

CHAPTER 956

H.B. No. 2564

AN ACT

relating to the regulation of persons engaged in certain business activities; providing civil penalties.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. DEFINITIONS. In this Act:

(1) "Person" means an individual human being, corporation, partnership, firm, or other legal entity.

(2) "Commission" means the Texas Water Commission.

(3) "Executive director" means the executive director of the commission.

(4) "Motor vehicle" means a self-propelled device with at least four wheels by which a person or property may be transported or drawn on a public street or highway, except a device exclusively on stationary rails or tracks.

(5) "Repair facility" means a person that engages in the business of repairing or replacing the nonmechanical exterior or interior body parts of a damaged motor vehicle.

(6) "Registrant" means a person registered under the terms of this Act.

SECTION 2. REGISTRATION REQUIRED. A repair facility shall register with the commission as provided by this Act and by rules promulgated by the commission. The repair facility shall renew the registration annually in the manner prescribed by the commission.

SECTION 3. INFORMATION DISCLOSED IN REGISTRATION. (a) The commission by rule shall promulgate a form for application for the registration required by this Act and for application for renewal of the registration required by this Act. The commission by rule shall determine the information to be disclosed on the application. The application shall be sworn and shall set forth at least the following:

(1) each conviction of a felony, or misdemeanor for which the maximum punishment is by confinement in jail or by a fine exceeding \$200, that was obtained against the applicant or a partner or officer of the applicant in the three-year period immediately preceding the date of the application;

(2) the name and street address, and the mailing address if different from the street address, of each location at which the applicant operates a repair facility;

(3) the name and address of each owner, partner, officer, director, or shareholder holding 10 percent or more of the outstanding shares if the applicant is a corporation;

(4) a statement setting forth each identification number assigned by, or other evidence of compliance with the requirements of, each of the following, if applicable:

(A) the United States Environmental Protection Agency;

(B) the United States Occupational Safety and Health Administration;

(C) the Texas Water Commission;

(D) the Texas Department of Health;

(E) the Texas Air Control Board;

(F) the comptroller of public accounts; and

(G) a municipal ordinance or county regulation.

(b) A registration or a renewal of a registration shall be accompanied by a fee of \$50.

SECTION 4. CERTIFICATE OF REGISTRATION; EXPIRATION. On receipt of the form required by Section 3 of this Act, the executive director shall issue a certificate of registration to the applicant. A certificate of registration:

(1) shall bear a unique number;

(2) is valid for one year from the date of issuance;

(3) may be renewed upon application to the executive director on a form provided by the executive director;

(4) is not transferrable; and

(5) is applicable only to the person whose name appears on the certificate or an employee of that person.

SECTION 5. RENEWAL. Within 30 days prior to the expiration of a certificate of registration, the registrant shall apply for renewal of the license in the manner provided by this Act.

SECTION 6. EXPIRATION; TERMINATION; SURRENDER. (a) The executive director may suspend or revoke a certificate of registration prior to its expiration date according to the procedures and on the grounds established pursuant to Section 7 of this Act.

A certificate of registration may be terminated at any time by voluntary surrender by the registrant.

(b) Upon the expiration, termination, or surrender of a certificate of registration, the registrant shall deliver the certificate to the executive director who shall cancel the certificate or endorse the date of expiration, termination, or surrender on the certificate.

(c) If a certificate of registration is lost or destroyed, the registrant shall file an affidavit to that effect, and the commissioner shall, on receipt of a \$25 replacement fee, issue a replacement certificate clearly identified as such on the certificate and in the records of the commission.

SECTION 7. REVOCATION; SUSPENSION; RULES. (a) The commission shall adopt rules establishing the grounds for suspension, revocation, or reinstatement of a certificate of registration and establishing the procedures for disciplinary actions.

(b) Proceedings relating to the suspension or revocation of a certificate of registration issued under this Act are subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

SECTION 8. REGISTRATION APPLICATIONS AND CERTIFICATES: MAINTENANCE OF RECORDS. The executive director shall maintain, in convenient form and open to the public, all applications for registration and copies of certificates of registration and shall annually publish a list of names and addresses of persons registered with the commission under this Act, the names of all persons whose registration has been revoked, suspended, or surrendered during the period, and the specific time that the suspension, revocation, or surrender became effective.

SECTION 9. PUBLIC DISPLAY OF CERTIFICATE OF REGISTRATION. A registrant shall publicly display its current certificate of registration in its place of business in a location readily visible to a customer paying for repairs. A registrant shall also include the registrant's registration number on repair estimates, repair orders, and correspondence.

SECTION 10. ADVERTISING; REPAIR CHARGES. (a) A registrant shall include the number of its certificate assigned by the commission as provided by this Act as a part of an advertisement for motor vehicle repairs.

(b) A registrant may not make any false or fraudulent statement in connection with any repair or attempt to collect for a repair.

SECTION 11. RECORDS. (a) A registrant shall maintain a record of each motor vehicle that enters the registrant's premises for the purpose of obtaining repairs. Except as provided by Subsection (b) of this section, the registrant shall include in that record at least the following information:

- (1) a description of the vehicle;
- (2) the vehicle identification number;
- (3) the date the vehicle entered the registrant's premises;
- (4) the odometer reading at the time the vehicle is received;
- (5) the name and address of the person from whom the vehicle was received; and
- (6) a signed authorization for the work to be performed on the vehicle.

(b) The record required by Subsection (a) of this section shall be kept in a convenient place and, along with the premises of the registrant's place of business, may be inspected at any time by the executive director or an employee of the commission.

(c) In the case of a vehicle that was towed to the registrant's repair facility without the consent of the owner of the vehicle, the information that the registrant shall maintain is the information provided by the law enforcement agency that initiated the towing process.

SECTION 12. VIOLATIONS; PENALTY. (a) A repair facility that fails to register as provided by this Act shall pay a civil penalty of \$250. The executive director shall waive the penalty if the repair facility files proper registration within 10 days after notice of the violation.

(b) A registrant that violates a provision of this Act is subject to a civil penalty not to exceed \$100.

SECTION 13. APPLICABILITY. This Act does not apply to a repair facility located within a county with a population of 50,000 or fewer.

SECTION 14. EFFECTIVE DATE. This Act takes effect January 1, 1994.

SECTION 15. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on May 7, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 2564 on May 26, 1993, by a non-record vote; passed by the Senate, with amendments, on May 24, 1993, by a viva-voce vote.

Approved June 19, 1993.

Effective Jan. 1, 1994.