



AUTOMOTIVE SERVICE ASSOCIATION

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December 5, 2011

The Honorable Annise D. Parker  
Mayor  
City of Houston  
P.O. Box 1562  
Houston, Texas 77251

Dear Mayor Parker:

I want to thank you, staff and the City Council for hearing many of our concerns and making changes to the proposed automotive repair shop licensing regulation throughout the regulatory process.

A number of City Council members raised concerns about Section 8 at this week's council session. Even though ASA had been prepared to accept the amended version offered on November 29 without having seen the final ordinance, the concerns of Council members Bradford, Jones, Noriega and Pennington are valid, and we have some solutions we would propose to address them.

Before I go into the details, I just want to make a philosophical observation. ASA believes that many of their concerns could have been avoided if the City had included independent repairers in early stakeholder meetings to create the ordinance. There are critical differences in the operations of collision and mechanical repair facilities that an ARF license does not acknowledge, and this ordinance would better serve consumers and repairers if there was a separate license for a collision repair or a mechanical repair facility. Jurisdictions in other parts of the country have addressed both professions in licensing laws, and I know it can be done in Houston. However having said that, we know that you feel a degree of pressure to have an ordinance to pursue the unscrupulous body shops, so while this ordinance is less than ideal, we believe if we can address the Council members' concerns, then HPD can put it to the test.

The ASA Board of Directors offer the following recommendations for the benefit of the automotive industry and consumers.

ASA proposes the following solutions for issues raised earlier this week:

To address Councilmember Pennington's concerns that the written authorization for mechanical repair as required in 8-22 (e) is an unnecessary burden resulting in a "classic case of over-regulation," "a poor use of HPD resources," and "unnecessary burden on the consumer" we would recommend eliminating the verbal approval waiver. The state already requires that our customers sign a work order authorization and a final repair order. Even though the waiver in 8-22 (f) is much improved from earlier iterations, it still requires every mechanical shop in Houston to redo its pre-service paperwork forms. Then there is still no provision for tow-ins which account for perhaps 10% of the vehicles repaired, or a provision for fleet work authorizations.

Further, the complaints filed with the city do not warrant this level of record-keeping. Your comments that this ordinance was brought on by some "egregious practices of a very small number of collision shops" supports this contention. This provision's paperwork requirement is burdensome on shops, and negatively impacts the elderly, low income persons, and the disabled most of all. This was a concern expressed by Councilmember

Noriega stating that this proposal “will be harder for seniors, immigrants, and people of lower income.” It will put them at a disadvantage for service repairs by placing an onerous burden for them to return to the shop or find a fax machine or email if the phone waiver is not signed, the car is towed in, or the cost of the repair increases.

Auto repair delays will impede the vehicle owner’s ability to work. Even though the verbal approval waiver is well intentioned and designed to insure “transparency” as Council Member Sue Lovell said, good repair shops do this as a matter of course and the bad shops can be dealt with by many other provisions within this ordinance.

For collision repairs, we believe there should be no waiver for verbal approvals as the ordinance is currently drafted.

If the waiver for verbal approvals as recommended for mechanical repairs in 8-22 (e), (f) is removed as stated above, it makes a stronger case as I have advocated for deleting 8-22 (c).

Please recall that the State already requires signatures. The idea behind 8-22(c) is that written authorizations for less than \$100.00 are not required. This conflicts with State law. In addition, ASA believes it is good protection for the consumer and small business owners that all repairs should be authorized with a signature even if it’s only an oil change.

If C is not deleted, there will be situations that arise where the customer and service advisor believe that the amount spent will not exceed \$100.00. Here is what could happen. The service advisor does not ask the customer to sign a waiver to authorize verbal approvals and the customer leaves. As the technician diagnoses the vehicle, they discover the customer needs a battery or a radiator flush. Now the repair is \$100.00, but the customer is not there and there is no way to proceed without a written signature. There is a delay in the repair of the vehicle. Now the law has created a stressful situation for all parties.

The flaw of Council Member Lovell’s logic that the law must lead with “good example” is that we are criminalizing human errors. When she was a printer, how would she like to have been charged \$200 to \$500 and receive a misdemeanor because the police believed she wrongly charged for more expensive colored ink on business cards? Then she has the hardship and expense of going to court to prove her innocence?

Council Member Gonzalez’s, Jones’s and Adam’s concern to make sure we have a good ordinance and revisit it if necessary at a later date brings up some concerns about implementation. We suggest that police need time to educate business owners about obtaining the various licenses as required in 8-22 (a). We urge you to include a policy statement that all Automotive Repair Facility licenses operating on the date the ordinance is authorized shall have six months to comply with the requirements of 8-22 (a).

Council Member Bradford’s concerns about not having the redline version of the ordinance during the discussion of the proposal and not feeling comfortable voting on something he hadn’t seen speaks to the complexity of this ordinance. This 27 page document does not even begin to compete with the 2700 page health care bill, but philosophically, it’s the same issue. The automobile is the second largest investment for most citizens. This ordinance is going to affect everyone in Houston. Council Members need to understand what is in this bill and how it will be enforced before it is enacted.

Business owners are terrified of upsetting customers and inconveniencing them or being criminalized for simple human errors. To ease their fear, in addition to the six month grace period, we would like to see that the penalty for a first offense be capped at \$50.00 and then upon a second offense for the same infraction raised to the \$200.00 to \$500.00 level.

In addition ASA has raised the following concerns but they still have not been addressed in the current draft

Sec 8-16 - The definition of a "Collision repair facility" will better represent collision repair if changed to the following: Any automotive repair facility that its primary function is engaged in the public business of restoring a damaged motor vehicle to its pre loss condition, including but not limited to: replacing non-mechanical exterior or interior body parts.

This is a much more accurate description of what a collision repair facility does.

Sec 8-22 (d) (11) Reduce collision requirement to hold parts for seven days to three days. It is not feasible for collision repair shops to store collision damaged parts for up to seven days.

Sec 8-22 (a) Add "as applicable" to storage requirements, sales tax. Not all automotive businesses are required to have these licenses and business owners want the law to be clear with no ambiguities.

ASA questions whether the City can impose a \$50.00 limit of 8-32 (a). This implies that all oil changes in the City of Houston cannot exceed \$25.00. Is this a proper role for the City? We understand the problem and the intent of HPD, but there is an alternative.

Sec 8-32 (b) should either delete specific names of software programs and/or add "established automotive industry estimating guides." While the major programs are now all named, listing specific software programs limits the potential for new and improved estimating guides in the future.

Does Council know that the estimating guide for tear downs is for the time it takes to remove and replace an old part with a new part—not a crushed part with a new part? It can be a significant difference and the City's current proposal may not be workable because a tear down is only half the repair. The tech is removing the part not replacing it. Tear downs are just those situations where the technician can't do an estimate without dismantling some major system he can't see in order to perform an estimate. Having initiated the dismantling, the consumer declines to pursue the repair. This could include major crashes, internal engine noises, and transmissions.

Sec 8-32 Add new sub-section. Vehicle Release form – By mandating a vehicle release form to be presented to the vehicle owner or authorized agent listing the collision repair shop's costs for tear-down fees, administrative fees, etc., it creates transparency for the customer and insurance company.

Sec 8-58 Change Body Shop to Collision Repair facility – throughout the proposed regulation – The language in the law should be consistent.

Note 8-92 (1) and compare it to the current definition of a collision repair facility in 8-16. This is an example of how the city license is discriminatory. In one case you're requiring a business owner to invest \$60,000 plus to get his city license and the other case 8-16, his expenditures are nominal. Yet both facilities are doing the same work. This should be addressed to prevent the possibility of discrimination.

Recommend Authorization form for CONSENT & Non-Consent tows – Section 8 does nothing to address the bounty and corruption problem in the towing industry. ASA recommends authorization forms. These bounty fees charged by some tow trucks are outrageous and cause problems for body shops and consumers. State law requires forms to be completed to include the amount of the tow and the place the vehicle is being towed. This information should be on the form before the customer signs it.

Automotive Repair Facility License fees will increase more than 125% in one year, from \$200 to \$490.00 per year. This is a hardship in this economy. Fees should be reduced. Especially, since all the other fees have also increased; such as, waste disposal fees, sign fees, and the new drainage tax is in effect.

ASA suggests the City's staff continue to dialogue with our ASA Houston leadership to assure the final regulation is the best possible for consumers and repairers.

Finally, federal law has stringent equipment requirements for collision repair facilities. These provisions should be referenced in the regulation, specifically requiring the use of auto refinishing spray booths for collision repair facilities.

This proposal presents an opportunity to address training concerns for the industry which impact the consumer. Our Houston leaders would like to work with your staff to assure that licensed repair facilities adhere to appropriate training requirements for technicians.

Sincerely,

Kathryn van der Pol on behalf of the  
Board of Directors  
Automotive Service Association  
Houston Chapter