

Chapter 31A. Motor Vehicle Repair and Towing Registration. [Note]

Article I. In General.

§ 31A-1. Definitions.

§ 31A-2. Required.

§ 31A-3. Application; fee.

§ 31A-4. Certificate-Issuance; term; renewal; display.

§ 31A-5. Revocation, suspension or refusal to renew generally; civil fines.

§ 31A-6. Complaints.

§ 31A-7. Procedure for revocation hearing; appeals.

§ 31A-8. Adoption of additional regulations.

§ 31A-9. Reserved.

Article II. Repair and Maintenance.

§ 31A-10. Repair and maintenance estimates.

§ 31A-11. Repair and maintenance records; detailed invoice required.

§ 31A-12. Notification of completion date.

§ 31A-13. Return of replaced parts.

§ 31A-14. Posting of notice to customers.

Article III. Towing.

§ 31A-15. Qualifications

Article I. In General.

Sec. 31A-1. Definitions.

In this Chapter, the following words and phrases have the following meanings:

Director or Executive Director: The Director of the Office of Consumer Protection.

Motor vehicle: Any vehicle, including trucks and motor bikes, fully or partially powered by an internal-combustion engine or electric motor and used as means of transportation on public highways.

Office: The Office of Consumer Protection.

Repair and maintenance: Includes the adjustment, replacement, removal or installation of any component or part of a motor vehicle including, but not limited to, any adjustment, replacement, removal, installation, examination or diagnosis of any component or part of the power train, engine, transmission, brake system, electrical system, engine cooling system, heating or air-conditioning system, exhaust system, suspension system and any other mechanical or nonmechanical part or component. The words "repair and maintenance" shall also include the examination, diagnosis, repair, adjustment, replacement, removal or installation of any part of the exterior or interior of any motor vehicle, including tires, lights, upholstery, windows, glass, paint or other body work and shall further include the replacement or installation of any oil, lubricant or fluid necessary or incidental to the operation, maintenance or repair of a motor vehicle or any component or part thereof. The words "repair and maintenance" shall not include the towing of any motor vehicle.

Towing: The moving or removing of, or the preparation to move, any motor vehicle by another motor vehicle for hire. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1988 L.M.C., ch. 29, § 1; 1996 L.M.C., ch. 13, § 1; [2005 L.M.C., ch. 26, § 1.](#))

Editor's note—2005 L.M.C., ch. 26, §§ 2 and 3, state:

Sec. 2. Regulations. A regulation which implements a function transferred to the Office of Consumer Protection by this Act continues in effect until otherwise amended or repealed, but any reference to any predecessor department or office must be treated as referring to the Office of Consumer Protection.

Sec. 3. Transition. This act does not invalidate or affect any action taken by the Department of Housing and Community Affairs before this Act took effect. Any responsibility or right granted by law, regulation, contract, or other document, and which is associated with a function transferred by this Act from the Department of Housing and Community Affairs, is transferred to the Office of Consumer Protection.

Sec. 31A-2. Required.

(a) It shall be unlawful for any person, firm or corporation to engage in the business, occupation, profession or trade of repairing or maintaining motor vehicles or motor vehicle equipment, or towing motor vehicles, unless such person, firm and corporation shall have first registered with the county. This provision shall not be construed to apply to persons employed by the registrant, nor shall it apply to any insurer engaged as indemnitor, any surety, or any contractor engaged in the business of entering into contracts of insurance, or to the representatives of any insurer; nor shall it apply to corporations or organizations which repair, maintain or tow motor vehicles for themselves or other corporations and organizations but not for the general public.

(b) Any person, firm or corporation who violates the provisions of this section shall be subject to punishment for a class A violation as set forth in section 1-19 of chapter 1 of the County Code. (1975 L.M.C., ch. 21, § 1; 1975 L.M.C., ch. 29, § 1; 1980 L.M.C., ch. 10, § 1; 1983 L.M.C., ch. 22, § 38.)

Sec. 31A-3. Application; fee.

(a) Any person, firm or corporation desiring to be engaged in business to repair, maintain or tow motor vehicles or install, repair or maintain motor vehicle equipment in the county shall register on the form provided by the county. Each application filed shall be accompanied by an application fee in the amount established by the county executive by written regulation adopted under method (3) of section 2A-15 of this Code. The county executive shall establish a sliding scale for such fees based on the number of employees engaged in repair work and with incentive to participate in voluntary certification through the National Institute for Automotive Service Excellence. This provision shall not be construed to require the registration of employees.

(b) The county shall maintain a permanent register of all applicants and registrants in such form as the chief administrative officer shall require. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1984 L.M.C., ch. 24, § 37.)

Sec. 31A-4. Certificate-Issuance; term; renewal; display.

(a) The County, through the Director, must issue a certificate of registration to an applicant within 10 days after receiving a completed application form and the applicable fee.

(b) Registration certificates issued pursuant to this Chapter shall be valid for an initial period of one (1) year from date of issuance; renewal certificates shall be valid for a period of three (3) years. Applicants for renewal shall make application therefor at least thirty (30) days prior to the expiration of their registration and pay such fee as is established by the County Executive by written regulation adopted under method (3) of Section 2A-15 of this Code.

(c) Registration certificates shall be displayed prominently in a public area of the registrant's place of business. Duplicate registration certificates may be obtained for a fee of two dollars (\$2.00) if any original certificate is lost, stolen or destroyed. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1980 L.M.C., ch. 34, § 1; 1984 L.M.C., ch. 24, § 37; 1996 L.M.C., ch. 13, § 1.)

Sec. 31A-5. Revocation, suspension or refusal to renew generally; civil fines.

(a) Under the procedures in section 31A-7, the County may revoke, suspend or refuse to renew the registration of any registrant, except a tower, who has violated Chapter 11, or who has engaged in any deceptive or unconscionable trade practice as defined in Chapter 11, or who has committed any of the following acts:

(1) Fraud or deceit in applying for a registration certificate.

(2) Aiding, abetting or knowingly combining or conspiring with an unregistered person with intent to evade this Chapter.

(3) Willful and deliberate violation of any state or County law or regulation relating to the repair or maintenance of motor vehicles.

(4) Willful failure to perform, without justification, any contract for repair, installation, or maintenance, or willful deviation from or disregard of any written estimate in any material respect without the consent of the consumer.

(5) Any conduct constituting gross negligence, relating to the repair or maintenance of motor vehicles.

(6) Repeatedly making or authorizing any statement or advertisement which is false or misleading and which is or should reasonably have been known to be false or misleading.

(7) Knowingly charging for any service which is not actually performed in repairing or maintaining a motor vehicle, knowingly charging for any parts which are not furnished, knowingly misinforming a consumer concerning what is wrong with a motor vehicle, or fraudulently substituting parts when the substitution has no relation to the repairs or services provided.

(b) Under the procedures in Section 31A-7, the County may revoke, suspend or refuse to renew the registration of any tower who does not comply with Article III of this Chapter.

(c) In making a decision regarding revocation or suspension, the County must consider the past conduct of the registrant.

(d) In addition to seeking the revocation or suspension of a registration, the County may also enforce or correct any violation of this Chapter as a class A violation. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1983 L.M.C., ch. 22, § 39; 1997 L.M.C., ch. 21, §1.)

Sec. 31A-6. Complaints.

(a) Any person subjected to any unlawful practice, as defined in this Chapter, may file a complaint in writing with the Office as provided in Chapter 11.

(b) After receiving a complaint under this Chapter, the Office must conduct such investigations and hearings as necessary under the authority delegated by Chapter 11.

(c) Repealed by 1983 L.M.C., ch. 42, § 1. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1983 L.M.C., ch. 42, § 1; 1996 L.M.C., ch. 13, § 1; [2005 L.M.C., ch. 26](#), § 1.)

Editor's note—2005 L.M.C., ch. 26, §§ 2 and 3, state:

Sec. 2. Regulations. A regulation which implements a function transferred to the Office of Consumer Protection by this Act continues in effect until otherwise amended or repealed, but any reference to any predecessor department or office must be treated as referring to the Office of Consumer Protection.

Sec. 3. Transition. This act does not invalidate or affect any action taken by the Department of Housing and Community Affairs before this Act took effect. Any responsibility or right granted by law, regulation, contract, or other document, and which is associated with a function transferred by this Act from the Department of Housing and Community Affairs, is transferred to the Office of Consumer Protection.

Sec. 31A-7. Procedure for revocation; hearing; appeals.

(a) If the Office finds a violation of this Chapter or Chapter 11, or a violation of any other applicable law or regulation relating to the repair or maintenance of motor vehicles, or if the Office finds a violation of Article III of this Chapter relating to the towing of motor vehicles, the Office may, in addition to the procedures established in Chapter 11, issue a written complaint against the registrant, seeking that the registrant's motor vehicle repair and towing registration be revoked, suspended, or refused. All complaints issued by the Office must be in writing and specify the allegations on which the complaint is based and the law or regulation which the registrant allegedly violated. All complaints must be served on the registrant against whom the complaint is made either by personal service or by certified mail, delivery restricted to addressee, mailed to the last address recorded in the official County registry.

(b) Before revoking, suspending or refusing to renew any registration, the Office must offer the registrant an opportunity for a hearing to show why the registration should not be revoked, suspended, or refused. The Director may serve as hearing officer at any hearing, or the Director may appoint a hearing officer. The registrant must receive at least 15 days written notice of the hearing by personal service or certified mail delivered to the last address recorded in the official County registry. The notice must specify the time, date and place of the hearing and contain sufficient information to inform the registrant of the nature of the complaint. The notice must specify that the registrant has a right to representation by counsel and that the registration may be suspended, revoked or refused by the County.

(c) The hearing officer, on finding a violation of this Chapter or Chapter 11, or any other applicable law or regulation relating to the repair or maintenance of motor vehicles, may revoke, suspend, or refuse to renew the registration of any registrant. The hearing officer may revoke, suspend, or refuse to renew a tower's registration on finding a violation of Article III of this Chapter relating to the towing of motor vehicles. Any decision to revoke, suspend, or refuse to renew registration must be in writing, include a statement of the facts on which it is based, and be served on a registrant by personal service or certified mail. Any registrant aggrieved by a decision to revoke, suspend or refuse any registration may appeal to the Circuit Court under the applicable rules for administrative appeals. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1983 L.M.C., ch. 42, § 2; 1996 L.M.C., ch. 13, § 1; 1997 L.M.C., ch. 21, § 1; [2005 L.M.C., ch. 26](#), § 1.)

Editor's note—2005 L.M.C., ch. 26, §§ 2 and 3, state:

Sec. 2. Regulations. A regulation which implements a function transferred to the Office of Consumer Protection by this Act continues in effect until otherwise amended or repealed, but any reference to any predecessor department or office must be treated as referring to the Office of Consumer Protection.

Sec. 3. Transition. This act does not invalidate or affect any action taken by the Department of Housing and Community Affairs before this Act took effect. Any responsibility or right granted by law, regulation, contract, or other document, and which is associated with a function transferred by this Act from the Department of Housing and Community Affairs, is transferred to the Office of Consumer Protection.

Sec. 31A-8. Adoption of additional regulations.

The county executive is hereby authorized to adopt, under method (2) of section 2A-15 of this Code, written regulations necessary for the implementation of the provisions of this chapter. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1984 L.M.C., ch. 24, § 37.)

Sec. 31A-9. Reserved.

Editor's note-Section 31A-9, relating to the applicability of this chapter within incorporated municipalities, derived from 1975 L.M.C., ch. 21, § 1, and 1980 L.M.C., ch. 10, § 1, was repealed by § 22 of 1985 L.M.C., ch. 31. See § 2-96.

Article II. Repair and Maintenance.

Sec. 31A-10. Repair and maintenance estimates.

(a) Any registrant shall provide to every consumer upon request a written estimate of repairs the total of which exceeds twenty-five dollars (\$25.00). The estimate shall state the name and address of the motor vehicle's owner, the make, year and tag number of the motor vehicle and the odometer reading, and the total estimated cost of:

- (1) All parts which shall be listed with reasonable particularity. If used or rebuilt parts are to be installed, they shall be so designated;
- (2) Description of motor vehicle problem as described by consumer as well as any specific repair requested by consumer;
- (3) Labor charges and method of computation;
- (4) Incidental service charges;
- (5) Charges, if any, for release of the motor vehicle in the event that the motor vehicle is not repaired; and
- (6) Charges, if any, for making the estimate.

Any registrant may charge a reasonable fee for making estimates; provided, that a reasonable time is needed for diagnosis of the problem and disclosure of the fee is made prior to making the estimate. The consumer shall not be charged for the provision of such an estimate unless such a fee is disclosed prior to making the estimate.

(b) Any express warranty of parts or workmanship shall be stated.

(c) In the event that a determination is made that the actual charges for the repairs or maintenance will exceed the total written or oral estimate by more than ten (10) percent of the total estimate, the consumer or his designated agent

shall be immediately notified by telephone, telegram, mail or written notice of the new estimated charges. Such notification shall be at the expense of the registrant. A consumer so notified may authorize the new estimate charge or may cancel the order for repairs. Such authorization or cancellation must be confirmed in writing by the registrant or his employee. If the order for repair is canceled by the consumer, the unrepaired or partially repaired motor vehicle shall be released expeditiously in reasonably like condition as received unless it is impossible to reinstall removed part or parts and upon payment of whatever charge is imposed for the services performed on the vehicle.

(d) Except as otherwise provided herein, no registrant or his employee shall perform any motor vehicle repair or maintenance on the basis of an estimate prepared by other than the registrant or his employee. With respect to the performance of repairs or maintenance on the basis of estimates prepared by third parties, registrants shall have the responsibility to exercise their independent judgment regarding the nature and the scope of the work to be performed and the parts, materials and labor involved in making such repairs. Nothing herein shall be construed to prohibit a registrant from adopting, accepting or incorporating a third party's estimate into its own estimate for any repair work, by endorsing such third party estimate in writing with the words "adopted," "accepted," "incorporated" or with words of similar import; provided, that the registrant, in so doing, acknowledges in writing that its own opinion coincides with that of the estimate adopted or incorporated from the third party; and further provided, that the registrant incorporates any additional information necessary to assure that the registrant's estimate complies with the provisions of this chapter. (1975 L.M.C., ch. 21, § 1; 1975 L.M.C., ch. 29, § 2; 1980 L.M.C., ch. 10, § 1.)

Sec. 31A-11. Repair and maintenance records; detailed invoice required.

(a) All repair and maintenance work done by any registrant or his employees shall be recorded on an invoice detailing and describing all services or work performed and all parts supplied and the exact charge for each such part or service, except where the total charge is less than fifteen dollars (\$15.00).

(1) Invoices shall state the name and address of the owner of the motor vehicle and the year, make, tag number and odometer reading.

(2) Invoices shall specify if any used or rebuilt parts are supplied and, if used, such parts shall be clearly identified and such fact shall be clearly stated.

(3) Invoices shall include the parts number of all parts replaced or installed. Except where parts have a warranty of ninety (90) days or more, invoices shall include the brand name and parts number of all parts replaced or installed.

(4) No miscellaneous designations, such as shop materials or shop supplies, may be used, unless the consumer is given reasonable notice at the time he brings his vehicle in for service of the method of computation of this charge. It shall be prima facie evidence that such notice has been given if there is posted, in a conspicuous place at the point where vehicles are normally received for repair, a sign stating that such charge shall be made and the method of its computation.

(5) If labor is charged by the clock hour, this fact shall be disclosed on the invoice and labor shall be itemized and the time spent on each service and the labor cost of each such service shall be stated along with the total time and total labor charges.

(6) If labor is charged by the flat rate manual or any flat rate measure, this fact shall be disclosed.

(7) The final invoice shall contain the name, initials or number of the mechanic or mechanics, the registration number of the shop, as well as a statement that the repairs charged for were needed and were performed. A statement that repairs were needed is not required when repairs are specifically requested by the consumer or approved by the consumer upon recommendation by the shop.

(8) The final invoice shall be signed by the registrant, shop manager or his designee who shall verify that the motor vehicle has been tested or test driven when needed and that in his opinion the mechanic's work was performed satisfactorily. The consumer may specifically waive in writing the requirement to test drive the vehicle.

(9) Every final invoice or work order shall contain the customer's instructions or descriptions of symptoms regarding his vehicle's needs and the shop's diagnosis of the problem or problems and shall specify any express warranty of parts or workmanship.

(b) One (1) copy of the invoice shall be given to the consumer and one (1) copy shall be retained by the registrant or business establishment for a period of at least one (1) year. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1980 L.M.C., ch. 34, § 1; 1983 L.M.C., ch. 42, § 3.)

Sec. 31A-12. Notification of completion date.

Upon request, any registrant or his employee shall give to a requesting consumer an estimated completion date for repairs or maintenance, in writing, or disclose in writing that a completion date is undeterminable. An automotive repair facility shall not incur any liability for breach of the written estimated completion date for a repair if such delay is caused by an act of God, strike, unexpected illness or unexpected shortage of labor or parts. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1; 1980 L.M.C., ch. 34, § 1; 1983 L.M.C., ch. 42, § 4.)

Sec. 31A-13. Return of replaced parts.

The automotive repair facility shall return replaced parts to the customer except parts required to be returned to the manufacturer or distributor under a warranty agreement or parts disposed of with the oral or written consent of the customer. (1975 L.M.C., ch. 31, § 1; 1980 L.M.C., ch. 10, § 1.)

Sec. 31A-14. Posting of notice to consumers.

(a) All business establishments which engage in motor vehicle repair or maintenance shall give reasonable notice of the consumer's right to a written estimate. It shall be prima facie evidence of such notice if there is posted in a conspicuous place at the point where vehicles are normally received for repair, a sign two (2) feet by three (3) feet stating: "Under the provisions of the Montgomery County Code, all customers are entitled to a written estimate upon request before repair work over \$25 is begun and this business must comply with that law."

(b) Each business establishment engaged in the business of motor vehicle repair or maintenance shall give reasonable notice of its policy on storage charges. It shall be prima facie evidence of such notice if there is posted in a conspicuous place at the point where vehicles are normally received for repair, a sign stating its storage policy; provided, that no storage charge shall accrue or be due and payable for a period of twenty-four (24) hours from the date of notification to a consumer of the completion of repairs or services, unless otherwise agreed. (1975 L.M.C., ch. 21, § 1; 1980 L.M.C., ch. 10, § 1.)

Article III. Towing.

Sec. 31A-15. Qualifications.

To register as a tower, an applicant must:

(a) Certify to the Department that each driver will possess a valid license to drive a towing vehicle.

(b) Carry, in addition to any coverage the state requires, a minimum of \$25,000 of insurance coverage for losses sustained by any consumer as a result of damage to a vehicle while that vehicle is in the custody and control of the licensee during towing, transport, and storage of the automobile by the licensee. The applicant must submit an insurance policy or other document showing compliance with this subsection to the Department. The additional

insurance required by this subsection may be suspended, increased or decreased under Executive regulations on a showing of availability or nonavailability to licensees of particular types of insurance from the insurance industry or on presentation of facts showing that such insurance is insufficient or greater than necessary to ensure protection of consumers or the public. (1980 L.M.C., ch. 10, § 1; 1997 L.M.C., ch. 21, §1.)

Notes

[Note] *Cross references-Motor vehicle towing from private property, ch. 30C; motor vehicles and traffic, ch. 31.

Disclaimer:

This Code of Ordinances and/or any other documents that appear on this site may not reflect the most current legislation adopted by the Municipality. American Legal Publishing Corporation provides these documents for informational purposes only. These documents should not be relied upon as the definitive authority for local legislation. Additionally, the formatting and pagination of the posted documents varies from the formatting and pagination of the official copy. The official printed copy of a Code of Ordinances should be consulted prior to any action being taken.

For further information regarding the official version of any of this Code of Ordinances or other documents posted on this site, please contact the Municipality directly or contact American Legal Publishing toll-free at 800-445-5588.

© 2011 American Legal Publishing Corporation
techsupport@amlegal.com
1.800.445.5588.