

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Banking and Insurance Committee

BILL: CS/SB 864

SPONSOR: Banking and Insurance Committee and Senator Fasano

SUBJECT: Motor Vehicle Repair Shops (Mandating Liability Insurance)

DATE: April 13, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Evans</u>	<u>Meyer</u>	<u>TR</u>	<u>Fav/ 1 amendment</u>
2.	<u>Emrich</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Fav/CS</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Committee Substitute for Senate Bill 864 requires motor vehicle repair shops to provide proof of at least \$300,000 of liability insurance on repairs performed by such shops as a condition of initial or renewal registration with the Department of Agriculture and Consumer Services (department). Failure to provide proof of liability insurance is grounds for denial, revocation, or refusal of renewal of the repair shops registration. Under current law, motor vehicle repair shops are *not* required to carry any liability insurance on repairs performed by such facilities.

The bill also imposes an administrative fine not to exceed \$5,000 per violation for failure to maintain the required liability insurance and provides that a person who engages in motor vehicle repair and fails to maintain the \$300,000 liability insurance commits a misdemeanor of the second degree.

This bill substantially amends sections 559.904 and 559.921 of the Florida Statutes.

II. Present Situation

Florida Motor Vehicle Repair Act

The Florida Motor Vehicle Repair Act (Act) is contained in ss. 559.901- 559.9221, F.S. The Act requires all motor vehicle repair shops to register with the Department of Agriculture and Consumer Services (department) and to renew their registration biennially.¹ As of March 8,

¹ A *motor vehicle repair shop* is defined to mean any person who, for compensation, engages in the repair of motor vehicles owned by other persons and includes, but is not limited to, mobile motor vehicle repair shops; motor vehicle and recreational vehicle dealers; garages; service stations; self-employed individuals; truck stops; paint and body shops; brake, muffler, or

2005, there were 21,473 motor vehicle repair shops registered with the department. The Act requires repair shops to provide estimates for repairs, invoices for completed repairs, and makes it unlawful for the cost of repairs to exceed the estimate by specified amounts. The Act declares various actions are unlawful acts and practices, including making or charging for repairs not authorized by the customer, misrepresenting certain parts and services necessary to repair a vehicle, willfully departing from accepted practices and professional standards and more.²

The Florida Motor Vehicle Repair Act does not apply to the following motor vehicle repair shops, however, these motor vehicle repair shops may voluntarily register under this act: any motor vehicle repair shop of municipal, county, state, and federal government when carrying out the functions of the government; any person who engages solely in the repair of motor vehicles which are owned, maintained, and operated exclusively by such person for that person's own use; any for-hire vehicles, as defined in s. 320.01(15) (a), F.S., which are rented for periods of 30 days or less; any person who repairs only motor vehicles which are operated principally for agricultural and horticultural pursuits on farms, groves, and orchards; motor vehicle auctions licensed under s. 320.27(1)(c)4, F.S., and persons performing motor vehicle repair solely for such auctions; and those located in public schools as defined in s. 1000.04, F.S., and charter technical career centers as defined in s. 1002.34, F.S.

Current Requirements for a Vehicle Repair Shop Registration Certificate

Section 559.904, F.S., requires applicants registering for motor vehicle repair shops to provide the following information:

- The name of the applicant.
- The name under which the applicant is doing business.
- The business address at which the applicant performs repair work or in the case of a mobile motor vehicle repair shop, the home address of the owner, if different from the business address.
- Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant.
- Number of employees that the applicant intends to employ or which are currently employed.
- Each application for registration must be accompanied by a registration fee calculated on a per-year basis as follows: If the place of business has 1 to 5 employees, the fee is \$50; if the place of business has 6 to 10 employees, the fee is \$150; and if the place of business has 11 or more employees the fee is \$300.

The department may deny, revoke, or refuse to renew the registration of a motor vehicle repair shop if it determines that its directors, officers, or owners have failed to meet the requirements for registration; have not satisfied a civil fine or other enforcement action; have had against them

transmission shops; and shops doing glass work. A person who engages solely in the maintenance or repair of the coach portion of a recreational vehicle is not a motor vehicle repair shop (s. 559.902(6), F.S.). *Motor vehicle repair* means all maintenance of and modifications and repairs to motor vehicles, and diagnostic work incident thereto, including the rebuilding or restoring of rebuilt vehicles, body work, painting, warranty work, and other work customarily undertaken by motor vehicle repair shops (s. 559.902(8), F.S.).

² Section 559.920, F.S.

any civil, criminal or administrative adjudication based on fraudulent conduct; or had a judgment entered against them brought by the department or the state attorney.³

Penalties

The department may impose penalties against repair shops under s. 559.921, F.S., if it finds that such facilities: a) violated the Act or rules adopted thereunder; b) made a material false statement in their application; c) refused or failed to produce any documents required to be disclosed to the department; d) or made a material false statement in response to any request or investigation by the department. Penalties⁴ imposed range from issuing a notice of noncompliance; imposing an administrative fine of \$1,000 per violation; issuing cease and desist orders; refusing to register or revoking or suspending a registration; or placing a registrant on probation for a period of time.

Liability Insurance

Generally, liability insurance covers claims against an insured arising out of the insured's legal liability from a covered activity or situation that results in covered expenses or damages. Liability insurance claims involve three parties: the insurer, the insured, and a "third" party, the claimant, who brings a legal complaint against the insured. The insurance company pays the claimant on behalf of the insured if the insured is legally liable for the injury or damage. Although motor vehicle repair shops are not required by law to carry liability insurance on repairs performed by such facilities, such a requirement was enacted by the Legislature in 1993.⁵ That provision required each motor vehicle repair shop to maintain liability insurance with respect to repair work; however, a specific amount of such insurance was not required. Motor vehicle repair facilities which performed only "minor repairs" were exempt from the insurance requirement. One year later, the Legislature repealed the provision.⁶

III. Effect of Proposed Changes:

Section 1. Amends s.559.904, F.S., relating to registration of motor vehicle repair shops with the Department of Agriculture and Consumer Affairs (department). The bill requires each applicant for an initial or renewal registration to furnish to the department evidence of current and valid liability insurance in the amount of \$300,000 on repairs performed by a motor vehicle repair shop. Failure to maintain in force liability insurance constitutes grounds for denying, revoking, or refusing to renew the registration of the motor repair shop.

Section 2. Amends s. 559.921, F.S., pertaining to remedies by the department. The bill imposes an administrative fine not to exceed \$5,000 per violation for failure to maintain the \$300,000 liability insurance required under Section 1 of the bill. The legislation also provides that a person who engages in motor vehicle repair and fails to maintain current and valid liability insurance commits a misdemeanor of the second degree, punishable as provided in ss. 775.082, F.S. or 775.083, F.S.

Section 3. Provides an effective date of July 1, 2005.

³ Section 599.904(10), F.S.

⁴ The Department of Highway Safety and Motor Vehicles shall have exclusive authority to impose penalties for motor vehicle and recreational vehicle dealers licensed under ch. 320, F.S.

⁵ Chapter 93-219, Laws of Florida.

⁶ Chapter 94-298, Laws of Florida.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Any person who owns a motor vehicle repair shop must furnish evidence of \$300,000 liability insurance at the time of initial or renewal application for registration with the department. This could likely result in additional costs to such owners depending on their claims experience and the volume of sales for such repair shops.

Representatives with the OIR have estimated what the annual premium would be for a motor vehicle repair shop carrying \$300,000/\$1 million liability insurance. Such rates are established for auto shops in relationship to the gross sales for such shops. The annual premium for a repair shop with \$500,000 in annual sales would be \$2,700. This rate is based on an average of \$5.40 per thousand of gross sales.

A representative with one of the largest commercial insurers in the state provided committee staff with estimated premiums for providing \$300,000 in liability coverage for repairs for a motor vehicle repair facility located in the Tampa area which did approximately \$500,000 in annual sales. The liability insurance would cover bodily injury and property damage. Claims experience and the volume of sales for a repair shop were the primary indicators for setting liability rates for such facilities, according to this representative. The annual premium for a repair shop with \$500,000 in annual sales with \$300,000 in liability insurance would be \$7,500.

A repair shops' automobile insurance⁷ would most likely have to be increased should liability coverage be mandated, according to the representative. The annual automobile premium for a repair shop with \$500,000 in annual sales with \$300,000 in liability insurance would be \$1,100.

⁷ This insurance would cover hired and non-owned vehicles in cases where the repair shop "test drove" a vehicle after making repairs.

C. Government Sector Impact:

The department does not anticipate any additional costs under the provisions of this legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
