Maryland, Massachusetts and Michigan), while proposals to license both auto repair dealers and mechanics were made in five jurisdictions (California, Connecticut, District of Columbia, Massachusetts and New York). Other proposals reported include establishing a Motor Industry Repair Board (Hawaii), increasing consumer warranty protection (Florida, Michigan), making repair estimates mandatory (Florida, Michigan), and requiring the bonding of auto repairmen (Hawaii).

Recently Enacted State Laws

The record of state legislatures in enacting laws regulating auto repairs is a relatively poor one, particularly in light of the large number of auto repair bills introduced in state legislatures over the past four years that have failed passage. With the exception of California, and states such as Ohio and Connecticut which have recently adopted administrative rules, little in the way of comprehensive legislation regulating the auto repair industry has emerged from the state legislatures during the period from 1968 to 1973. This trend may be reversed, however, as two states have enacted laws during the recently concluded 1974 legislative session requiring the licensing of auto repair facilities.

The 1974 Maryland Legislature enacted Chapter 695, Laws of 1974, relating to the licensing of automotive repair facilities. The act requires repair dealers to register with the Motor Vehicle Administration in order to obtain a license to do business. The license must be renewed annually, and the administration is empowered to deny or suspend a dealer's license if "repeated violations" occur. In addition, the law requires repair dealers to furnish a written estimate for all repairs costing over \$50 if requested by the customer. Estimates cannot be exceeded by more than 10% without the customer's consent. Other provisions of the act require repair dealers to provide customers with an invoice describing all repairs performed and also the return of all replaced parts.

In June 1974, the New York Legislature enacted a "Motor Vehicle Repair Shop Registration Act" (Chapter 946, Laws of 1974), which established a licensing program and standards to be followed by repair dealers. Beginning in June 1975, all repair shops, unless specifically exempted, will be required to register with the Commissioner of Motor Vehicles. Upon approval of the

application, the dealer is required to pay a registration fee of \$100. The registration is valid for a period of two years, but can be suspended or revoked at any time if fraudulent or negligent acts occur two or more times.

The law also requires dealers to provide customers with an invoice detailing all work performed and parts supplied and with a written estimate, if requested.

V. INDUSTRY RESPONSE

The automobile repair industry has long recognized that dishonest, incompetent or poorly trained repair practitioners undermine public confidence in the entire industry. Several industry trade groups have attempted to reduce the probability of shoddy repair work by developing self-regulating programs as an alternative to governmental action in policing auto repair dealers. The major shortcoming of voluntary industry programs, however, is that they lack the force of law and thus can only recommend, rather than require, compliance with standards of performance or conduct. The following represents a summary of several current industry approaches toward self-regulation.

Voluntary Certification of Automobile Mechanics

The National Institute for Automotive Service Excellence (NIASE) administers a program of voluntary testing and certification of automobile mechanics. The Institute is a nonprofit independent organization receiving most of its funding from two industry trade groups, the National Automobile Dealers Association and the Motor Vehicle Manufacturers Association. A 29-member Board of Directors, composed of automotive service industry representatives, sets policy and provides direction.

The NIASE testing program was developed by the Educational Testing Service of Princeton, New Jersey, which also administers the tests. The tests are designed to measure the knowledge and skills that automotive experts believe a mechanic should have in order to repair complex and diverse automobiles efficiently. Five separate areas of specialization are tested: 1) engine repairs, 2) transmissions, 3) brakes, 4) electrical systems and 5) engine tune-ups. A mechanic is awarded a certificate and a NIASE shoulder patch for each test passed, indicating that the institute judges him competent in that particular area. Those who successfully complete all five tests receive certification as General Automotive Mechanics, valid for a three-year period. According to estimates made by officials of the NIASE, some 42,000 mechanics are expected to receive certification in one or more specified areas by mid-1974.

Although the NIASE certification program has been generally well-received by both industry and consumer groups, it has not entirely avoided criticism. Some criticism has been directed at the testing procedure employed by the NIASE. Critics have claimed that since the tests do not include practical applications of mechanical knowledge, they cannot accurately reflect a mechanic's ability to repair automobiles. The Consumer Federation of America, an organization composed of national, regional, state and local consumer groups, has also raised some questions regarding the significance of the test results. The CFA has also questioned the accuracy of preliminary statistics released by NIASE regarding the number of mechanics who passed one or more test. The federation has charged that the NIASE's claim that 75% of those taking the tests passed one or more is meaningless because it does not indicate the actual number of tests taken by each mechanic. Despite criticism of specific aspects of the NIASE testing program, however, the federation has joined other consumer-oriented groups in supporting the overall objectives of the program. It is estimated that by the end of 1974 some 10 percent of the nation's estimated 500,000 automobile mechanics will obtain NIASE certification.

Code of Responsible Service Practices

The National Business Council for Consumer Affairs' Sub-Council on Performance and Service has proposed some general self-regulatory guidelines applicable to the entire repair and service industry. These guidelines were contained in a 1973 report by the council, which identified and analyzed the reasons for consumer dissatisfaction with the performance and repair of various products. The council recommended the enactment of a uniform state law for licensing repair dealers and offered the following ten principles as a "Code of Responsible Servicing Practices":

1. Customers should be offered an estimate of cost in advance of services to be rendered.
2. Customers should be promptly notified if service appointments cannot be kept.

3. Only repairs authorized in writing by the customer should be performed, except where other arrangements have been made to the customer's satisfaction.
4. A written, itemized invoice for all parts, labor, and any other charges, should be given to the customer upon completion of the work.
5. All repair services should be guaranteed for a reasonable length of time.
6. Appropriate records of services performed and materials used should be maintained by the service company for at least one year.
7. Service technicians should not be paid on a basis that is contingent upon the size of the customer's repair bill.
8. The service dealer should maintain insurance coverage adequate to protect the customer's property while it is in his custody.
9. Service dealers should cooperate with consumer protection agencies at all levels of government to insure satisfactory resolution of customer complaints.
10. Customers should be treated courteously at all times, and all complaints should be given full and fair consideration.

Automobile Consumer Action Panels

The National Automobile Dealer Association, in cooperation with the U.S. Department of Health, Education and Welfare Office of Consumer Affairs, has initiated a program designed to resolve consumer complaints involving automobile dealers. As of mid-1974, Automobile Consumer Action Panels (CAPs) have been established in 15 cities to provide a means for settling nonlegal disputes between consumers and dealers or manufacturers. The panels are sponsored by local automobile dealer associations and are composed of consumer and service representatives as well as professional mediators. CAPs work closely with consumer protection agencies in weighing consumer complaints and recommending solutions. No statistics on the effectiveness of the program are presently available due to the brief period the CAPs have been in operation.

VI. SOURCES

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