

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: **HB 365**
SPONSOR(S): **Glorioso**
TIED BILLS:

Motor Vehicle Repair Shops

IDEN./SIM. BILLS: **SB 108**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Agriculture Committee</u>	<u>9 Y, 0 N</u>	<u>Reese</u>	<u>Reese</u>
2) <u>Insurance Committee</u>	<u></u>	<u>Freire</u>	<u>Cooper</u>
3) <u>Governmental Operations Committee</u>	<u></u>	<u></u>	<u></u>
4) <u>Agriculture & Environment Appropriations Committee</u>	<u></u>	<u></u>	<u></u>
5) <u>State Resources Council</u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

Currently, motor vehicle repair shops in Florida, with few exceptions, are required to register with the Department of Agriculture and Consumer Services (department). Shops are required to provide consumers with estimates for repairs, to provide invoices for completed repairs, and not to exceed the estimated cost of a repair by a certain amount.

Section 559.904(1), F.S., requires applicants registering for motor vehicle repair shops to include, in the application, the name of the applicant, the name under which the applicant is doing business, a business address, copies of all licenses, permits and certifications, and the number of employees in the business. If a motor vehicle repair shop violates one of these provisions, the department may issue a notice of noncompliance, impose administrative fines for violations, require shops to cease and desist specified activities, suspend a registration, or place a registrant on probation for a period of time.

The bill requires a motor vehicle repair shop to provide proof of at least \$300,000 of liability insurance on repairs performed by the shop as a condition of registration or renewal of registration with the Department of Agriculture and Consumer Services. The failure to provide proof of liability insurance is grounds for denial, revocation, or refusal of registration by the department. This bill also provides the department with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty for failure to maintain the required insurance.

This bill will not have a fiscal impact on state or local government.

This bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – This bill requires a motor vehicle repair shop to purchase liability coverage of at least \$300,000 on repairs performed by the shop.

Empower families – This bill may allow families to receive compensation, otherwise unavailable, for injuries suffered because of a motor vehicle repair shop.

B. EFFECT OF PROPOSED CHANGES:

Florida Motor Vehicle Repair Act

The Florida Motor Vehicle Repair Act is contained in ss. 559.901- 559.9221, F.S. The act requires all motor vehicle repair shops to register with the Department of Agriculture and Consumer Services (department).¹ The act also requires repair shops to provide estimates for repairs, invoices for completed repairs,² and makes it unlawful for the cost of repairs to exceed the estimate by specified amounts.³ The act provides that certain actions are prohibited, including, but not limited to: making or charging for repairs not authorized by the customer; misrepresenting certain parts and services necessary to repair a vehicle; and, willfully departing from accepted practices and professional standards.⁴

The Florida Motor Vehicle Repair Act does not apply to the following motor vehicle repair shops:

- Any motor vehicle repair shop of municipal, county, state, or federal government when carrying out the functions of the government;
- Any person who engages solely in the repair of:
 - motor vehicles which are owned, maintained, and operated exclusively by such person for that person's own use; or
 - for-hire vehicles, as defined in s. 320.01(15) (a), F.S., which are rented for periods of 30 days or less;
- Any person who repairs only motor vehicles which are operated principally for agricultural and horticultural pursuits on farms, groves, and orchards;
- Motor vehicle auctions licensed under s. 320.27(1)(c)4, F.S., and persons performing motor vehicle repair solely for such auctions; and
- Any shop located in a public school as defined in s. 1000.04, F.S., or a charter technical career center as defined in s. 1002.34, F.S.

However, these motor vehicle repair shops may voluntarily register under the act.⁵

Vehicle Repair Shop Registration

Section 559.904(1), F.S., requires applicants registering for motor vehicle repair shops to provide the following information:

- The name of the applicant;

¹ Section 559.904, F.S.

² Section 559.905, F.S.

³ Section 559.909, F.S.

⁴ Section 559.920, F.S.

⁵ Section 559.902, F.S.

- The name under which the applicant is doing business;
- The business address at which the applicant performs repair work or in the case of a mobile motor vehicle repair shop, the home address of the owner, if different from the business address;
- Copies of all licenses, permits, and certifications obtained by the applicant or employees of the applicant; and
- The numbers of employees which the applicant intends to employ or which are currently employed.

Each application for registration must be accompanied by a registration fee calculated on a per-year basis as follows: If the place of business has 1 to 5 employees, the fee is \$50; if the place of business has 6 to 10 employees, the fee is \$150; and, if the place of business has 11 or more employees, the fee is \$300.⁶

Enforcement Authority

If a motor vehicle repair shop violates the provisions of s. 559.921(4)(a), F.S., which violations include:

- Making a material false statement in any application, document, or record required to be submitted or retained under this part;
- Refusal or failure, or any of its principal officers refusing or failing, after notice, to produce any document or record or disclose any information required to be produced or disclosed under this part or the rules of the department; or
- Making a material false statement in response to any request or investigation by the department, the Department of Legal Affairs, or the state attorney;

the department may:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.;
- Impose an administrative fine not to exceed \$1,000 per violation for each act which constitutes a violation of this part or a rule or order;
- Direct that the motor vehicle repair shop cease and desist specified activities;
- Refuse to register or revoke or suspend a registration; or
- Place the registrant on probation for a period of time, subject to such conditions as the department may specify.

HB 365

Per the bill's sponsor, this proposed legislation was prompted by the death of Mr. Abelardo "Al" Castillo, who was killed in 2001 following repair work done at a small vehicle repair shop in Pasco County. A wheel was improperly fastened to Mr. Castillo's car and came off while he was driving home. He died in the ensuing accident. Mr. Castillo, 41 at the time of his death, was survived by his wife and five small children.

Mr. Castillo's widow attempted to file charges against the owner of the repair shop but was told no criminal violation had occurred. She also attempted to seek civil damages from the owner and was told that there are no statutes requiring liability coverage for work performed in a vehicle repair shop. A civil action against the shop's owner personally also was not successful. The owner was quoted in the St. Petersburg Times as stating that he had liability insurance but let it lapse a few months before the accident.⁷

The bill requires a motor vehicle repair shop to obtain liability coverage for repairs performed by the shop of at least \$300,000, and provides that failure to maintain the required coverage is grounds for denial, revocation, or refusal of registration with the department. The bill also provides the department

⁶ Section 559.904(3), F.S.

⁷ *St. Petersburg Times*, Jan. 28, 2005

with the authority to impose an administrative fine of not more than \$5,000 if the repair shop does not maintain the required insurance, and also provides a criminal penalty, established as a misdemeanor of the second degree, for failure to maintain the required insurance. The bill provides an effective date of July 1, 2006.

C. SECTION DIRECTORY:

Section 1. Designates the act as the "Abelardo 'Al' Castillo Act."

Section 2. Amends s. 559.904, F.S., to require certain motor vehicle repair shops to have liability insurance in the amount of \$300,000 on repairs they perform as a condition of registration or renewal of registration, and provides that failure to maintain such insurance is grounds for denial, revocation, or refusal of registration by the department.

Section 3. Amends s. 559.921, F.S., to provide authority to the department to impose a fine not to exceed \$5,000 if a motor vehicle repair shop fails to maintain the required insurance. This section also provides a criminal penalty, established as a misdemeanor of the second degree, for failure of a motor vehicle repair shop to maintain the required insurance.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

According to the Department of Agriculture and Consumer Services (department), this bill will not have a revenue impact on state government.

2. Expenditures:

According to the department, this bill will not require it to expend funds to implement the bill's provisions.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Certain motor vehicle repair shops will be required to purchase liability coverage for repairs, which may be an additional cost of doing business to those repair shops. Two sample quotes, provided by Waddell Insurance in Vero Beach, showed that a \$300,000 insurance policy would cost a repair shop with 2 employees \$1,442 per year; another quote showed that a one person shop would pay \$1,185 for the same policy. Hugh Cotton Insurance in Orlando provided 3 samples for shops under 5 employees. The premium ranged from \$1,500 to \$6,200 depending on the type of repair work being done.⁸

D. FISCAL COMMENTS:

⁸ Information provided to Insurance Committee Staff on March 7, 2006; on file with the insurance committee.

The criminal penalty established by the bill for failure to maintain the required insurance may result in some expenses related to criminal prosecution for enforcement. The cost is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, nor does it reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor does it reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None

B. RULE-MAKING AUTHORITY:

None provided.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A