

DIVISION 4. LICENSING AND CERTIFICATION OF MOTOR VEHICLE REPAIR SHOPS AND TECHNICIANS

Legislative intent: It is the legislative intent of the board of county commissioners that the license fees, certification fees, and trainee permit fees assessed under this division shall be sufficient to fund the costs created by the activities required to be performed in order to fully implement the intent and purpose of this division.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.70. Authority.

The provisions of this division are enacted so as to ensure the proper handling of environmentally hazardous wastes generated by motor vehicle repair shops, in order to protect the atmosphere and water supply in Broward County. This division shall be a minimum standards ordinance pursuant to Broward County Charter section 8.04. Therefore, all cities within Broward County shall be required to enforce this chapter, on a local level, and to that extent all references to the county shall be deemed to include references to the applicable city; provided, however, any city may pass its own ordinance containing such provisions and procedures that are substantially equivalent to the provisions and procedures set forth in this division and may delegate the administration and enforcement of this division to the county.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.71. Purpose.

(a) It is hereby declared by the board of county commissioners that, in order to provide for and safeguard the life, health, safety, property and welfare of the people, the licensure and regulation of business enterprises engaged in the repair of motor vehicles are matters affecting the public health, safety, welfare and interest; and any person desiring to conduct such a business enterprise shall be required to obtain a regulatory license, require the technicians employed by the business enterprises to obtain certification, and obey the regulations as hereinafter provided.

(b) The purpose of this division is to ensure the proper handling of hazardous wastes generated by the repair of motor vehicles and to protect the atmosphere and the water supply in Broward County, and is consistent and supplemental to § 325.223, F.S., requiring motor vehicle repair shops that service motor vehicle air conditioners to comply with the regulations promulgated by the Department of Environmental Regulation; and, further, to provide a uniform system for the licensure and regulation of business enterprises which are engaged in or which intend to engage in the repair of motor vehicles for compensation.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.72. Definitions.

For the purpose of this division, the following definitions shall apply:

(a) *ASE* means the National Institute for Automotive Service Excellence, an internationally recognized testing organization which encourages automotive service excellence.

(b) *Business enterprise* means any person who operates for profit, or allows to be operated for profit, a motor vehicle repair facility, as such terms are defined herein, and shall include any resale facility that prepares previously owned motor vehicles for resale.

(c) *Certified* means any motor vehicle repair technician who meets the requirements for certification under this division for a specific body repair category or categories pursuant to this division.

(d) *Commission* shall mean the board of county commissioners of Broward County, Florida.

- (e) *Cooperative* shall mean an association of repair facilities for the mutual benefit of sharing any equipment required under section 20-176.76. "Cooperative" for the purposes of this division shall not mean a legal entity.
- (f) *County administrator* shall mean the chief executive officer and head of the administrative branch of county government as provided in article III of the Charter of Broward County.
- (g) *Customer* means the owner, or authorized representative or agent of the owner, or lawful possessor, of a motor vehicle.
- (h) *CAD* shall mean the Broward County Consumer Affairs Division, or any selected county agency, to be known herein as the "CAD."
- (i) *Director* shall mean the CAD director, or the director's designee.
- (j) *Facility* means a motor vehicle repair shop.
- (k) *For compensation* shall mean for money, property, service or anything else of value.
- (l) *Industry* shall mean the business of repairing motor vehicles and such services as may be associated therewith.
- (m) *License* shall mean the certificate or document which allows a person to engage in the activity of repairing motor vehicles for compensation in Broward County. As used in this article, "license" shall not mean a municipal occupational or a county occupational license.
- (n) *Lube and tire specialist* means any person who, for compensation, changes engine oil, oil filters, does lubrication, tops off fluids, changes tires, performs predelivery inspections of new motor vehicles, and receives a permit from CAD.
- (o) *Motor vehicle* means any automobile, truck (having a gross weight of ten thousand (10,000) pounds or less), bus, recreational vehicle, or motorcycle required to be licensed under Chapter 320, F.S. for operation over roads of Florida, but does not include trailers, mobile homes, travel trailers or trailer coaches without independent motive power.
- (p) *Motor vehicle repair shop* means any person or business which, for compensation, engages in the activity of repairing, replacing, reconditioning, adjusting, analyzing, diagnosing or altering the operation condition of motor vehicles that are owned by other persons (hereinafter "repair"); except that this division shall not be applicable to motor vehicle repair shops that exclusively repair, replace, recondition, adjust, analyze, diagnose or alter the operating condition of motor vehicles to be used as props in commercial motion picture or television production.
- (q) *Motor vehicle repair technician* means any person who, for compensation, engages in the repair of motor vehicles and is certified as required under this division.
- (r) *Person* shall mean any natural person, firm, partnership, association, corporation or other entity of any kind whatsoever.
- (s) *Personnel authorized by CAD* means enforcement personnel authorized by the director.
- (t) *Place of business* means a physical place where the business of motor vehicle repair is conducted.
- (u) *Regulation* shall mean a rule set forth in this division, the violation of which is sufficient grounds for fines, suspension, or revocation of a license as issued herein, civil damages, court costs and attorney's fees, and specified criminal penalties.
- (v) *Repair facility* means any person, business, or cooperative which, for compensation, primarily engages in the activity of repairing, replacing, reconditioning, adjusting, analyzing, diagnosing or altering the operating condition of motor vehicles that are owned by other persons or are being repaired for resale (hereinafter "repair"), and as further defined in section 20-176.76 herein.
- (w) *Restoration shop* means any motor vehicle repair shop that performs work only on 1974 or older model vehicles.
- (x) *Trainee* means a person who desires to become a motor vehicle repair technician and receives a permit from the director pursuant to this division.
- (Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 1, 9-8-92; Ord. No. 96-21, § 1, 8-13-96)

Secs. 20-176.73, 20-176.74. Reserved.

Editor's note: Ord. No. 1998-43, § 21, adopted Nov. 24, 1998, repealed former sections 20-176.73 and 20-176.74 in their entirety which respectively pertained to the motor vehicle repair industry board and its powers and duties and derived from Ord. No. 91-25, § 1, adopted June 11, 1991.

Sec. 20-176.75. Motor vehicle repair license required.

(a) It shall be unlawful for any person for compensation or as part of a regularly conducted business activity to repair a motor vehicle without first obtaining and maintaining a current and valid license and/or certification pursuant to the provisions of this division. Each repair facility, except for restoration shops, shall employ at least one (1) certified technician in the category for which each facility is licensed.

(b) Existing repair facilities shall have twenty-four (24) months from the effective date of this division within which to comply with the requirements of this division. A repair facility shall be deemed to have commenced operation as of the date the first county occupational license was obtained. Repair facilities that begin operation after the effective date of this division shall meet all requirements of this division at the commencement of the business enterprise.

(c) It shall be unlawful for any person for compensation or as part of a regularly conducted business activity to advertise to repair a motor vehicle without first obtaining and maintaining a current and valid license pursuant to the provisions of this division. Any advertisement, including advertisements and telephone listings in any and all "Yellow Pages," shall include the license number issued pursuant to this division.

(d) If the certified technician employed by the repair facility leaves the employ of the repair facility, the repair facility shall notify CAD and shall have sixty (60) days following the termination of the certified technician within which to obtain the services of a subsequent certified technician.

(e) Nothing in this division shall be construed to prevent a natural person from working in an employment relationship for another person holding a valid license under this division; provided, however, that any person who is an independent contractor and not an employee of a licensed person is also subject to all requirements and provisions of this division.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 2, 9-8-92; Ord. No. 96-21, § 2, 8-13-96)

Sec. 20-176.76. Minimum equipment required for licensing and registration of facility.

(a) An applicant for registration and licensing as a restoration shop shall submit to the director only a description of the facility to be registered and those matters stated in subsection (b). Any other applicant for registration and licensing as a motor vehicle repair facility shall submit to the director a description of the facility to be registered and whether it is one of the following:

- (1) Engine repair.
- (2) Automatic transmission/transaxle.
- (3) Manual drive train and axles.
- (4) Suspension and steering.
- (5) Brakes.
- (6) Electrical systems.
- (7) Heating and air conditioning.
- (8) Engine performance.

(b) In order for a facility or a restoration shop to be eligible for licensing, each facility must have the following:

- (1) Established business location in compliance with local zoning laws.
- (2) All applicable local, state and federal licenses, permit regulations and insurance regulations, including, but not limited to: sales tax number, federal I.D. number, fire, electrical code and EPA compliance regarding disposal of environmentally hazardous wastes.

- (3) Proof of garage liability insurance and garagekeepers legal liability insurance in an amount of no less than fifty thousand dollars (\$50,000.00), and completed operations insurance.
- (4) Set of current manuals for vehicles to be repaired, except for restoration shops.
- (5) Any and all equipment, not specifically delineated herein, that is required by federal, state or local law.

Any and all equipment required herein must be operational at all times.

(c) In addition to the items in (b) above, a repair facility engaging in suspension and steering shall have:

- (1) Wheel alignment system.
- (2) Wheel balancer.

A repair facility engaging in or performing front end work that does not have a wheel alignment system may send the motor vehicle to be aligned by a licensed repair facility that has a wheel alignment system.

(d) In addition to the items in (b) above, a repair facility engaging in repairing or replacing brake systems shall have:

- (1) Pressure bleeder.
- (2) Asbestos collection equipment.
- (3) Micrometer and drum gauge.

(e) In addition to the items in (b) above, a repair facility engaging in the repair of electrical systems shall have:

- (1) Battery charger.
- (2) Battery/charging/starting systems tester.

(f) In addition to the items in (b) above, a repair facility engaging in heating and air conditioning repair shall have:

- (1) Refrigerant recovery system.
- (2) Air conditioning charging station.
- (3) Leak detector.

(g) In addition to the items in (b) above, a repair facility engaging in engine performance, including tune-ups with engine repair, shall have:

- (1) Engine analyzer.
 - (2) Data stream access device.
 - (3) Gas analyzer--three (3) or more gases. Such gas analyzer shall only be required if the repair shop is performing pre-state emissions tests and/or making adjustments to the fuel delivery system. A repair facility engaging in or performing engine performance, including tune-ups, that does not have such gas analyzer may send the vehicle to be checked and analyzed by a licensed repair facility that has the required gas analyzer or a state emissions testing facility.
- (Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 3, 9-8-92)

Sec. 20-176.77. Fees; applications; renewals; licensing.

(a) The fees for the initial application shall be established by administrative order of the county administrator and approved by the commission. The initial application fee shall be effective from October 1, 1991, through September 30, 1992. Renewal applications shall be effective from October 1 through September 30 of the ensuing year.

(b) Any business enterprise maintaining more than one (1) repair shop or facility shall separately register each facility and pay a separate fee for each such facility.

(c) Applications, renewal applications and applications for a duplicate license shall be submitted on a form provided by the CAD. The forms shall contain sufficient information to identify the motor vehicle repair facility, including name, address, and any other identifying data which the director prescribes. If the business is to be carried on under a fictitious name, the fictitious name shall be given. If the business is a partnership, identifying data as prescribed by the director shall be given for each partner. If the business is a corporation, data shall be given

for each officer and director of the corporation, as well as the person or persons in charge of each place of business in Broward County.

(d) Upon receipt of the completed application form and fee, and after determining that there is no reason why the application should not be validated, the director shall validate the application and return a copy thereof to the applicant. Each license shall be displayed by the place of business for which the license was obtained and shall be in full view of the customer.

(e) Prior to expiration of the initial license or expiration of the annual license, whichever is the case, an applicant may apply for an annual license. As a part of the renewal process, the original application shall be updated and verified by the applicant on forms prescribed by the CAD. Each updated renewal shall be submitted prior to expiration of the current initial or annual license and shall be accompanied by a fee which shall be established by resolution of the commissioners. All renewal application fees shall be deposited with original application fees and other charges and fees under this article in a separate Broward County fund and shall be used exclusively to accomplish the purpose of this division.

(f) In the event of loss, destruction or mutilation of the license or registration, the person to whom it was issued may obtain a duplicate copy upon furnishing satisfactory proof of the loss, destruction or mutilation, and upon paying the required fee.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.78. Denial of license; appeal; review.

Any person dissatisfied or aggrieved with the decision of the director to deny such person's application for initial license or license renewal may, within ten (10) days after the denial, appeal in writing to the CAD. Upon receipt of a notice of appeal, the CAD shall schedule and hold a hearing within fourteen (14) days. The dissatisfied or aggrieved person shall be provided with a notice of hearing, which shall include:

- (1) A statement of the time and place for hearing; and
- (2) A reference to the facts and relevant section of the county ordinances or regulations upon which the denial is based.

The hearing shall be conducted in accordance with the procedures for consumer protection board hearings (as defined in division 1, section 20-176 et seq., of this article). At the hearing, witnesses shall be sworn, and the rules of evidence applicable to quasi-judicial proceedings shall govern. After the conclusion of the hearing, the consumer protection board shall affirm or reverse the decision of the director, and that action shall be final. Should the consumer protection board reverse the decision of the director, the director shall issue a license forthwith. (Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.79. Recordkeeping.

Every facility required to be licensed hereunder shall:

(a) Comply with any and all requirements of Chapter 559, pt. IX, F.S. (§ 559.901, F.S. et seq.), "Florida Motor Vehicle Repair Act," including but not limited to notification of charges, repair estimates, invoicing, and return of parts which have been replaced.

(b) Maintain complete records of all operating information as CAD may require, including but not limited to repair estimates and/or invoices and statements for services rendered, and records of payments for services rendered. Such records shall be maintained for at least six (6) months. The CAD shall be granted access to these records for inspection or copying, upon five (5) days' prior notice and during regular business hours. If a repair facility fails to provide the CAD with access to the records within the five-day period, the CAD shall have the right to institute proceedings to suspend or revoke the repair facility's license. All records and information inspected and not copied shall be confidential, except that records may be copied or made public for the purpose of license suspension or revocation proceedings.

(c) Include on the written invoice given to the customer upon work completion the shop license number issued pursuant to this division. This requirement shall apply only to shops licensed for a specific repair category or categories pursuant to section 20-176.76(a).
(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 4, 9-8-92)

Sec. 20-176.80. Examinations required for technicians prior to certification.

Every technician applying for certification shall have passed the appropriate tests provided for in section 20-176.81.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 2003-33, § 1, 9-23-03)

Sec. 20-176.81. Certification of technicians; application for certification of motor vehicle technician.

(a) There is established the following specialties or areas of certification:

- (1) Engine repair.
- (2) Automatic transmission/transaxle.
- (3) Manual drive train and axles.
- (4) Suspension and steering.
- (5) Brakes.
- (6) Electrical systems.
- (7) Heating and air conditioning.
- (8) Engine performance.

(b) A certification test shall be given in each of the areas described above.

(c) Before a person is certified as a motor vehicle repair technician, the person shall have passed the AATI or ASE test offered for auto repair, or any additional AATI or ASE test that may be established, which indicates competency to perform motor vehicle repair in any of the categories listed in (a) above.

(d) No motor vehicle repair technician shall engage in the occupation of motor vehicle repair for compensation unless the person is certified as required herein.

(e) Upon successfully passing the AATI or ASE test or tests, a person may apply for certification on a form as required by the CAD, accompanied by the required registration fee.

(f) An applicant shall submit to the director, in addition to such other information as may be required, the following information:

(1) Name and home address of applicant.

(2) Category or categories of certification for which the applicant is applying.

(g) All applicants who have passed the prescribed AATI or ASE test shall:

(1) File an application for certification as a technician on a prescribed form.

(2) Submit completed application forms with a nonrefundable application fee and registration fee.

(3) Submit a copy of documentation showing that the applicant has successfully passed either the AATI or ASE test.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 2003-33, § 1, 9-23-03)

Sec. 20-176.82. Applications; forms.

Applications, including those for certification, renewals, trainee permits, and replacement certificates or permits, shall be submitted on forms prescribed by the director.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.83. Trainee permit.

(a) If a person is unable to obtain a certificate as a motor vehicle repair technician, such person may make application for a trainee permit on the form prescribed by the director. The

director shall issue or approve a trainee permit to an applicant who qualifies under the rules promulgated for that purpose.

(b) A trainee employed by a motor vehicle repair facility shall be required to work under the direct supervision of a certified motor vehicle repair technician during the full time of the trainee's employment. There shall be at least one (1) motor vehicle technician for each two (2) trainees.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 5, 9-8-92)

Sec. 20-176.84. Lube and tire specialist.

(a) A lube and tire specialist shall make application for a permit on the form prescribed by the director. The director shall issue or approve a license to an applicant who qualifies under the rules promulgated for that purpose.

(b) A lube and tire specialist employed by a motor vehicle repair facility shall only be permitted to engage in the following: change engine oil, oil filters, lubrication, top off fluids, change tires, and perform predelivery inspections of new motor vehicles.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.85. Renewal; loss or destruction of certificate or trainee permit; replacement.

(a) A technician's certification or trainee permit shall be renewed annually upon payment of the required renewal fee.

(b) In the event of loss, destruction or mutilation of a certificate or permit, the person to whom the certificate or permit was issued may obtain a replacement upon furnishing satisfactory proof of the loss, destruction or mutilation, and upon payment of the appropriate fee. Application for a replacement shall disclose the following information:

(1) Name and address of applicant.

(2) Explanation of the loss, destruction or mutilation of the original certificate or trainee permit.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.86. Display of certification; certification number of technician on repair invoices.

A certified technician shall display, in a conspicuous location in the place of business, a current and valid certificate issued by the CAD.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 92-37, § 6, 9-8-92)

Sec. 20-176.87. Compliance with industry standards; alternative to denial, suspension or revocation of certification.

(a) A person in possession of a current certification under this division shall not depart from or disregard, in any material respect, accepted motor vehicle repair industry standards.

Compliance with published vehicle manufacturer, parts manufacturer, or equipment manufacturer or recognized after market repair manual specifications shall create a presumption that the motor vehicle repair technician has followed accepted motor vehicle repair industry standards.

(b) If a complaint is received by the CAD, and after notice and hearing by the Consumer Protection Board in accordance with Division 1 of this Article and Section 20-176.88, the board determines that a technician failed to follow accepted industry standards, the board may require the technician to do both of the following:

(1) Successfully complete a designated training course or program as a prerequisite to continued certification.

(2) Only perform specific motor vehicle repair procedures as identified by the board until the training course or program described in subdivision (1) above is completed.

(c) In the alternative to (b)(1) and (2) above, the board may recommend suspension or revocation of the technician's certification by the consumer protection board. If revoked a technician may not reapply for certification until one (1) year from the effective date of the revocation.

(Ord. No. 91-25, § 1, 6-11-91; Ord. No. 1998-43, § 22, 11-24-98)

Sec. 20-176.88. Enforcement and penalties.

(a) It shall be the duty and responsibility of all law enforcement officials to assist in the enforcement of this division and the code to the extent that it is within their jurisdiction to do so.

(b) The CAD shall maintain a system by which licensees are given written notice of all violations. CAD personnel shall be permitted to enter the business premises of a person who provides services pursuant to this division to ascertain whether the license and registration is current and the employees of the facility are certified as required under this division. If CAD personnel are refused entry or access to the business premises as stated above, the CAD shall obtain an inspection warrant pursuant to §§ 933.20--933.30, F.S. in order to ascertain compliance with this division.

(c) The CAD is authorized to enforce the provisions of this division by administrative fines of up to five hundred dollars(\$500.00) for each violation in accordance with the Consumer Protection Code (division 1, section 20-159 et seq., of this article). Each day of a continuing violation shall be deemed a separate violation.

(d) In addition to fines, the CAD is authorized to enforce the provisions of this division by suspension or revocation of a license and registration upon notice and hearing as provided in this section unless the licensee waives such notice and hearing. Licenses are subject to suspension or revocation when it shall appear that:

- (1) The licensee has failed to comply with or has violated the provision of this division; or
- (2) The license was obtained by an application in which any material fact was omitted or falsely stated.

(e) In addition to the foregoing, a license issued pursuant to this division may be suspended after a hearing pursuant to the provisions of this section, when the CAD receives written notification that the licensee's officer, director or partner, or any other stockholder owning, holding, or controlling a majority interest in the issued and outstanding stock of a licensee or of the issued and outstanding stock of a corporate partner of a partnership licensee, has pled *nolo contendere*, guilty, or been convicted of a felony or of any criminal offense involving motor vehicles. In addition, the CAD may initiate a hearing as hereinafter specified to consider a revocation of such license. A licensee whose license has been suspended under this division shall be entitled to reinstatement of such licensee's license upon proof that:

- (1) After a felony conviction, the licensee's civil rights have been restored or that the licensee otherwise qualifies for restoration of rights under § 940.05, F.S.; or
- (2) After a conviction of any other criminal offense, that the person convicted has successfully completed all sentences of incarceration, probationary periods, required rehabilitation activities, and payment of all fines and penalties imposed in connection with such criminal offense.

(f) All hearings required by this section for proposed suspension or revocations of licenses shall be preceded by a minimum of twenty (20) days' written notice. That notice shall specify the director's proposed action and the grounds upon which the action is predicated. The licensee may be represented by legal counsel and shall be entitled to present a defense to the proposed action. Failure to appear at a duly noticed hearing shall be deemed a waiver of the right to hearing and an admission of the acts specified in the notice. Failure to claim certified mail notifying the licensee of the hearing shall be construed as failure to appear at a duly noticed hearing.

(g) All such hearings shall be conducted in the same manner as Consumer Protection Board hearings (division 1, sections 20-176, 20-176.1, of this article), and shall be before a three-

member panel. All such hearings shall be reported and, at the request of any party, transcribed at the expense of said party. Within a reasonable time after the conclusion of the hearing, the panel shall submit to the director a statement of findings, conclusions and recommendations and the CAD shall promptly notify all parties, in writing (division 1, section 20-176.2, of this article) of its final decision.

(h) The decision of the panel may be appealed to a court of appropriate jurisdiction in accordance with the Florida Rules of Appellate Procedure.

(i) Whenever any person has engaged in any acts or practices which constitute violations of any provision of this division or the code, the state attorney for the county attorney's office may make application to the seventeenth judicial circuit for an order enjoining such acts or practices and for an order granting permanent injunction, restraining order, or other order enjoining such acts or practices, said orders to be granted without bond.

(Ord. No. 91-25, § 1, 6-11-91)

Sec. 20-176.89. Supplemental enforcement.

In addition to all other penalties, remedies, or other enforcement measures established within this division, or as otherwise provided by law, violations of this division shall be subject to civil penalties as provided by chapter 8 1/2 of the Broward County Code of Ordinances; and penalties shall be imposed as set forth in the schedule of penalties therein.

(Ord. No. 91-25, § 1, 6-11-91)