

"HAWAII ADMINISTRATIVE RULES

TITLE 16

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

CHAPTER 87

MOTOR VEHICLE REPAIR DEALERS AND MECHANICS

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SUBCHAPTER 1

GENERAL PROVISIONS

§16-87-1 Objectives. This chapter is intended to clarify and implement chapter 437B, Hawaii Revised Statutes, to the end that the provisions thereunder may be best effectuated and the public interest most effectively served. [Eff

7/29/76; am and ren §16-87-1, 6/25/81; am and comp 5/7/88; comp 1/28/89]
(Auth: HRS §437B-4) (Imp: HRS §437B-4)

§16-87-2 Familiarity with statutes and rules. Every motor vehicle repair dealer and mechanic shall become familiar with chapter 437B, HRS, and this chapter. This chapter and chapter 437B, HRS, shall apply to all motor vehicle repair dealers and mechanics, as defined by chapter 437B, HRS, in the State of Hawaii, and all motor vehicle repair dealers and mechanics shall at all times comply with this chapter and with all applicable laws of the State and the various counties. Every repair dealer shall possess and make available to customers for inspection a copy of chapter 437B, HRS, and this chapter at each place of business and with each mobile repair facility, as registered with the board. [Eff 7/29/76; am and ren §16-87-2, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-4)

§16-87-3 Definitions. As used in this chapter:

"Board" means the motor vehicle repair industry board.

"Certified repair dealer" means a repair dealer, as defined in this chapter, who is certified with the board and has at least fifty per cent of all the full-time mechanics employed who are certified mechanics.

"Certified mechanic" means a mechanic who has successfully passed the certification tests in any or all of the certification specialties set forth in section 16-87-26.

"Customer" means the owner or lawful possessor of a motor vehicle. If the dealer is provided with a written statement indicating that a person is an authorized representative of an insurance company which has a contractual right to authorize repairs, then the representative is a customer within the meaning of this chapter.

"Department" means the department of commerce and consumer affairs.

"Mobile repair facility" means a facility used for repairing or diagnosing malfunctions of motor vehicles away from the dealer's place of business.

"Motor vehicle" means any passenger car, truck, truck tractor, motorcycle, or motor scooter, as defined in section 286-2, HRS.

"Motor vehicle mechanic" means any person whether self-employed or employed by another who, for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles, and may be classified as "intermediate" or "journeyman" as the terms are commonly used in the motor vehicle repair industry.

"Motor vehicle mechanic helper" means any person who for compensation, engages in the diagnosis or repair of malfunctions of motor vehicles under the supervision of a motor vehicle mechanic.

"Motor vehicle repair dealer" means any person who is or who employs a motor vehicle mechanic registered under chapter 437B, HRS, and who, for compensation, engages in the business of diagnosing or repairing malfunctions of motor vehicles.

"Place of business" means a physical place where the business of motor vehicle repair or diagnosis is conducted, other than mobile repair facilities.

"Rebuilt vehicle" means any vehicle which has been declared a total loss as defined in section 286-2, HRS, and subsequently rebuilt for public use.

"Registered mechanic" means a motor vehicle mechanic who has registered in accordance with chapter 437B, HRS.

"Registered repair dealer" means a motor vehicle repair dealer, as defined in this chapter, who is registered with the board.

"Repair of motor vehicles" means all maintenance of, and modifications and repairs to motor vehicles, including the rebuilding or restoring of rebuilt vehicles as defined in section 286-2, HRS, but excluding repairing tires, changing tires, lubricating vehicles, installing light bulbs, batteries, windshield wiper blades, and other minor accessories, cleaning, adjusting, and replacing spark plugs, replacing fan belts, oil, and air filters, and other minor services. No service shall be designated as minor, for purposes of this chapter if the board finds that performance of the service requires mechanical expertise, has given rise to a high incidence of fraud or deceptive practices, or involves a part of the vehicle essential to its safe operation.

"Vocational academic schooling" means training in those schools or programs, or both, approved by the board. [Eff 7/29/76; am and ren §16-87-3, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-1, 437B-7)

SUBCHAPTER 2

APPLICABILITY OF RULES

§16-87-7 Exemption. This chapter does not apply to:

- (1) Employees of the county, state, and federal governments when carrying out the functions of governmental employment; or
- (2) Employees of any commercial or business enterprise who engages in the repair of motor vehicles which are owned, maintained, and operated exclusively by commercial or business enterprise and which are not leased or rented to others.

Mechanics in the above categories may voluntarily register pursuant to the provisions of chapter 437B, HRS, and this chapter. [Eff 7/29/76; am and ren §16-87-7, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-2)

SUBCHAPTER 3

DEALER'S REGISTRATION AND CERTIFICATION REQUIREMENTS

§16-87-11 Registration of dealer. (a) A person shall not be registered as a motor vehicle repair dealer unless the person is a duly registered or certified mechanic, or unless the person has in the dealer's employ, on a full-time basis, a duly registered or certified mechanic.

(b) A person who employs a mechanic and who engages in the business of diagnosing or repairing of malfunctions of motor vehicles shall be eligible to register as a motor vehicle repair dealer.

(c) A mechanic who engages in the business of diagnosing or repairing of malfunctions of motor vehicles shall be eligible to be registered as a motor vehicle repair dealer.

(d) Every motor vehicle repair dealer shall be a mechanic or shall have at least one mechanic in the dealer's employ.

(e) Registration of motor vehicle repair dealer shall be limited to the specialties or areas of certification in which the dealer and the dealer's full-time employees, or both, have been registered or certified as mechanics by the board.

(f) Any person engaging in the business of rebuilding or restoring rebuilt vehicles shall be registered or certified in or shall employ mechanics registered or certified in all eight automotive specialties and shall provide a \$25,000 performance bond as required by section 437-26, HRS.

(g) Any person doing business as an auto body shop, auto paint shop, auto glass shop, auto machine shop, radiator shop, or other auto specialty shops shall register with the board as a motor vehicle repair dealer if the person performs work on the motor vehicle involving the removal, replacement, and repairing or modification, or both, of any component of the motor vehicle's engine, automatic transmission, brakes, electrical systems, front and rear suspensions, air-conditioner, and standard transmission and rear axle.

(h) No motor vehicle repair dealer's registration shall be transferable.

(i) If a motor vehicle repair dealer uses a valid fictitious name or "dba" the dealer shall register the name or "dba" with the board.

(j) The dealer shall, within thirty days from the termination of the dealer's business, notify the board in writing of the termination and shall return to the board the dealer's certificate and identification card. [Eff 7/29/76; am and

ren §16-87-11, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-7, 437B-8, 437B-9)

§16-87-12 Certification of dealer. (a) A person shall not be a certified motor vehicle repair dealer unless at least fifty per cent of all the mechanics employed by the dealer on a full-time basis are certified mechanics.

(b) Certification of a motor vehicle repair dealer shall be limited to the specialties or areas of certification in which at least fifty per cent of the mechanics, who are employed by the dealer on a full-time basis, have been certified by the board. [Eff 7/29/76; am and ren §16-87-12, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-10)

§16-87-13 Display of certificate. The registration certificate or the certification certificate of the dealer shall be displayed in a conspicuous place in the dealer's place of business and on each of the dealer's mobile repair facilities and shall clearly show the areas for which the dealer is registered or certified. [Eff 7/29/76; am and ren §16-87-13, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-4)

§16-87-14 Denial. If an application for registration or certification, or temporary permit is denied, the board shall notify the applicant by letter of the board's action which shall include a concise statement of the reasons therefor and a statement informing the applicant of the right to a hearing if so desired. [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-8) (Imp: HRS §437B-4)

§16-87-15 Demand for hearing. Any person whose application for registration or certification, or temporary permit has been denied by the board shall be entitled to a hearing after notice, provided that a demand for hearing is filed with the board not later than sixty days of the date of the mailing of the letter informing the applicant of the denial of the application. [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-8) (Imp: HRS §437B-4)

§16-87-16 Proceedings on demand for hearing. If a demand for hearing is filed within the time prescribed, the board shall order a hearing upon notice, which shall be conducted in accord with the provisions of chapter 16-201 relating to contested cases and unless the context otherwise requires, subchapter 6. [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-8) (Imp: HRS §437B-4)

SUBCHAPTER 4

RECORDS REQUIRED; INSPECTION

§16-87-17 Records. The following records shall be maintained by the dealer:

- (1) Warranty work invoices; all warranty offered for repair work shall be so indicated on the repair order and shall indicate the terms of the warranty;
- (2) All invoices, relating to automotive repair including invoices received from other sources for parts or labor, or both;
- (3) All written estimates pertaining to work performed, customer consent forms, and all other forms required by the board; and
- (4) All work orders or contracts for repairs, or both, parts and labor. All records shall be maintained for at least two years. The records shall be open for inspection by the board or other law enforcement officials. [Eff 7/29/76; am and ren §16-87-17, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-13, 437B-16)

SUBCHAPTER 5

SIGN REQUIRED AND NOTICE TO CUSTOMER

§16-87-21 Sign; notice. A board approved sign shall be placed in all motor vehicle repair dealer locations in a place and manner conspicuous to the public. The sign shall not be less than 6" x 8" and shall be white with blue wording. The sign shall give notice that inquiries concerning a service may be made to the board and shall inform the customers that the customer is entitled to the following:

- (1) Written estimate for repair work;
- (2) Detailed invoice of work done and parts supplied;
- (3) Return of replaced parts, if requested at the time a work order is placed;
- (4) Information and questions concerning paragraphs (1) to (3) should be directed to the manager of the repair facility; and
- (5) Unresolved questions regarding service work may be submitted to the board. Location and telephone number of each island's office of the department of commerce and consumer affairs;
- (6) The board will furnish the original sign and charge a reasonable fee for any replacement sign. [Eff 7/29/76; am and ren §16-87-21,

6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-13, 437B-14, 437B-15, 437B-17)

SUBCHAPTER 6

REQUIRED FORMS

§16-87-22 Forms. The board shall prescribe the form and content of all forms required by chapter 437B, HRS, and by this chapter. Customer Consent to Increase Cost of Repair Above the Estimate Price and Customer's Waiver of Right to a Repair Estimate forms shall not be incorporated with other forms. [Eff 7/29/76; am and ren §16-87-22, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-4, 437B-15)

SUBCHAPTER 7

ESTIMATE FOR REPAIRS

§16-87-23. Fee for estimate. A reasonable fee may be charged for making the estimate. The motor vehicle repair dealer shall notify the customer of the fee prior to making the estimate. [Eff 7/29/76; am and ren §16-87-23, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-15)

SUBCHAPTER 8

REPLACED PARTS

§16-87-24 Return of replaced parts; exceptions. Upon request of the customer, the motor vehicle repair dealer shall return replaced parts to the customer at the time of the completion of the work. The motor vehicle repair dealer may but shall not be required to return the following parts:

- (1) Transmission;
- (2) Differential; and
- (3) Engine block. [Eff 7/29/76; am and ren §16-87-24, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-14)

SUBCHAPTER 9

MOTOR VEHICLE MECHANIC

§16-87-25 Registration of mechanic. (a) After July 1, 1976, no person shall be registered as a motor vehicle mechanic unless the person has been certified by successfully passing a certification test.

(b) Except as provided in section 437B-24(b), HRS, registration of a motor vehicle mechanic shall be limited to the specialties or areas of certification in which the person is certified by the board.

(c) No motor vehicle mechanic shall engage in the repair of motor vehicles for compensation unless the person is registered or certified as a motor vehicle repair dealer or unless the person is employed by a registered or certified repair dealer.

(d) Upon successfully passing the certification test and being certified, a person may apply for registration on a form, as prescribed by the board, accompanied by the required original biennial registration fee.

(e) The pocket card provided by the department to the mechanic shall be carried on the person or readily available for inspection upon request.

(f) Upon written request of a registrant, the board may place that person's active registration on an inactive status. The registrant, upon payment of the inactive registration fee of \$20, may continue inactive status for the biennial period. [Eff 7/29/76; am and ren §16-87-25, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §§437B-7, 437B-8, 437B-9, 437B-24(b))

§16-87-26 Certification of mechanic. (a) There are established the following specialties or areas of certification:

- (1) Automotive (eight specialties):
 - (A) Engine;
 - (B) Tune-up;
 - (C) Automatic transmission;
 - (D) Brakes;
 - (E) Electrical systems;
 - (F) Suspension and steering;
 - (G) Heating and air-conditioning; and
 - (H) Manual drive train and axles;
 - (2) Truck: Drive train, brakes, suspension and steering, gasoline engines, diesel engines, and electrical systems;
 - (3) Motorcycle and motor scooter.
- (b) Certification test:
- (1) A certification test shall be given in each of the areas of certification, as described above;

- (2) Each certification test shall consist of:
 - (A) Written test;
 - (B) The board, in lieu of the written test, may if it deems it appropriate, allow a person to take an oral test if a written request explaining the reasons for seeking a waiver is submitted to the board at least thirty days prior to the scheduled test date.
- (c) Application for certification test.
 - (1) Applications for certification tests, together with the required registration fee, shall be filed with the University of Hawaii (UH) who has been contracted by the board to develop and administer the certification program for motor vehicle mechanics; and
 - (2) The application, the registration fee, and any other required supporting documents shall be received by the testing agency at least forty-five days prior to the scheduled test date.
- (d) Qualifications for taking a certification test. Before qualifying to take the certification test for any specialty or area of certification, a person shall meet the following qualifications:
 - (1) Have two or more years of full-time "hands-on" working experience either as an automotive technician/mechanic or in body repair or painting and refinishing before the applicant can be certified except as noted below;
 - (2) Substitutions for working experience. Applicant may receive credit for up to one year of the two-years "hands-on" experience requirement by substituting relevant formal training in one, or a combination, of the following:
 - (A) High school training - Three full years of training, either in automotive repair or in body repair and painting and refinishing may be substituted for one year of work experience;
 - (B) Post high school training - Two full years of post high school training in a public or private trade school, technical institute, community or four-year college, or in an apprenticeship program may be counted as one year of work experience;
 - (C) Short courses - For shorter periods of post high school training, the applicant may substitute two months of training for one month of work experience;
 - (3) Apprenticeship program - Upon satisfactory completion of either a three or four-year bona fide apprenticeship program, the applicant may receive full credit for the two-year "hands-on" working experience requirement;

- (4) Authentication of training - To have an applicant's training considered as a substitute for work experience, send a copy of a transcript of courses, or a statement of training, or a certificate showing satisfactory completion of apprenticeship, together with your application form and fee payment. Documents should show length of training (hours or weeks); and
- (5) Evaluation of requests for substitution of training for experience - The board reserves the right to evaluate all requests for substitution of training for experience and to grant such credit as is appropriate. Work experience other than as an automobile or truck technician/mechanic or body and paint repairer may be credited toward fulfillment of the two-year experience requirement where, in the board's judgment, the nature of the substitute experience so warrants.
- (e) Application for registration as a motor vehicle mechanic. All applicants who have passed the prescribed certification test shall:
 - (1) File an application for registration as a motor vehicle mechanic on a form prescribed by the board;
 - (2) Submit completed application forms with a non-refundable application fee and the original biennial registration fee; and
 - (3) Submit copy of test results from testing agency showing that applicant has required experience and has successfully passed the certification test. [Eff 7/29/76; am 2/4/77; am and ren §16-87-26, 6/25/81; am and comp 5/7/88; am and comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-23)

SUBCHAPTER 10

MOTOR VEHICLE MECHANIC HELPERS

§16-87-27 Supervision by registered or certified mechanic. Any person not a registered or certified mechanic who, for compensation, engages in the diagnosis or repair of motor vehicles shall be deemed to be a motor vehicle mechanic helper. The helper shall work under the supervision of a registered or certified mechanic and the repair dealer shall be answerable for failure to provide supervision. [Eff 7/29/76; am and ren §16-87-27, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-23)

SUBCHAPTER 11

PROHIBITED PRACTICES AND ENFORCEMENT

§16-87-28 Acts, omissions, and enforcement. The acts or omissions and enforcement relating to the repair of motor vehicles shall be in conformance with chapter 437B, HRS. [Eff 7/29/76; am and ren §16-87-28, 6/25/81; am and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-11)

SUBCHAPTER 12

ADVERTISING

§16-87-33 Advertising practices. The following advertising practices are unlawful:

- (1) To advertise as a motor vehicle repair dealer unless the repair dealership holds a valid registration issued under chapter 437B, HRS;
- (2) To advertise without including in the advertisement the motor vehicle repair dealer's registration number; and
- (3) To advertise as being able to perform repair work in the specialties or areas of certification in which the motor vehicle repair dealer is not registered or certified. [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §437B-4) (Imp: HRS §437B-11.5)

SUBCHAPTER 13

PRACTICE AND PROCEDURE

§16-87-37 Administrative practice and procedure. The rules of practice and procedure for motor vehicle repair dealers and mechanics shall be as provided in chapter 16-201, the rules of practice and procedure of the department of commerce and consumer affairs which are incorporated by reference and made a part of this chapter. [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §§91-2, 437B-4) (Imp: HRS §§91-2, 437B-4)

SUBCHAPTER 14

ORAL TESTIMONY

§16-87-39 Oral testimony. (a) The board shall accept oral testimony on any item which is on the board's agenda, provided that the testimony shall be subject to the following conditions:

- (1) Each person seeking to present oral testimony shall so notify the board no later than forty-eight hours prior to the meeting, and at that time shall state the item on which testimony is to be presented;
- (2) The board may request that any person providing oral testimony submit the remarks, or a summary of the remarks, in writing to the board;
- (3) The board may rearrange the items on the agenda for the purpose of providing for the most efficient and convenient presentation of oral testimony;
- (4) Persons presenting oral testimony shall, at the beginning of the testimony, identify themselves and the organization, if any, that they represent;
- (5) The board may limit oral testimony to a specified time period but in no case shall the period be less than five minutes, and the person testifying shall be informed prior to the commencement of the testimony of the time constraints to be imposed;
- (6) The board may refuse to hear any testimony which is irrelevant, immaterial or unduly repetitious to the agenda item on which it is presented;

(b) Nothing herein shall require the board to hear or receive any oral or documentary evidence from a person on any matter which is the subject of another proceeding pending subject to the hearings relief, declaratory relief, or rule relief provisions of the rules of administrative procedure.

(c) Nothing herein shall prevent the board from soliciting oral remarks from persons present at the meeting or from inviting persons to make presentations to the board on any particular matter on the board's agenda." [Eff and comp 5/7/88; comp 1/28/89] (Auth: HRS §§92-3, 437B-4) (Imp: HRS §92-3)

DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS

Amendments and Compilation of Chapter 16-87
Hawaii Revised Statutes

January 5, 1989

SUMMARY

1. §16-87-26 is amended.
2. Chapter 16-87 is compiled.