

ACT 202

H.B. NO. 1636

A Bill for an Act Relating to Unregistered Motor Vehicle Mechanics and Repair Dealers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 437B, Hawaii Revised Statutes, is amended by adding two new sections to be appropriately designated and to read as follows:

“§437B- Citation for unregistered activity. (a) In addition to any other remedy available, an investigator may issue citations to persons acting as or engaging in the business of a motor vehicle mechanic or repair dealer within the State without having a registration certificate previously obtained under and in compliance with this chapter and the rules adopted by the director.

(b) Each citation shall be in writing and shall describe the basis of the citation, including the specific statutory provisions alleged to have been violated, and may contain an order of abatement, and an assessment of civil penalties as provided in section 437B- . All penalties collected under this section shall be deposited in the special fund established under section 26-9(o).

(c) Service of a citation issued under this section shall be made by personal service, or by certified mail, restricted delivery, sent to the last known business or residence address of the person cited.

(d) Any person served with a citation under this section may submit a written request to the director for a hearing, within twenty days of the receipt of the citation, with respect to: the violations alleged, the scope of the order of abatement, or the amount of the civil penalties assessed.

(e) If the person cited under this section timely notifies the director of the request for a hearing, the director shall afford the person an opportunity for a hearing in accordance with chapter 91. The hearing shall be conducted by the director, or the director may designate a hearings officer to hold the hearing. The director or any hearings officer designated by the director shall have the power to issue subpoenas, administer oaths, hear testimony, find facts, make conclusions of law, and issue a final order.

(f) If the person cited under this section does not submit a written request to the director for a hearing within twenty days from the receipt of the citation, the citation shall be deemed a final order of the director.

(g) The director may apply to the appropriate court for a judgment to enforce the provisions of any final order issued by the director or designated hearings officer pursuant to this section, including the provisions for abatement and civil penalties imposed.

(h) If any party is aggrieved by the decision of the director or the designated hearings officer, the party may appeal in the manner provided in chapter 91 to the circuit court of the circuit in which the party resides or has the party's principal place of business or in which the action in question occurred. The operation of an abatement order shall not be stayed on appeal unless specifically ordered by a court of competent jurisdiction after applying the stay criteria enumerated in section 91-14(c).

(i) The sanctions and disposition authorized under this section shall be separate from and in addition to all other remedies, either civil or criminal, provided in any other applicable statutory provision.

(j) The director may adopt rules pursuant to chapter 91 necessary for the purposes of the section.

§437B- Violation; penalties. (a) Registrants who perform work outside their appropriate specialty or area of certification or who aid or abet an unregistered person to evade this chapter shall be assessed a civil penalty of not more than \$500 for the first violation; not more than \$1,000 for the second violation; and not less than \$1,500 or more than \$2,000 for any subsequent violation.

(b) Any person who violates section 437B-7 shall be assessed a civil penalty of not more than \$500 for the first violation; not more than \$1,000 for the second violation; not more than \$2,000 for the third violation; and not more than \$2,500 for any subsequent violation."

SECTION 2. Section 437B-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Director” means the director of commerce and consumer affairs.”

SECTION 3. New statutory material is underscored.¹

SECTION 4. This Act shall take effect upon its approval and shall be repealed on June 30, 1996.

(Approved June 10, 1993.)

Note

1. Edited pursuant to HRS §23G-16.5.