

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE PRINCIPAL CLERK

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HOUSE DRH40324-MQfqq-65A* (03/10)

Short Title: Automotive Repair Licensing Board.

(Public)

Sponsors: Representative Horn.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA BOARD OF EXAMINERS FOR
3 MOTOR VEHICLE REPAIR SHOPS AND COLLISION REPAIRS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The General Statutes are amended by adding a new Chapter to read:

6 **"Chapter 93F.**

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

8 **"§ 93F-1. Short title.**

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

11 **"§ 93F-2. Purpose.**

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

18 **"§ 93F-3. License required; exemptions.**

19 (a) After December 1, 2015, no person shall own or operate a motor vehicle repair shop
20 or engage in business as a collision repair estimator, service advisor, collision repair technician,
21 or mechanical repair technician, unless the person has been properly licensed under the
22 provisions of this Chapter. Any person violating the provisions of this Chapter shall be guilty of
23 a Class 3 misdemeanor.

24 (b) Nothing in this Chapter shall be construed to prohibit or affect practice by any of the
25 following:

26 (1) Persons employed by a federal or State agency.

27 (2) Persons employed by a unit of local government.

28 (3) Persons enrolled in an educational or certification program approved by the
29 Board.

30 **"§ 93F-4. Definitions.**

31 The following definitions apply in this Chapter:

32 (1) Board. – The North Carolina Board of Examiners for Motor Vehicle Repair
33 Shops and Collision Repairs.

34 (2) Collision repair. – The act of repairing damaged motor vehicles.



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- 1 (3) Collision repair estimator. – A person who inspects a damaged vehicle and
2 determines the cost required to restore the vehicle to the condition it was in
3 before the damage.
- 4 (4) Collision repair technician. – A person who repairs damaged motor vehicles.
- 5 (5) Estimate. – The repair shop's determination of the cost of parts and the cost
6 of labor needed to perform offered services. If a teardown is needed to
7 determine the services required to repair a motor vehicle malfunction or a
8 motor vehicle body, fender or other component damaged by accident or
9 otherwise, the estimate, which includes the cost of teardown and
10 re-assembly, shall clearly state that such estimate does not include the cost
11 of repairs.
- 12 (6) Invoice. – A bill in writing listing the details of the transaction between the
13 repair shop and the customer as required.
- 14 (7) Licensee. – A person who has been issued a license under this Chapter.
- 15 (8) Mechanical repair technician. – A person employed by a mechanical repair
16 shop that replaces, rebuilds, repairs, maintains, or performs diagnostic tests
17 on motor vehicles.
- 18 (9) Motor vehicle. – As defined in G.S. 20-4.01(23).
- 19 (10) Motor vehicle repair. – Any maintenance of or modifications or repairs to
20 motor vehicles or diagnostic work incident to the repairs, including the
21 rebuilding or restoring of rebuilt vehicles, bodywork, painting, and warranty
22 work.
- 23 (11) Motor vehicle repair shop. – Any building or part thereof where motor
24 vehicle repairs are performed for pay, whether direct or indirect. The term
25 shall include collision repair shops and mechanical repair shops.
- 26 (12) Place of business. – The physical location where repair shop services are
27 offered or ordinarily performed.
- 28 (13) Service advisor. – A person employed by a mechanical or collision shop that
29 acts as a salesperson for owners of motor vehicles needing mechanical or
30 collision repairs.

31 **§ 93F-5. North Carolina Board of Examiners for Motor Vehicle Repair Shops and**
32 **Collision Repairs.**

33 (a) Membership. – The North Carolina Board of Examiners for Motor Vehicle Repair
34 Shops and Collision Repairs is created to administer the provisions of this Chapter. The Board
35 shall consist of seven members who are residents of this State. The membership shall be as
36 geographically diverse as practicable and shall be appointed as follows:

- 37 (1) The General Assembly, upon the recommendation of the President Pro
38 Tempore of the Senate, shall appoint three members. One of these members
39 shall be the owner or operator of a motor vehicle repair shop who shall serve
40 a three-year term, one shall be a collision repair shop owner or manager who
41 shall serve a three-year term, and one shall be a chief officer or executive
42 director of an automotive trade association who shall serve a three-year term.
- 43 (2) The General Assembly, upon the recommendation of the Speaker of the
44 House of Representatives, shall appoint three members. One of these
45 members shall be the owner or operator of a motor vehicle repair shop who
46 shall serve a three-year term, one shall be a collision repair shop owner or
47 manager who shall serve a three-year term, and one shall be a chief officer
48 or executive director of an automotive trade association who shall serve a
49 three-year term.

1 (3) The Governor shall appoint one member of the public who is a consumer of
2 motor vehicle repair or collision repair services or has an interest in the
3 rights of consumers who shall serve a three-year term.

4 (b) Terms. – Initial Board members appointed on or before December 1, 2015, do not
5 have to be licensed upon appointment. However, upon the establishment of requirements for
6 licensure by the Board, the initial Board members shall satisfy the applicable requirements for
7 licensure pursuant to this Chapter. Upon the expiration of the terms of the initial Board
8 members, each member shall be appointed for a term of three years and shall serve until a
9 successor is appointed and qualified. No member may serve more than two consecutive terms.

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

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

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

21 (f) Officers. – The officers of the Board shall be a chair, a vice-chair, and other officers
22 deemed necessary by the Board to carry out the purposes of this Chapter. All officers shall be
23 elected annually during the first meeting of the calendar year by the Board.

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

28 (h) Board Operations. – The Board shall maintain its office in Raleigh, North Carolina.
29 The Board shall employ an executive director who shall not be a member of the Board. The
30 executive director shall keep all records of the Board, issue all necessary notices, and perform
31 any other duties required by the Board. With the approval of the Director of the Budget and the
32 Office of State Personnel, the Board may employ as many inspectors, investigators, and other
33 staff as necessary to perform inspections and other duties prescribed by the Board. Inspectors
34 and investigators shall be experienced in automotive repair and service and shall have authority
35 to examine repair shops and to monitor automotive training classes during business hours to
36 determine compliance with this Chapter. The salaries of all employees of the Board, including
37 the executive director, shall be subject to the State Personnel Act.

38 The executive director may collect in the Board's name and on its behalf the fees prescribed
39 in this Chapter and shall turn these and any other monies paid to the Board over to the State
40 Treasurer. These funds shall be credited to the Board and shall be held and expended under the
41 supervision of the Director of the Budget only for the administration and enforcement of this
42 Chapter. Nothing in this Chapter shall authorize any expenditure in excess of the amount
43 credited to the Board and held by the State Treasurer as provided in this subsection.

44 **"§ 94F-6. Powers and duties of the Board.**

45 The Board shall have the power and duty to do the following:

46 (1) Administer and enforce the provisions of this Chapter.

47 (2) Adopt rules as may be necessary to carry out the provisions of this Chapter.

48 (3) Examine, inspect, and determine the qualifications and fitness of applicants
49 for licensure and renewal of licensure.

50 (4) Issue, renew, deny, suspend, or revoke licenses and conduct any disciplinary
51 actions authorized by this Chapter.

- 1 (5) Set fees as provided by this Chapter.
- 2 (6) Conduct inspections of repair shops pursuant to this Chapter.
- 3 (7) Establish and approve continuing education requirements for persons
4 licensed under this Chapter.
- 5 (8) Receive and investigate complaints from members of the public.
- 6 (9) Conduct investigations and inspections for the purpose of determining
7 whether violations of this Chapter or grounds for disciplining licensees exist.
- 8 (10) Conduct administrative hearings in accordance with Article 3A of Chapter
9 150B of the General Statutes.
- 10 (11) Maintain a record of all proceedings conducted by the Board and make
11 available to licensees and other concerned parties an annual report of all
12 Board actions.
- 13 (12) Maintain a list of the names and addresses of all persons licensed by the
14 Board.
- 15 (13) Employ and fix the compensation of personnel that the Board determines is
16 necessary to carry out the provisions of this Chapter and incur other
17 expenses necessary to perform the duties of the Board.
- 18 (14) Adopt a seal containing the name of the Board for use on all licenses and
19 official reports issued by the Board.
- 20 (15) Establish suspension and fines for infractions and also determine the
21 appropriate enforcement agency.
- 22 (16) Establish and implement a public awareness program to inform the general
23 public of the purpose and function of the Board.

24 **§ 94F-7. Qualifications for individual licensure; examination.**

25 (a) Collision Repair Estimator or Service Advisor. – An applicant shall be licensed as a
26 collision repair estimator or service advisor if the applicant meets all of the following
27 qualifications:

- 28 (1) Is at least 18 years of age.
- 29 (2) Has submitted a completed application.
- 30 (3) Has completed a collision repair estimator course or service advisor course
31 through a recognized organization or certification program approved by the
32 Board.
- 33 (4) Has successfully passed an examination administered or approved by the
34 Board.
- 35 (5) Has paid the required fee pursuant to G.S. 94F-10.

36 (b) Mechanical Repair Technician or Collision Repair Technician. – An applicant shall
37 be licensed as a collision repair technician or a mechanical repair technician if the applicant
38 meets all of the following qualifications:

- 39 (1) Is at least 18 years of age.
- 40 (2) Has submitted a completed application.
- 41 (3) Has completed a collision repair technician course or a mechanical repair
42 technician course through a recognized organization or certification program
43 approved by the Board.
- 44 (4) Has successfully passed an examination administered or approved by the
45 Board.
- 46 (5) Has paid the required fee pursuant to G.S. 94F-10.

47 (c) Examination. – At least 12 times a year, the Board shall cause the examination
48 required in this section to be given to the applicants at times and places to be determined by the
49 Board. The Board shall make all reasonable attempts to accommodate applicants from all
50 geographic areas of the State. Any applicant who fails to pass the first examination may retake
51 the examination in accordance with rules adopted by the Board.

1 (d) Renewal. – A license shall be valid for a period of one year after issuance by the
2 Board. At least 30 days before the expiration date of the license, the Board shall send the
3 licensee a notice and an application for renewal. The Board shall renew the license upon
4 submission of a renewal application, payment of the required fees pursuant to G.S. 94F-10,
5 proof of completion of continuing education requirements established by the Board, and any
6 other requirements the Board may establish by rule. The Board may adopt rules for the
7 replacement of lost, mutilated, or destroyed licenses. A license issued by the board may not be
8 transferred or assigned.

9 (e) Display. – Every individual issued a license under this Chapter shall display the
10 license prominently in the licensee's place of business and the license number shall appear on
11 all proposals, contracts, or requests for permits issued by a unit of local government.

12 **"§ 94F-8. Licensing of motor vehicle repair shops.**

13 (a) License Process. – The Board shall issue a license to operate a motor vehicle repair
14 shop to an applicant who does all of the following:

15 (1) Submits a properly completed application on a form approved by the Board.

16 (2) Pays the required fee.

17 (3) Provides a list of all persons who perform motor vehicle repairs in the shop
18 and identifies each as an employee.

19 (4) Is determined, after inspection, to be in compliance with the provisions of
20 this Chapter and rules adopted by the Board.

21 (b) Inspection. – An existing motor vehicle repair shop shall be allowed to operate for a
22 period of 30 days after submitting an application while the Board inspects and determines the
23 shop's compliance with this Chapter and the Board's rules. If the Board is unable to complete
24 the inspection within 30 days of submission of the application, the Board may authorize the
25 shop to operate until the inspection can be completed. Repair shops opening as a new business
26 shall complete the licensing process prior to the first day of business. The Board shall adopt
27 rules governing the minimum facility requirements for repair shops.

28 (c) Renewal. – A license shall be valid for a period of two years after issuance by the
29 Board. At least 30 days before the expiration date of the license, the Board shall send the
30 licensee a notice and an application for renewal. The Board shall renew the license upon
31 submission of a renewal application, payment of the required fees pursuant to G.S. 94F-10,
32 proof of completion of continuing education requirements established by the Board, and any
33 other requirements the Board may establish by rule. The Board may adopt rules for the
34 replacement of lost, mutilated, or destroyed licenses. A license issued by the board may not be
35 transferred or assigned.

36 (d) Display. – Licensed repair facilities shall place in clear view for the public on the
37 exterior of the building a sign approved by the Board designating them as a "Licensed North
38 Carolina Motor Vehicle Repair Shop" with the repair shop license number. The license number
39 shall appear on all proposals, contracts, or requests for permits issued by a unit of local
40 government.

41 **"§ 94F-9. Reciprocity.**

42 Upon filing an application and payment of the required fee, the Board may issue a license
43 without examination to an applicant who is licensed to operate a motor vehicle repair shop or
44 licensed as a collision repair estimator or a collision repair technician in another state or
45 territory if the requirements for licensure in that state or territory are substantially equal to the
46 requirements for licensure in this State as determined by the Board. Upon granting of
47 reciprocity, the licensee shall meet all requirements provided in this Chapter and the rules
48 adopted by the Board for license renewal.

49 **"§ 94F-10. Fees; continuing education requirements.**

50 (a) The Board shall establish license fees and continuing education requirements not to
51 exceed the following amounts:

- 1 (1) Collision repair technician or mechanical repair technician. – Twenty-five
2 dollars (\$25.00) yearly, with eight hours of continuing education completed
3 prior to renewal.
- 4 (2) Collision estimator or service advisor. – Twenty-five dollars (\$25.00) yearly,
5 with eight hours of continuing education completed prior to renewal.
- 6 (3) Motor vehicle repair shop. – Three hundred dollars (\$300.00) every two
7 years, with four hours of continuing education prior to renewal.

8 (b) The Board may charge an additional late fee for license renewal applications
9 submitted after the expiration of the license. The fee charged by the board shall not exceed
10 twenty percent (20%) of the amount charged for the license renewal.

11 **"§ 94F-11. Payments from insurers.**

12 It shall be unlawful for a repair shop to request or accept funds from an insurance company
13 or any agent of an insurer licensed pursuant to Chapter 58 of the General Statutes if the repair
14 shop does not hold a valid license, or if the license has been suspended or revoked by the
15 Board.

16 **"§ 94F-12. Motor vehicle repair shop records.**

17 Each motor vehicle repair shop shall maintain repair records, which shall include written
18 repair estimates and repair invoices. A customer's records shall be available to the customer for
19 inspection and copying for a period of at least 36 months from the last date of service. The
20 motor vehicle repair shop may charge a reasonable fee for copying. The motor vehicle repair
21 shop may prohibit the customer from removing the original records from the premises. The
22 Board shall have access to the records and may inspect or copy the records during regular
23 business hours as necessary. The Board shall establish rules for written motor vehicle repair
24 estimates, disclosure statements, and repair invoices.

25 **"§ 94F-13. Disciplinary action.**

26 The Board may deny, revoke, suspend, or refuse to renew a license issued pursuant to this
27 Chapter, or may censure, reprimand, or place an applicant on probation for any of the
28 following:

- 29 (1) Operating a motor vehicle repair shop or practicing as a collision repair
30 estimator, service advisor, collision repair technician, or mechanical repair
31 technician in violation of the provisions of this Chapter or any rules adopted
32 by the Board.
- 33 (2) Obtaining or attempting to obtain a license by fraud or misrepresentation.
- 34 (3) Having been convicted of a felony in the courts of this State or any other
35 state.
- 36 (4) Demonstration of gross negligence, incompetency, or misconduct in
37 operating or working in a motor vehicle repair shop or in the performance of
38 collision repair services.
- 39 (5) Engaging in dishonorable, unethical, or unprofessional conduct of a
40 character likely to deceive, defraud, or harm the public.
- 41 (6) Habitual intoxication or addiction to the use of drugs.
- 42 (7) Directly or indirectly giving or receiving a fee, commission, rebate, or other
43 form of compensation for a service not actually rendered.
- 44 (8) Failure to respond to a written request for information by the Board within
45 60 days.
- 46 (9) Having had a license or certification revoked or suspended or other
47 disciplinary action taken by authorities of another state or territory.
- 48 (10) Aiding or abetting a person not licensed in this State who directly or
49 indirectly operates a motor vehicle repair shop or performs collision repair
50 services requiring a license.
- 51 (11) Has made material misstatements in the application for licensure or renewal.

- 1 (12) Payment of wages to employees in a manner that circumvents payment of
- 2 tax.
- 3 (13) Having been convicted of willful failure to collect, withhold, or pay over tax
- 4 pursuant to G.S. 105-239(a)(9).

5 **"§ 94F-14. Penalties; injunctive relief.**

6 Whenever any person, partnership, firm, corporation, or other business entity has violated,

7 is violating, or threatens to violate any provisions of this Chapter, the Board may apply to the

8 courts of the State for injunctive relief. If a court finds that any provision of this Chapter is

9 being violated, or a violation is threatened, the court shall issue injunctive and any other

10 appropriate relief regardless of whether criminal prosecution is instituted under the provisions

11 of this Chapter. The venue for actions brought pursuant to this Chapter shall be the superior

12 court of any county in which the acts are alleged to have been committed or in the county

13 where the defendants reside."

14 **SECTION 2.** G.S. 58-33-76 reads as rewritten:

15 **"§ 58-33-76. Referral of business to repair source; prohibitions.**

16 (a) No insurance company, agent, adjuster or appraiser or any person employed to

17 perform their service shall recommend the use of a particular service or source for the repair of

18 property damage without clearly informing the claimant that the claimant is under no obligation

19 to use the recommended repair service.

20 (b) No insurance company, agent, adjuster or appraiser or any person employed to

21 perform their service shall accept any gratuity or other form of remuneration from a repair

22 service for recommending that repair service to a claimant. Provided, however, discounts

23 agreed to by repair services shall not violate this section.

24 **(b1) No insurance company, agent, adjuster, or appraiser or any person employed to**

25 **perform their service shall negotiate or reimburse for repairs with a motor vehicle repair shop**

26 **that does not hold an active license pursuant to Chapter 94F of the General Statutes.**

27 (c) Any person who violates this section is subject to the provisions of G.S. 58-2-70 and

28 G.S. 58-33-46."

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