

HOUSE BILL No. 5716

July 30, 2014, Introduced by Rep. Santana and referred to the Committee on Regulatory Reform.

A bill to amend 1974 PA 300, entitled
"Motor vehicle service and repair act,"
(MCL 257.1301 to 257.1340) by adding sections 20a and 22a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 20A. A REGISTERED MOTOR VEHICLE REPAIR FACILITY UNDER
2 THIS ACT IS NO LONGER REGISTERED IF MORE THAN 30 DAYS HAVE PASSED
3 AFTER THE EXPIRATION DATE OF THE REGISTRATION AND THE ADMINISTRATOR
4 HAS NOT RECEIVED AN APPLICATION FOR RENEWAL DURING THAT PERIOD.

5 SEC. 22A. (1) IN ADDITION TO ANY OTHER REMEDIES OR PENALTIES
6 UNDER THIS ACT OR OTHERWISE PROVIDED BY LAW, IF THE ADMINISTRATOR
7 DETERMINES THAT A PERSON THAT IS REQUIRED TO REGISTER A MOTOR
8 VEHICLE REPAIR FACILITY UNDER SECTION 6 HAS NOT REGISTERED THAT
9 FACILITY UNDER THIS ACT, THE ADMINISTRATOR MAY DO 1 OR MORE OF THE
10 FOLLOWING:

11 (A) ISSUE THE PERSON A VERBAL OR WRITTEN WARNING. THE

1 ADMINISTRATOR SHALL PROVIDE NOTICE IN WRITING OF THE ISSUANCE OF A
2 WRITTEN WARNING UNDER THIS SUBDIVISION TO THE PERSON AGAINST WHICH
3 THE ORDER IS ISSUED.

4 (B) ISSUE A CEASE AND DESIST ORDER. A CEASE AND DESIST ORDER
5 ISSUED BY THE ADMINISTRATOR MAY REQUIRE THE PERSON TO CEASE AND
6 DESIST FROM THE UNLAWFUL ACT OR PRACTICE OR TO TAKE ANY AFFIRMATIVE
7 ACTION THAT THE ADMINISTRATOR DETERMINES IS NECESSARY FOR THE
8 PERSON TO MEET THE REQUIREMENTS OF THIS ACT. THE ADMINISTRATOR
9 SHALL PROVIDE NOTICE IN WRITING OF THE ISSUANCE OF A CEASE AND
10 DESIST ORDER UNDER THIS SUBDIVISION TO THE PERSON AGAINST WHICH THE
11 ORDER IS ISSUED.

12 (C) ASSESS AN ADMINISTRATIVE FINE OF NOT MORE THAN \$5,000.00
13 FOR A FIRST VIOLATION OF THE REGISTRATION REQUIREMENTS OF THIS ACT,
14 AND NOT MORE THAN \$7,500.00 FOR EACH SUBSEQUENT VIOLATION THAT
15 OCCURS WITHIN 7 YEARS OF A PREVIOUS VIOLATION. THE ADMINISTRATOR
16 SHALL PROVIDE NOTICE IN WRITING OF THE ASSESSMENT OF A FINE UNDER
17 THIS SECTION TO THE PERSON AGAINST WHICH THE FINE IS ASSESSED. AT A
18 MINIMUM, THE NOTICE OF ASSESSMENT SHALL CONTAIN ALL OF THE
19 FOLLOWING:

20 (i) A UNIQUE IDENTIFICATION NUMBER.

21 (ii) A DESCRIPTION OF THE ALLEGED VIOLATION THAT IS THE BASIS
22 FOR THE ASSESSMENT, INCLUDING THE DATE THE ALLEGED VIOLATION
23 OCCURRED AND A REFERENCE TO THE SPECIFIC SECTION OR SECTIONS OF THE
24 ACT THAT THE PERSON ALLEGEDLY VIOLATED.

25 (iii) THE ADMINISTRATIVE FINE ESTABLISHED FOR THE VIOLATION.

26 (iv) A STATEMENT INDICATING THAT IF THE FINE IS NOT PAID, THE
27 ADMINISTRATOR MAY REFER THE FINE TO THE DEPARTMENT OF TREASURY FOR

1 COLLECTION.

2 (2) WITHIN 20 DAYS AFTER RECEIVING THE WRITTEN NOTICE OF
3 ASSESSMENT DESCRIBED IN SUBSECTION (1) (C), THE ALLEGED VIOLATOR
4 SHALL DO ALL OF THE FOLLOWING:

5 (A) PAY THE ADMINISTRATIVE FINE TO THE ADMINISTRATOR.

6 (B) IF THE PERSON HAS NOT REGISTERED THE MOTOR VEHICLE REPAIR
7 FACILITY UNDER THIS ACT AT THE TIME THE ADMINISTRATIVE FINE IS
8 PAID, SUBMIT A PROPERLY COMPLETED REGISTRATION APPLICATION TO THE
9 ADMINISTRATOR.

10 (3) IF THE ADMINISTRATOR ISSUES A CEASE AND DESIST ORDER OR A
11 WRITTEN WARNING UNDER SUBSECTION (1) TO A MOTOR VEHICLE REPAIR
12 FACILITY, THE ADMINISTRATOR MAY REQUIRE THAT THE FACILITY
13 CONSPICUOUSLY DISPLAY ANY AND ALL OF THE ORDER OR WARNING ON ALL
14 DOORS THAT PROVIDE ACCESS TO THE FACILITY BY MEMBERS OF THE PUBLIC
15 AND TO CONTINUE THAT DISPLAY UNTIL THE ADMINISTRATOR APPROVES
16 REMOVAL.

17 (4) ALL OF THE FOLLOWING APPLY TO THE SERVICE OF A NOTICE OF
18 WRITTEN WARNING, A CEASE AND DESIST ORDER, OR A NOTICE OF
19 ASSESSMENT OF A FINE UNDER SUBSECTION (1):

20 (A) THE ADMINISTRATOR SHALL SERVE THE NOTICE OR ORDER IN
21 PERSON, BY A DESIGNATED AGENT OF THE ADMINISTRATOR, OR BY FIRST-
22 CLASS MAIL.

23 (B) SERVICE UNDER SUBDIVISION (A) BY FIRST-CLASS MAIL IS
24 COMPLETE ON THE EXPIRATION OF 5 DAYS AFTER THE MAILING OF THE
25 NOTICE OR ORDER.

26 (C) PROOF OF SERVICE MAY BE MADE BY A CERTIFICATE OF AN
27 INDIVIDUAL WHO IS AT LEAST 18 YEARS OLD, THAT NAMES THE PERSON TO

1 WHICH THE NOTICE OR ORDER WAS MAILED AND SPECIFIES THE TIME AND
2 PLACE IT WAS MAILED.

3 (5) AFTER A PERSON PAYS THE ADMINISTRATOR AN ADMINISTRATIVE
4 FINE ASSESSED UNDER THIS SECTION, THE ADMINISTRATOR SHALL FORWARD
5 THE MONEY TO THE DEPARTMENT OF TREASURY FOR DEPOSIT IN A SEPARATE
6 FUND WITHIN THE GENERAL FUND. UPON APPROPRIATION, THIS MONEY SHALL
7 BE USED FIRST TO DEFRAY THE EXPENSE OF THE ADMINISTRATOR IN
8 ADMINISTERING THIS ACT.

9 (6) IF AN ADMINISTRATIVE FINE ASSESSED UNDER THIS SECTION IS
10 NOT PAID WITHIN 60 DAYS AFTER THE DATE THE FINE WAS ASSESSED, THE
11 ADMINISTRATOR MAY REFER THE MATTER TO THE DEPARTMENT OF TREASURY
12 FOR COLLECTION AS A STATE DEBT THROUGH THE OFFSET OF STATE TAX
13 REFUNDS AND MAY USE THE SERVICES OF THE DEPARTMENT OF TREASURY TO
14 LEVY THE SALARY, WAGES, OR OTHER INCOME OR ASSETS OF THE PERSON AS
15 PROVIDED BY LAW.

16 (7) PAYMENT OF AN ADMINISTRATIVE FINE ASSESSED UNDER THIS
17 SECTION DOES NOT CONSTITUTE AN ADMISSION OF RESPONSIBILITY OR GUILT
18 BY THE PERSON AGAINST WHICH THE FINE IS ASSESSED. PAYMENT OF AN
19 ADMINISTRATIVE FINE ASSESSED UNDER THIS SECTION DOES NOT PREVENT
20 THE ADMINISTRATOR FROM CHARGING A VIOLATION DESCRIBED IN THE
21 ASSESSMENT OF THE ADMINISTRATIVE FINE IN A SUBSEQUENT OR CONCURRENT
22 CONTESTED CASE PROCEEDING CONDUCTED BY THE ADMINISTRATOR UNDER THE
23 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
24 24.328.

25 (8) IF THE PERSON SUBMITS A PROPERLY COMPLETED APPLICATION AND
26 APPROPRIATE FEE FOR MOTOR VEHICLE REPAIR FACILITY REGISTRATION
27 WITHIN 20 DAYS AFTER AN ADMINISTRATIVE FINE UNDER SUBSECTION (1) IS

1 ASSESSED, AND IF THE ADMINISTRATOR REGISTERS THE MOTOR VEHICLE
2 REPAIR FACILITY WITHIN 45 DAYS AFTER RECEIVING THE PROPERLY
3 COMPLETED APPLICATION AND FEE, THE ADMINISTRATOR SHALL REDUCE THE
4 AMOUNT OF THE ADMINISTRATIVE FINE BY 50%.

5 Enacting section 1. This amendatory act takes effect 90 days
6 after the date it is enacted into law.