

SENATE No. 2664

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act Text of the Senate amendment (Ways and Means) to the House Bill relative to motor vehicle glass repair shop registration H.5080.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 100A of the General Laws is hereby amended by striking out
2 section 1, as appearing in the 2008 Official Edition, and inserting in place thereof the following
3 section:-

4 Section 1. As used in this chapter the following words shall, unless the context clearly
5 requires otherwise, have the following meanings:

6 “Deputy director”, the deputy director of standards in the office of consumer affairs and
7 business regulation.

8 “Registered motor vehicle repair shop”, a motor vehicle repair shop which has a current
9 valid certificate of registration for motor vehicle repair issued hereunder.

10 “Registered motor vehicle glass repair shop”, a motor vehicle glass repair shop which has
11 a current valid certificate of registration for motor vehicle glass repair issued hereunder.

12 “Motor vehicle repair”, the business or act of repairing damaged motor vehicles in the
13 commonwealth for compensation, excluding motor vehicle glass repair.

14 “Motor vehicle glass repair”, the business or act of repairing or replacing damaged or
15 undamaged glass in motor vehicles in the commonwealth for compensation.

16 “Motor vehicle repair shop”, a person or entity which, for compensation, or with the
17 intention or expectation of receiving the same, repairs or undertakes to repair in the
18 commonwealth a damaged motor vehicle as defined in section 34A of chapter 90, excluding
19 motor vehicle glass repair.

20 “Motor vehicle glass repair shop”, a person or entity which, for compensation, or with the
21 intention or expectation of receiving the same, repairs or replaces or undertakes to repair or
22 replace motor vehicle glass in the commonwealth.

23 “Person”, an individual, association, partnership or corporation, and the officers, directors
24 and employees of a corporation.

25 “Unregistered motor vehicle repair shop”, a motor vehicle repair shop that does not have
26 a current valid certificate of registration issued hereunder, which has had its registration revoked
27 or suspended, or which has surrendered its certificate of registration hereunder.

28 “Unregistered motor vehicle glass repair shop”, a motor vehicle glass repair shop that
29 does not have a current valid certificate of registration issued hereunder, which has had its
30 registration revoked or suspended, or which has surrendered its certificate of registration
31 hereunder.

32 SECTION 2. Section 2 of said chapter 100A, as so appearing, is hereby amended by
33 inserting after the words “motor vehicle repair”, in line 1, the following words:- or motor vehicle
34 glass repair.

35 SECTION 3. Said section 2 of said chapter 100A, as so appearing, is hereby further
36 amended by inserting after the words “motor vehicle repair shop”, in lines 2 and 3, in each
37 instance, the following words:- or motor vehicle glass repair shop.

38 SECTION 4. Said section 2 of said chapter 100A, as so appearing, is hereby further
39 amended by inserting after the words “registered motor vehicle repair shop”, in lines 14 and 15,
40 21, 23 and 24, 30 and 31 and 33, in each instance, the following words:- or registered motor
41 vehicle glass repair shop.

42 SECTION 5. Section 3 of said chapter 100A, as so appearing, is hereby amended by
43 inserting after the words “motor vehicle repair”, in line 14, the following words:- or motor
44 vehicle glass repair.

45 SECTION 6. Said section 3 of said chapter 100A, as so appearing, is hereby further
46 amended by inserting after the words “registered motor vehicle repair shop”, in lines 17, 19 and
47 20 and 22 and 23, in each instance, the following words:- or registered or previously registered
48 motor vehicle glass repair shop.

49 SECTION 7. Section 4 of said chapter 100A, as so appearing, is hereby amended by
50 inserting after the word “control”, in line 8, the following words:- and a registered motor vehicle
51 glass repair shop may employ unregistered individuals to repair or replace motor vehicle glass
52 under the registrant’s immediate direction and control.

53 SECTION 8. Section 6 of said chapter 100A, as so appearing, is hereby amended by
54 inserting after the words “motor vehicle repair shops”, in line 4, the following words:- and motor
55 vehicle glass repair shops.

56 SECTION 9. Section 7 of said chapter 100A, as so appearing, is hereby amended by
57 inserting after the words “registered motor vehicle repair shop”, in line 1, the following words:-
58 and registered motor vehicle glass repair shop.

59 SECTION 10. Said section 7 of said chapter 100A, as so appearing, is hereby further
60 amended by inserting after the words “unregistered motor vehicle repair shop”, in line 3, the
61 following words:- or unregistered motor vehicle glass repair shop.

62 SECTION 11. Said section 7 of said chapter 100A, as so appearing, is hereby further
63 amended by inserting after the words “registered motor vehicle repair shop”, in line 6, the
64 following words:- or a registered motor vehicle glass repair shop unless so registered.

65 SECTION 12. Section 8 of said chapter 100A, as so appearing, is hereby amended by
66 inserting after the words “registered motor vehicle repair shop”, in line 1, the following words:-
67 or registered motor vehicle glass repair shop.

68 SECTION 13. Said section 8 of said chapter 100A, as so appearing, is hereby further
69 amended by inserting after the words “motor vehicle repair”, in line 2, the following words:- or
70 motor vehicle glass repair.

71 SECTION 14. Section 9 of said chapter 100A, as so appearing, is hereby amended by
72 inserting after the words “registered motor vehicle repair shop”, in line 1, the following words:-
73 and registered motor vehicle glass repair shop.

74 SECTION 15. Said section 9 said chapter 100A, as so appearing, is hereby further
75 amended by adding following subsection:-

76 (d) A registered motor vehicle glass repair shop shall maintain records for each motor
77 vehicle upon which motor vehicle glass repair services have been performed, showing the usage
78 of all glass parts, major accessory parts including moldings and major hardware component parts
79 and the adhesive system used in the motor vehicle glass repair, including the brand, product
80 number or name and lot and batch numbers for the adhesive system product used. Records shall
81 be maintained for 18 months or as long as a warranty on the motor vehicle glass repair service
82 performed is in effect, whichever is longer.

83 SECTION 16. Said chapter 100A is hereby further amended by adding the following 4
84 sections:-

85 Section 11. A person applying for registration or renewal as a registered motor vehicle
86 glass repair shop in the commonwealth shall meet the following requirements:

87 (a) a registered motor vehicle glass repair shop shall maintain a physical place of business
88 within the commonwealth at which it has indoor facilities to perform motor vehicle glass repair
89 services or from which it may lawfully dispatch mobile service vans;

90 (b) a registered motor vehicle glass repair shop mobile service van shall be a commercial
91 vehicle properly registered and insured in the commonwealth;

92 (c) a registered motor vehicle glass repair shop shall possess and maintain in working
93 order the equipment necessary to provide motor vehicle windshield glass stone chip repair;

94 (d) a registered motor vehicle glass repair shop that provides motor vehicle glass
95 replacement services shall possess and maintain the equipment necessary to perform motor
96 vehicle glass replacement services;

97 (e) a motor vehicle glass repair shop shall obtain all required local, state and federal
98 licenses and permits including a state sales tax identification number and a federal tax
99 identification number; and

100 (f) a registered motor vehicle glass repair shop shall not subcontract or sublet motor
101 vehicle glass repair services to another person or entity not in its employ, unless such person or
102 entity is also a duly registered motor vehicle glass repair shop.

103 Section 12. (a) Upon request, a registered motor vehicle glass repair shop shall disclose to
104 the consumer all information relating to the charges for repair or replacement services, including
105 the amount of the charges, the identification and line item charges for the parts provided and
106 verification of parts used, regardless of whether the amount is paid by the consumer or billed to
107 the insurance company thereof.

108 (b) A motor vehicle glass repair shop shall advise the consumer of post-repair practices
109 that may be necessary to insure safe operation of the consumer's vehicle.

110 Section 13. The division of standards shall have the right to inspect the premises of an
111 applicant for a motor vehicle glass repair shop registration or of a registered motor vehicle glass
112 repair shop for the purpose of ascertaining compliance with the requirements of this chapter.
113 Failure to comply with any of the requirements shall result in denial of an application or, if
114 already registered, the suspension of a motor vehicle glass shop registration until such time as the
115 division re-inspects the facility and determines the shop is in compliance.

116 Section 14. Any motor vehicle glass repair to be performed in the commonwealth shall be
117 performed by a registered motor vehicle glass repair shop. A person, including an insurer,
118 insurance agent, third-party administrator or a motor vehicle service establishment or other party
119 receiving a report of, or an inquiry regarding, motor vehicle glass damage or a request for motor
120 vehicle glass repair services shall inform the person making such report or inquiry that, under
121 Massachusetts law, such motor vehicle glass repair must be performed by a motor vehicle glass
122 repair shop registered in accordance with Massachusetts law.

123 SECTION 17. Chapter 175 of the General Laws is hereby amended inserting after section
124 113W the following section:-

125 Section 113X. (a) This section shall apply to any motor vehicle glass repair or
126 replacement which is to be performed in the commonwealth and which is covered in whole or in
127 part by motor vehicle liability insurance.

128 (b) An insurer, insurance producer, adjuster or third party administrator for such insurer
129 shall not:

130 (i) require a person to use a particular registered motor vehicle glass repair shop for such
131 motor vehicle glass repair or replacement;

132 (ii) use or employ unfair or deceptive acts or practices for the purpose of inducing a
133 person to use a particular registered motor vehicle glass repair shop to provide motor vehicle
134 glass repair services, including, but not limited to, engaging in an act or practice designed to
135 intimidate, threaten or coerce a person to use, or for having used, a particular registered motor
136 vehicle glass repair shop; or

137 (iii) negotiate with a motor vehicle glass repair shop to provide motor vehicle glass repair
138 if such shop is not a duly registered and licensed repair shop in the commonwealth.

139 (c) If an insured selects a particular registered motor vehicle glass repair shop to provide
140 motor vehicle glass repair services, no appraiser or employee of an independent appraisal
141 company, no insurance company or employee thereof and no representative or third party biller
142 shall require that such motor vehicle glass repair be made at a different registered motor vehicle
143 glass repair shop.

144 (d) Once a registered motor vehicle glass repair shop has been selected to provide motor
145 vehicle glass repair services, an insurer or third party biller shall not assign or dispatch the repair
146 work or forward a related policy or policyholder's contact or repair scheduling information to a
147 different registered motor vehicle glass repair shop without the knowledge and consent of the
148 insured.

149 (e) An insured may at any point in time elect to change their choice of registered motor
150 vehicle glass repair shop.

151 (f) An insurer may, either directly or through its producers, adjusters or third party
152 administrator, provide directly or through other means, including electronic transmissions,
153 information to assist in selecting a motor vehicle glass repair shop or scheduling such motor
154 vehicle glass repair shop to perform motor vehicle glass repair.

155 (g) Whenever it appears to the commissioner that an insurance company, producer, third
156 party biller or adjuster for such insurance company has violated this section the commissioner
157 may, after providing notice and an opportunity to be heard, order that the violator pay a civil
158 assessment of not less than \$1,000 nor more than \$5,000 for each violation. The fine shall be

159 collected by the division of insurance and deposited in a retained revenue account to be used by
160 the division to carry out the enforcement of this section.

161 SECTION 18. Section 3 of chapter 176D of the General Laws is hereby amended by
162 striking out subsection (12), as so appearing, and inserting in place thereof the following
163 subsection:-

164 (12) Any violation of sections 2B, 95, 113X, 181 to 183, inclusive, 187B to 187D,
165 inclusive, 189, 193E or 193K of chapter 175.

166 SECTION 19. Notwithstanding any general or special law to the contrary, a registered
167 motor vehicle repair shop, as defined in section 1 of chapter 100A of the General Laws,
168 performing motor vehicle glass repair on the effective date of this act shall not be required to
169 register as a motor vehicle glass repair shop until its motor vehicle repair shop registration in
170 effect on said effect date has expired.

171 SECTION 20. Notwithstanding any general or special law to the contrary, a registered
172 motor vehicle repair shop, as defined in section 1 of chapter 100A of the General Laws,
173 performing motor vehicle glass repair on the effective date of this act shall not be required to
174 register with the division of standards as both a registered motor vehicle repair shop and a
175 registered motor vehicle glass repair shop.

176 SECTION 21. The commissioner of the division of insurance shall adopt rules and
177 regulations for the administration and enforcement of section 113X of chapter 175 of the General
178 Laws.