

MOTOR VEHICLE SERVICE AND REPAIR ACT

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House Bill 4343 (H-1 as adopted by committee)

Sponsor: Rep. Harvey Santana

Committee: Transportation and Infrastructure

Complete to 5-18-15

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The Motor Vehicle Service Repair Act regulates the practice of servicing and repairing motor vehicles and provides for the registration of motor vehicle repair facilities, among other things. The act specifies that each motor vehicle repair facility must have at least one specialty or master mechanic in its employ certified in each category of repair as specified in the act. Unless otherwise exempt by the act, a person shall not engage in the business or activity of a motor vehicle repair facility unless the person registers the facility with the Department of State.

House Bill 4343 would amend the Motor Vehicle Service Act to say that a registered motor vehicle repair facility would no longer be registered if more than 30 days had passed after the expiration date of the registration and the secretary of state had not received an application for renewal during that period. A detailed explanation of the bills follows:

Administrative Penalty Authority:

In addition to any other remedies or penalties, if the department determines that a person who is required to register a motor vehicle repair facility has not registered that facility, it could do one or more of the following:

**Issue the person a verbal or written warning.* The department would provide notice in writing of the issuance of a written warning to the person against which the order is issued.

**Issue a cease and desist order.* A cease and desist order issued could require the person to cease and desist from the unlawful act or practice or to take any affirmative action that the department determines is necessary to meet the requirements of this act. The department would need to provide notice in writing of the issuance of a cease and desist order to the person against which the order is issued.

**Assess an administrative fine* of not more than \$500 for a first violation of the registration requirements and not more than \$1,000 for each subsequent violation that occurs within seven years of a previous violation. The department would need to provide notice in writing of the assessment of a fine to the person against which the fine is assessed. At a minimum, the notice of assessment would have to contain all of the following:

- A unique identification number.

- A description of the alleged violation that is the basis for the assessment, including the date of occurrence of the violation and a reference to the specific section or sections that the person allegedly violated.
- The administrative fine established for the violation.
- A statement indicating that if the fine is not paid, the department could refer the fine to the Department of Treasury for collection.

Violator Compliance Requirements

Within 20 days after receiving the written notice of assessment, the alleged violator would have to pay the administrative fine to the Department of State. If the person has not registered the motor vehicle repair facility at the time the fine is paid, a properly completed registration application would have to be filed with the department.

Cease and Desist Order or Written Warning

If the department issues a cease and desist order or a written warning to a motor vehicle repair facility, the department could require that the facility conspicuously display the order or warning on all doors that provide access to the facility by members of the public and to continue that display until the department approves removal.

Service of Notice or Cease and Desist Order

The following would apply to the service of a written notice of warning, a cease and desist order, or a notice of assessment of a fine: (a) the department would have to serve the notice or order in person, by a designated agent, or by first-class mail; (b) service under first-class mail would be complete on the expiration of five days after the mailing of the notice or order; and (c) proof of service could be made by a certificate of an individual who is at least 18 years old, naming the person to which the notice or order was mailed and specifying the time and place it was mailed.

Payment of Administrative Fine

After a person pays the Department an assessed administrative fine, the money would be forwarded to the Department of Treasury for deposit in a separate fund within the General Fund. Upon appropriation, this money would be used first to defray the expense of the Department of State in administering the act.

If an assessed administrative fine is not paid within 60 days after the being assessed, the department could refer the matter to the Department of Treasury for collection as a state debt through the offset of state tax refunds and could also use the services of the Department of Treasury to levy the salary, wages, or other income or assets of the person as provided.

The bill specifies that payment of an assessed administrative fine would not constitute an admission of responsibility or guilt by the person against which the fine is assessed. In addition, payment of an administrative fine would not prevent the Department of State from charging a violation in a subsequent or concurrent contested case proceeding conducted by the department under the Administrative Procedures Act.

Completed Application, Paid Fee and Registration

If the person submits a properly completed application and appropriate fee for motor vehicle repair facility registration within 20 days after an administrative fine is assessed, **and if** the Department of State registers the motor vehicle repair facility within 45 days after receiving the properly completed application and fee, then the department would be required to reduce the amount of the administrative fine by 50 percent.

This bill would take effect 90 days after the date being enacted into law.

MCL 257.1301, et al.

FISCAL IMPACT:

The bill would have a minimal fiscal impact to state government. There could be increased costs to the Department of State in administering the act. However, the department believes that the increased costs would be covered under its ability to levy administrative fines. In addition, there could be a slight cost to the Department of Treasury in collecting unpaid administrative fines.

There would be no fiscal impact to local governments.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.