

1 STATE OF OKLAHOMA

2 2nd Session of the 51st Legislature (2008)

3 HOUSE BILL 2651

By: Inman

4  
5 AS INTRODUCED

6  
7 An Act relating to professions and occupations;  
8 creating the Auto Repair Shops Regulation Act;  
9 defining terms; providing exemptions; providing for  
10 powers and duties of the Automobile Service and  
11 Repair Advisory Board and the Executive Director of  
12 the Oklahoma Motor Vehicle Commission; creating  
13 Advisory Board; providing for membership and terms of  
14 the Board; providing for filling of vacancies;  
15 providing for travel reimbursement; providing for  
16 meetings; requiring certain licenses; providing for  
17 license and eligibility requirements; providing fees;  
18 providing for application of license; providing  
19 requirements for licensed automobile shops;  
20 prohibiting certain acts; providing for emergency  
21 orders; making violation a misdemeanor; providing for  
22 initial appointments to the advisory board; requiring  
23 promulgation of rules and adoption of forms by a  
24 certain date; providing for licensing of certain  
applicants; providing for codification; and providing  
an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 5001 of Title 59, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Auto Repair  
Shops Regulation Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5002 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in the Auto Repair Shops Regulation Act:

5           1. "Advisory Board" means the Automobile Service and Repair  
6 Advisory Board;

7           2. "Automobile" means an automobile as defined by Section 1-  
8 103.1 of Title 47 of the Oklahoma Statutes, a motorcycle as defined  
9 by Section 1-135 of Title 47 of the Oklahoma Statutes, or a truck as  
10 defined by Section 1-182 of Title 47 of the Oklahoma Statutes, if  
11 the truck is less than twenty (20) feet in length;

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

15           4. "Automotive service writing, advising, and estimating" means  
16 evaluating the services and repairs needed to maintain or repair an  
17 automobile, estimating the cost of the services and repairs, and  
18 writing an order for the services and repairs;

19           5. "Commission" means the Oklahoma Motor Vehicle Commission;  
20 and

21           6. "Executive Director" means the Executive Director of the  
22 Oklahoma Motor Vehicle Commission.

23

24

1 SECTION 3. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5003 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4 The Auto Repair Shops Regulation Act shall not apply to the  
5 following:

6 1. A person who performs automobile service and repair and who  
7 does not receive or expect to receive compensation for the person's  
8 labor or from the provision of parts or materials;

9 2. A person who performs automobile service and repair at an  
10 educational facility on automobiles owned by the facility;

11 3. An automobile fleet owner or a person who is employed by an  
12 automobile fleet owner who performs automobile service and repair on  
13 fleet automobiles;

14 4. A franchised dealer, or a person employed by a franchised  
15 dealer, if the franchised dealer performs automobile service and  
16 repair only on automobiles manufactured or distributed under the  
17 dealer's franchise; or

18 5. A person who performs automobile service and repair on  
19 automobiles used primarily for the production, harvest, or  
20 transportation of livestock or crops.

21 SECTION 4. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5004 of Title 59, unless there  
23 is created a duplication in numbering, reads as follows:

24

1       A. The Automobile Service and Repair Advisory Board shall  
2 prescribe the design of an original and a renewal license.

3       B. The Advisory Board by rule shall prescribe the term of a  
4 license or certificate issued pursuant to the Auto Repair Shops  
5 Regulation Act. A license or certificate issued under the Auto  
6 Repair Shops Regulation Act expires at the end of the term.

7       C. The Advisory Board shall approve continuing education  
8 courses, course content, and course providers.

9       D. The Advisory Board may base an automotive shop's license fee  
10 on the amount of work performed by the shop.

11       E. The Advisory Board shall set insurance requirements for  
12 automotive shops licensed pursuant to the Auto Repair Shops  
13 Regulation Act.

14       F. The Advisory Board may waive the insurance requirement for  
15 an automotive shop that does not engage in automobile service and  
16 repair for the public.

17       G. The Advisory Board shall make the information pursuant to  
18 the Auto Repair Shops Regulation Act available to the public in the  
19 form of a pamphlet to be distributed at each licensed automotive  
20 shop.

21       SECTION 5.       NEW LAW       A new section of law to be codified  
22 in the Oklahoma Statutes as Section 5005 of Title 59, unless there  
23 is created a duplication in numbering, reads as follows:

24

1           A. The Executive Director of the Oklahoma Motor Vehicle  
2 Commission shall provide to the public information about each  
3 unresolved complaint under the Auto Repair Shops Regulation Act.

4           B. The Executive Director shall provide to the public a list of  
5 licensed automotive shops that have no current unresolved  
6 complaints.

7           C. The Oklahoma Motor Vehicle Commission shall operate a  
8 telephone hotline to provide information to consumers about the  
9 licensing and complaint procedures pursuant to the Auto Repair Shops  
10 Regulation Act.

11           SECTION 6.           NEW LAW           A new section of law to be codified  
12 in the Oklahoma Statutes as Section 5006 of Title 59, unless there  
13 is created a duplication in numbering, reads as follows:

14           A. The Automobile Service and Repair Advisory Board shall  
15 consist of twelve (12) members appointed by the Oklahoma Motor  
16 Vehicle Commission. Four members of the board are representatives  
17 of the public and eight are representatives of the automobile  
18 service and repair industry.

19           B. The Advisory Board shall advise the Commission in  
20 administering and enforcing the Auto Repair Shops Regulation Act.

21           C. The Commission shall give the Advisory Board the opportunity  
22 to review and comment on each proposed rule or amendment to an  
23 existing rule pursuant to the Auto Repair Shops Regulation Act  
24 before adopting the rule or amendment.

1 D. Members of the Advisory Board shall serve staggered six-year  
2 terms. The terms of four elected members shall expire on February 1  
3 of each odd-numbered year.

4 E. If a vacancy occurs during a member's term, the presiding  
5 officer of the Commission, with the Commission's approval, shall  
6 fill the vacancy for the remainder of the unexpired term with a  
7 person who represents the same interests as the predecessor.

8 F. The members of the Advisory Board shall elect one member to  
9 serve as presiding officer for a two-year term.

10 G. An Advisory Board member serves without compensation but is  
11 entitled to reimbursement from the Commission for actual and  
12 necessary expenses incurred in performing functions as an Advisory  
13 Board member pursuant to the State Travel Reimbursement Act.

14 H. The Advisory Board shall meet at least every six (6) months  
15 and may meet at other times at the call of the presiding officer.

16 I. The Advisory Board shall meet in this state at a place  
17 designated by the Advisory Board.

18 SECTION 7. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 5007 of Title 59, unless there  
20 is created a duplication in numbering, reads as follows:

21 A. Except as provided by Section 3 of this act, a person shall  
22 not operate a business that performs or offers to perform automobile  
23 service and repair unless the person holds an automotive shop  
24 license issued pursuant to the Auto Repair Shops Regulation Act.

1 B. A person who submits an application pursuant to Section 9 of  
2 this act may perform automobile service and repair for ninety (90)  
3 days after the date the person submits the application. If the  
4 Executive Director of the Oklahoma Motor Vehicle Commission denies  
5 the initial application for a license under the Auto Repair Shops  
6 Regulation Act, the person may engage in the business of automobile  
7 service and repair for ninety (90) days after the date the Executive  
8 Director denies the initial application.

9 SECTION 8. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 5008 of Title 59, unless there  
11 is created a duplication in numbering, reads as follows:

12 A. Each applicant for an automotive shop license shall have:

13 1. A current garagekeeper's insurance policy and a current  
14 liability insurance policy in amounts required by rule of the  
15 Oklahoma Motor Vehicle Commission;

16 2. All occupational and business permits required by the state  
17 and by each political subdivision having jurisdiction over the shop;

18 3. A sales tax permit for the shop issued by the comptroller;

19 4. A business checking account for the shop;

20 5. A licensed automotive technician as an owner or full-time  
21 manager of the shop;

22 6. An Employer Identification Number issued by the Internal  
23 Revenue Service;

24

1           7. An invoice form for use in the shop that meets the  
2 requirements of the Auto Repair Shops Regulation Act; and

3           8. An estimate form for use in the shop that meets the  
4 requirements of the Auto Repair Shops Regulation Act.

5           B. In addition to the requirements in subsection A of this  
6 section, an applicant who will perform collision repairs shall have:

7           1. A paint spray booth that meets applicable air quality  
8 standards;

9           2. A frame pulling machine; and

10          3. A frame dimension measurement system that includes current  
11 frame dimension specifications.

12          C. The Commission by rule may adopt additional requirements for  
13 an applicant for an automotive shop license.

14          SECTION 9.        NEW LAW        A new section of law to be codified  
15 in the Oklahoma Statutes as Section 5009 of Title 59, unless there  
16 is created a duplication in numbering, reads as follows:

17          A. An applicant for an automotive shop license shall submit a  
18 verified application on a form prescribed by the Executive Director  
19 of the Oklahoma Motor Vehicle Commission.

20          B. The application shall be accompanied by:

21          1. Evidence that the applicant meets the eligibility  
22 requirements pursuant to Section 8 of this act;

23

24

1        2. A copy of the certificate of formation, articles of  
2 incorporation, assumed name certificate, or other applicable  
3 documentation establishing the applicant's business entity; and

4        3. The application fee.

5        SECTION 10.        NEW LAW        A new section of law to be codified  
6 in the Oklahoma Statutes as Section 5010 of Title 59, unless there  
7 is created a duplication in numbering, reads as follows:

8        A. An individual shall not perform or offer to perform  
9 automobile service and repair unless the individual holds an  
10 apprentice, journeyman, or master automotive technician certificate  
11 issued pursuant to the Auto Repair Shops Regulation Act.

12        B. The Executive Director of the Oklahoma Motor Vehicle  
13 Commission shall issue automotive technician certificates in the  
14 following repair areas:

- 15        1. Engine;
- 16        2. Automatic transmission and transaxle;
- 17        3. Manual drive train and axles;
- 18        4. Suspension and steering;
- 19        5. Brakes;
- 20        6. Electrical and electronic systems;
- 21        7. Heating and air conditioning;
- 22        8. Engine performance; and
- 23        9. Paint and collision.

24

1 C. The Oklahoma Motor Vehicle Commission Commission by rule  
2 shall define the services that a holder of a certificate in each  
3 area listed in this section is authorized to perform.

4 D. The Commission by rule shall establish eligibility  
5 requirements for an automotive technician certificate in each area.  
6 The Commission may accept a certification issued by a national  
7 organization, including the National Institute for Automotive  
8 Service Excellence and the Inter-Industry Conference on Auto  
9 Collision Repair, as satisfaction of all or part of the eligibility  
10 requirements for an area.

11 E. An applicant for an automotive technician certificate shall  
12 submit a verified application on a form prescribed by the Executive  
13 Director.

14 F. The application shall be accompanied by the application  
15 fee.

16 G. The Executive Director shall issue an apprentice  
17 certificate in a repair area listed in subsection B of this section  
18 to an applicant who pays the certification fee, meets the  
19 eligibility requirements for the area, and has less than two (2)  
20 years of continuous, full-time employment related to the area.

21 H. The Executive Director shall issue a journeyman's  
22 certificate in a repair area listed in subsection B of this section  
23 to an applicant who pays the certification fee, meets the  
24

1 eligibility requirements for the area, and has at least two (2)  
2 years of continuous, full-time employment related to the area.

3 I. The Executive Director shall issue a master automotive  
4 technician certificate to an applicant who pays the certification  
5 fee, has at least five (5) years of continuous, full-time experience  
6 in automobile service and repair, and meets the requirements for a  
7 certificate in each of the following repair areas:

- 8 1. Engine;
- 9 2. Automatic transmission and transaxle;
- 10 3. Manual drive train and axles;
- 11 4. Suspension and steering;
- 12 5. Brakes;
- 13 6. Electrical and electronic systems;
- 14 7. Heating and air conditioning; and
- 15 8. Engine performance.

16 J. The Executive Director shall issue a master collision repair  
17 technician certificate to an applicant who pays the certification  
18 fee, has at least five (5) years of continuous, full-time experience  
19 in automobile collision repair, and meets additional requirements  
20 established by Commission rule.

21 K. A certificate holder shall complete thirty (30) hours of  
22 continuing education each year to renew all certificates the  
23 individual holds.

24

1           SECTION 11.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 5011 of Title 59, unless there  
3 is created a duplication in numbering, reads as follows:

4           A. Except as provided by subsection B of this section, an  
5 individual shall not provide or offer to provide automotive service  
6 writing, advising, and estimating unless the individual holds an  
7 automotive service writer, advisor, and estimator certificate issued  
8 under the Auto Repair Shops Regulation Act.

9           B. The Auto Repair Shops Regulation Act does not apply to a  
10 person employed by an automotive shop that employs fewer than three  
11 employees.

12           C. The Oklahoma Motor Vehicle Commission by rule shall  
13 establish eligibility requirements for an automotive service writer,  
14 advisor, and estimator certificate. The Commission may accept a  
15 certification issued by a national organization, including the  
16 National Institute for Automotive Service Excellence and the Inter-  
17 Industry Conference on Auto Collision Repair, as satisfaction of all  
18 or part of the eligibility requirements.

19           D. An applicant for an automotive service writer, advisor, and  
20 estimator certificate shall submit a verified application on a form  
21 prescribed by the Executive Director of the Oklahoma Motor Vehicle  
22 Commission.

23           E. The application shall be accompanied by the application fee.  
24

1 F. A certificate holder shall complete twelve (12) hours of  
2 continuing education each year to renew an automotive service  
3 writer, advisor, and estimator certificate.

4 SECTION 12. NEW LAW A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5012 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7 A. A licensed automotive shop shall not provide a service  
8 unless the shop employs a full-time automotive technician who holds  
9 a certificate that authorizes the technician to perform the service.

10 B. Each licensed automotive shop shall display in a place that  
11 is visible to customers entering the shop:

12 1. The shop's sales tax permit;

13 2. The shop's license certificate; and

14 3. The telephone number for the consumer information hotline.

15 C. Each shop shall display the telephone number at which  
16 consumers may file a complaint with the Oklahoma Motor Vehicle  
17 Commission.

18 D. Each licensed automotive shop shall maintain a copy of the  
19 automotive technician certificate for each technician employed by  
20 the shop and shall provide the copies for inspection at the request  
21 of a customer or a representative of the Commission.

22 E. Each licensed automotive shop shall provide its license  
23 number in each advertisement for the shop.

24

1 F. Each licensed automotive shop shall provide to each customer  
2 a clear written estimate of the charges for repair and diagnostic  
3 services authorized by the customer.

4 G. Each estimate must include the automotive shop's license  
5 number.

6 H. An estimate for a diagnostic service must clearly state  
7 whether the fee for the diagnostic service includes returning the  
8 automobile to the condition it was in before the diagnostic services  
9 were performed. Unless a licensed automotive shop receives specific  
10 authorization from the customer, the shop shall not charge a fee for  
11 tearing down or inspecting an automobile if the fee was not in the  
12 estimate provided to the customer.

13 I. An estimate for a part shall clearly state whether the  
14 estimated price is for a new, used, rebuilt, or remanufactured part.

15 J. Each estimate shall clearly indicate any service that will  
16 be performed by another automotive shop.

17 K. Each estimate shall state whether the parts and labor in the  
18 estimate include a warranty. If a warranty is included, the  
19 estimate shall include a statement of warranty.

20 L. An estimate may provide the prices of parts and labor in the  
21 form of a menu, but the estimate shall separately list each type of  
22 part and labor operation included in the total estimated price.

23 M. A licensed automotive shop shall not charge a customer a  
24 total fee that exceeds by more than ten percent (10%) or One Hundred

1 Dollars (\$100.00), whichever is less, the estimated amount, unless  
2 the shop first obtains the customer's authorization.

3 N. An automotive shop may provide an estimate electronically,  
4 including by fax or electronic mail.

5 O. Each licensed automotive shop shall develop and use an order  
6 form to allow customers to authorize services. The form shall  
7 include a signature line on which a customer may authorize services  
8 at a predetermined price and a separate line on which a customer may  
9 authorize services without a prior estimate. The form shall provide  
10 for recording the date, automobile description, automobile mileage,  
11 license plate number, vehicle identification number, and a  
12 description of the customer's request or concern about the  
13 automobile.

14 P. An automotive shop shall provide a copy of the completed  
15 repair order form to the customer on request.

16 Q. Each licensed automotive shop shall provide an invoice to  
17 each customer. The invoice shall include:

- 18 1. The name, address, and telephone number of the shop;
- 19 2. The shop's license number;
- 20 3. A unique invoice number;
- 21 4. The date the transaction is completed;
- 22 5. A description of the automobile, including the vehicle  
23 identification number and the automobile's mileage;
- 24 6. The customer's name, address, and telephone number;

1       7. An itemized list of all labor performed, all material used,  
2 and each part replaced, including parts and labor covered under the  
3 automobile's warranty;

4       8. A description of each part as new, used, rebuilt, or  
5 remanufactured;

6       9. A list of any repair performed by another shop;

7       10. A list of any repairs that the shop considers necessary and  
8 that the customer declined;

9       11. The telephone number at which a consumer may file a  
10 complaint with the Oklahoma Motor Vehicle Commission; and

11       12. Any applicable statement of warranty.

12       SECTION 13.       NEW LAW       A new section of law to be codified  
13 in the Oklahoma Statutes as Section 5013 of Title 59, unless there  
14 is created a duplication in numbering, reads as follows:

15       A person is subject to the denial of an application or  
16 disciplinary action pursuant to Section 15 of this act if the person  
17 violates the Auto Repair Shops Regulation Act or a rule adopted  
18 pursuant to the Auto Repair Shops Regulation Act.

19       SECTION 14.       NEW LAW       A new section of law to be codified  
20 in the Oklahoma Statutes as Section 5014 of Title 59, unless there  
21 is created a duplication in numbering, reads as follows:

22       A. The Executive Director of the Oklahoma Motor Vehicle  
23 Commission may issue an emergency order as necessary to enforce the  
24 Auto Repair Shops Regulation Act if the Executive Director

1 determines that an emergency exists requiring immediate action to  
2 protect the public health and safety.

3 B. The Executive Director may issue the emergency order without  
4 notice and hearing or with any notice and hearing the Executive  
5 Director considers practicable under the circumstances. The  
6 Executive Director shall set the time and place for a hearing to  
7 affirm, modify, or set aside an emergency order that was issued  
8 without a hearing.

9 C. The Executive Director may issue a cease and desist order.

10 SECTION 15. NEW LAW A new section of law to be codified  
11 in the Oklahoma Statutes as Section 5015 of Title 59, unless there  
12 is created a duplication in numbering, reads as follows:

13 A person who violates a provision of the Auto Repair Shops  
14 Regulation Act shall be guilty of a misdemeanor.

15 SECTION 16. NEW LAW A new section of law to be codified  
16 in the Oklahoma Statutes as Section 5016 of Title 59, unless there  
17 is created a duplication in numbering, reads as follows:

18 If the Oklahoma Motor Vehicle Commission determines that an  
19 automotive shop is operating without a license required by the Auto  
20 Repair Shops Regulation Act, the Executive Director of the Oklahoma  
21 Motor Vehicle Commission may authorize a political subdivision to:

22 1. Discontinue utility service provided by the political  
23 subdivision to the location where the violation is occurring; or  
24

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

4           SECTION 17.           NEW LAW           A new section of law to be codified  
5 in the Oklahoma Statutes as Section 5017 of Title 59, unless there  
6 is created a duplication in numbering, reads as follows:

7           A. Not later than January 1, 2009, the Oklahoma Motor Vehicle  
8 Commission shall appoint initial members of the Automotive Service  
9 and Repair Advisory Board. The Commission shall appoint four  
10 members to terms expiring February 1, 2011, four members to terms  
11 expiring February 1, 2013, and four members to terms expiring  
12 February 1, 2015.

13           B. Not later than January 1, 2009, the Commission shall  
14 promulgate rules and adopt forms, necessary for the implementation  
15 of the Auto Repair Shops Regulation Act.

16           C. Regardless of whether the applicant meets the requirements  
17 of the Auto Repair Shops Regulation Act, the Commission shall issue  
18 a journeyman automotive technician certificate in an area to an  
19 applicant pursuant to this section who:

- 20           1. Applies for a certificate not later than December 31, 2010;  
21           2. Demonstrates to the satisfaction of the Commission that the  
22 applicant has at least five (5) years of experience in the area; and  
23           3. Pays the application fee.

24

1 D. Regardless of whether the applicant meets the requirements  
2 of the Auto Repair Shops Regulation Act, the Commission shall issue  
3 an automotive service writer, advisor, and estimator certificate to  
4 an applicant pursuant to this section who:

5 1. Applies for a certificate not later than December 31, 2010;  
6 and

7 2. Demonstrates to the satisfaction of the Commission that the  
8 applicant has:

- 9 a. at least five (5) years of experience in automotive  
10 service writing, advising, and estimating, or  
11 b. at least twenty (20) hours of automotive service  
12 advisor training in the five (5) years preceding the  
13 date the person submits an application pursuant to  
14 this section.

15 SECTION 18. This act shall become effective November 1, 2008.

16

17 51-2-9280 LRB 01/13/08

18

19

20

21

22

23

24