

GLOSSARY OF TERMS

The following is an alphabetical list of terms frequently used in the Manual and their definitions. Each term relates to the Office of Investigative Services operation which is relevant to motor vehicle repair facilities and mechanics. Where the language differs from the language used in a specific law, the language of the law prevails.

Act. This references the *Motor Vehicle Service and Repair Act*, Act No. 300 of the Public Acts of 1974, as amended, being section 257.1301 et seq. of the *Michigan Compiled Laws*. See Motor Vehicle Service and Repair Act (MVSRA).

Administrative Procedures Act (APA). A statute governing the practices and procedures of administrative agencies. The APA specifies the process for publishing administrative rules, establishing procedures in handling contested cases and publishing steps for judicial review of agency decisions. It is cited as Act No. 306 of the Public Acts of 1969, as amended, being section 24.201 et seq. of the *Michigan Compiled Laws*.

Administrative Rule. An agency regulation, statement, standard, policy, ruling, or instruction which implements or applies a law enforced or administered by the agency, or which prescribes the organization, procedure or practice of the agency. Administrative rules for vehicle dealers, repair facilities, and mechanics are enforced by the Bureau of Legal and Regulatory Services. They are generally found at R 257.1 et seq. of the *Michigan Administrative Code*.

Administrator. The Secretary of State or any person designated by him or her to act in his or her place. The Bureau of Legal and Regulatory Services functions as the Administrator with respect to enforcing the Act.

Advertise. To advise, announce, apprise, command, give notice of, inform, make known or publish any material which calls to the attention of the public the availability of parts and services.

Automotive Service Excellence (ASE). A voluntary vehicle mechanic testing and certification program developed and administered by the National Institute for Automotive Service Excellence. The Office of Investigative Services recognizes the testing program of the National Institute for Automotive Service Excellence (ASE) as an alternate basis for Michigan certification.

Bench Work. The diagnosis, repair, rebuilding, reconditioning, machining, assembling of motor vehicle parts, components or subassemblies. Persons performing bench work at a business subject to repair facility registration must be certified in the appropriate repair categories.

Body Shop Inspections. An examination of the premises and parts inventories of facilities that engage in vehicle body work. Such inspections are required by salvage law amendments to the *Motor Vehicle Service and Repair Act* and occur at least once every four years. All unannounced inspections take place during reasonable business hours and will involve inspections of the premises and parts inventories of body shops.

Branch Testing. A person who wishes to take one or more tests for mechanic certification may register to be tested at one of several designated Secretary of State branch offices. Information on the branch offices offering mechanic testing may be obtained by contacting the Business Licensing Section at 1-888-SOS-MICH (1-888-767-6424).

Business Entity. A sole proprietorship, partnership, corporation or limited liability company. (Each term is defined in this Glossary.)

Certified Mechanic. A mechanic who has taken a motor vehicle repair examination and received a passing score which indicates competency to perform motor vehicle repairs, and who has applied for and received a certificate from the Business Licensing Section.

Contested Case. A proceeding, including a licensure matter, in which an administrative agency, such as the Office of Investigative Services, makes a determination of the legal rights, duties, or privileges of a named party, such as an auto repair facility or a mechanic, after notice and an opportunity for an evidentiary hearing. The decision in a contested case, which could involve revocation of a license, may be appealed to circuit court within a limited time after notice of the agency's Final Decision and Order is mailed to the party.

Contract. A written or oral agreement, understanding, arrangement or similar circumstance in which a person agrees that another person perform work, labor, diagnosis, repair, reconditioning, replacement, adjustment or alteration, directly or indirectly, upon a motor vehicle.

Corporation. An artificial entity which is created by filing articles of incorporation with the appropriate Michigan state agency. The owners of a for-profit corporation are called shareholders. The shareholders are not personally liable for the actions or the debts of the corporation. The liability of a corporation is limited to its assets. A corporation is governed by its board of directors.

Customer. A person who inquires about, makes a request for, or purchases parts or services from a motor vehicle repair facility or one who seeks repairs or services under the terms of a warranty.

Dealer. A person engaged in the business of purchasing, selling, exchanging, brokering or dealing in vehicles of a type required to be titled or in the parts of those vehicles; a person who negotiates the purchase, sale, deal or exchange of those vehicles and who has an established place of business for those purposes in this state; a person engaged in the actual remanufacturing of engines or transmissions, or both; or a person engaged in the business of buying vehicles to sell vehicle parts or buying vehicles to process into scrap metal. "Dealer" does not include a person who buys or sells late model remanufactured vehicle engines and transmissions or who receives in exchange used engines or transmissions if the primary business of the person is the selling of new vehicle parts and the person is not engaged in any other activity that requires a dealer license (MCL 257.11).

Dealer License. Authorization from the Michigan Department of State for a person to engage in business as a dealer (MCL 257.11b).

Department. An agency of Michigan state government, meaning the Department of State.

Distressed Vehicle. A vehicle that has a major component part that has been wrecked, destroyed, damaged, stolen, or missing to the extent that the total estimated cost of repairs to rebuild or reconstruct the vehicle, including parts and labor, is equal to or exceeds 75% of the actual cash value of the vehicle in its predamaged condition. The estimated cost of the repair parts is determined by using the current published retail cost of original manufacturer parts plus hourly rate and time allocations which are reasonable and commonly assessed in the repair industry in the community where the repairs are performed. For purposes of this glossary, "Actual cash value" means the retail dollar value of a vehicle as determined by an objective vehicle evaluation using local market resources, such as dealers or want ads, by an independent vehicle evaluation or appraisal service or by a current issue of a nationally recognized used vehicle guide for financial institution appraisal purposes in Michigan (MCL 257.12a).

Emergency Waiver. A statement which releases the repair facility from liability resulting from the performance of major repairs in the absence of a certified mechanic. The waiver must be in duplicate with one copy given to the customer. It must read exactly as prescribed in section 5(4) of the *Motor Vehicle Service and Repair Act* (MCL 257.1305).

Estimate. A written statement itemizing as closely as possible the price for repair work, by showing both the labor price and the number of hours required to perform the work and the price of parts necessary for a specific repair.

Estimated Cost of Repair Parts. The estimated cost of repair parts is determined by using the current published retail cost for the replacement parts that will be used in a repair transaction.

Estimated Labor Costs. Estimated labor costs are computed by using hourly rates and time allocations which are reasonable and commonly assessed in the repair industry in the community where the repairs are to be performed.

Facility. A place of business operated by a business entity required to be registered under the Act, which performs services for compensation, directly or indirectly, with regard to motor vehicle repairs.

Garage Keeper's Lien. Process by which a repair facility may impose a "mortgage" or legal liability against a customer's vehicle in an attempt to collect an unpaid repair bill, if the vehicle is still in the repair facility's possession and if a violation of the *Motor Vehicle Service and Repair Act* did not occur. The repair facility must apply to the Michigan Department of State, Direct Mail Unit, to obtain a garage keeper's lien against the title of a vehicle.

Gross Annual Revenue. The total monies received by a repair facility for labor and parts sold in conjunction with motor vehicle repairs covered by the *Motor Vehicle Service and Repair Act* during a particular annual period, before expenses of any kind are subtracted.

Hazardous Waste Charges. The cost for disposing of hazardous waste materials, which is passed on to the consumer.

Immediate Need Testing. The testing process used to accommodate persons who qualify for immediate testing and certification. To qualify, a person must provide a letter from an employer or prospective employer to verify that an immediate need exists. The process provides for testing and certification to occur the same day. Immediate Need Testing is administered only in the Business Licensing Sections' Lansing office.

Late Model Vehicle. A vehicle manufactured in the current model year or one of the five previous model years, if the vehicle weighs 8,000 pounds or less. For example, 2000 or newer for the 2005 model year (effective January 1 of each calendar year). Vehicles weighing more than 8,000 pounds are considered late model if manufactured in the current model year or one of 15 previous model years. For example, 1990 or newer for the 2005 model year (MCL 257.24b).

Lien. A charge, security, mortgage or encumbrance upon a motor vehicle.

Limited Liability Company. Formed for the purpose of generating profit while limiting taxes and liability. Such companies have all the powers granted to a corporation, with either members or managers directing operations.

Major Component Part Record. Used vehicle parts dealers (Class C), automotive recyclers (Class R), and foreign salvage vehicle dealers (Class H) must keep a record of all late model major component parts purchased, acquired, dismantled or sold. The record must show where the parts came from and when and where they were sold or otherwise disposed of. The record must be included in or attached to the Police Book.

Major Component Parts. This means one of the following parts of a vehicle:

- (1) Engine;
- (2) Transmission;
- (3) Right or left front fender;
- (4) Hood;
- (5) Doors;
- (6) Front or rear bumper bar;
- (7) Right or left rear quarter panel;
- (8) Deck lid, tailgate or hatchback;
- (9) Trunk floor pan;
- (10) Cargo box of a pickup;
- (11) Frame, or if the vehicle has a unitized body, the parts identified by the motor vehicle manufacturer as structural components;
- (12) Cab of a truck;
- (13) Body of a passenger vehicle (MCL 257.27a); and
- (14) Airbags and Seatbelts.

Major Component Part Record--Combination "C" Dealer and Body Shop. One set of part records is acceptable for a business that is both a used vehicle parts dealer and a body shop. The records must be available at the licensed address. If the "C" dealership and the body shop are at two separate locations, records must be kept at each location.

Master Automobile Mechanic. A person who is certified in all of the first eight repair categories for Automobile and Light Truck (A-H in the Mechanic Certification--Test Categories below).

Master Heavy-duty Truck Mechanic. A person who is certified in all of the first six repair categories for Heavy-duty Truck (A-F in the Mechanic Certification--Test Categories below).

Master Mechanic. See Master Automobile Mechanic, Master Heavy-duty Truck Mechanic or Master Motorcycle Mechanic.

Master Motorcycle Mechanic. A person certified in all mechanical aspects of motorcycle repair. No specialty motorcycle mechanic certificate exists.

Material Fact. A fact which is used by a person as a premise upon which a conclusion is based.

Mechanic Certification--Test Categories. The categories of major repair in which a person may be tested and certified include:

- (1) For Automobile and Light Truck Repair:
 - A. Engine Repair
 - B. Engine Tune-up/Performance
 - C. Front End, Suspension and Steering Systems
 - D. Brakes and Braking Systems
 - E. Automatic Transmission
 - F. Manual Transmission, Front and Rear Axles
 - G. Electrical Systems
 - H. Heating and Air Conditioning
 - I. Collision-related Mechanical Repair
 - J. Unitized Body Structural Repair
 - K. Pre-1973 Vehicle Repair
 - L. BAIID - Breath Alcohol Ignition Interlock Device

- (2) For Heavy-duty Truck Repair:
 - A. Engine Repair, Gasoline
 - B. Engine Repair, Diesel
 - C. Drive Trains
 - D. Brakes and Braking Systems
 - E. Suspension and Steering Systems
 - F. Electrical Systems

- (3) For Other On-road Vehicles:
 - A. Motorcycle Repair
 - B. Recreational Trailer Repair

Mechanic Certification--Testing. Examinations for determining competency in the categories of major repairs. Testing is available at all Secretary of State branch offices throughout the state. A list of the offices can be obtained by contacting either the Business Licensing Section or visiting <http://www.michigan.gov/sos> .

See also Special Need Testing and Immediate Need Testing.

Mechanic Certification Renewal. A process for renewal of a mechanic certificate (see Chapter 7 for details).

Mechanic Recertification. The process used to establish continuing mechanic competency (see Chapter 7 for details).

Mechanic Trainee. A person who desires to become a motor vehicle specialty mechanic or master mechanic and receives a permit from the Administrator (see Chapter 7 for information about trainee permits).

Mechanic Trainee Permit. Written consent issued by the Michigan Department of State for a person desiring to be a motor vehicle mechanic to obtain up to two years of on-the-job experience in the major repair categories listed on the permit. The trainee must work under the supervision of a mechanic certified in the categories listed on the permit (see Chapter 7 for details).

Misrepresentation. A statement made, or other act done, which deceives or misleads. Remaining silent when there is a duty to speak may amount to a misrepresentation.

Mobile Repair Facility. A repair facility which typically operates out of a vehicle, such as a truck, and which travels to the vehicle needing repair.

Motor Vehicle. A vehicle which is self-propelled or propelled by electric power, a motorcycle or a trailer as defined in the *Michigan Vehicle Code*, Act No. 300 of the Public Acts of 1949, as amended, being section 257.1 et seq. of the Michigan Compiled Laws. A motor vehicle does not include the dwelling or sleeping portions of a motor home, trailer or any recreational vehicle having similar facilities which are not directly connected with the drive mechanism of the vehicle or other areas of repair which would require certification of motor vehicle mechanics as specified in section 33 of the *Michigan Vehicle Code* (MCL 257.33).

Motor Vehicle Mechanic. A technician, individual or other person who, for compensation, repairs motor vehicles, including activities such as the reconditioning, replacement, adjustment, or alteration of the operating condition of any component or subassembly of a motor vehicle.

Motor Vehicle Parts Inventory Act--Public Act 119 of 1986. A law enacted by the Michigan legislature which affects any business buying or receiving used motor vehicle parts from persons who are not licensed dealers (MCL 257.1351 et seq.).

Motor Vehicle Repair Facility. A place of business which engages in the business of performing or employing persons who perform maintenance, diagnosis, vehicle body work or repair service on a motor vehicle for compensation, but excluding all of the following:

- (1) A person who engages only in the business of repairing motor vehicles of a single commercial or industrial establishment or governmental agency;
- (2) A person repairing his or her own or a family member's vehicle;
- (3) A business that does not diagnose the operation of a motor vehicle, does not remove parts from a motor vehicle to be remachined and does not install finished machined or remachined parts on a motor vehicle, not including a motor vehicle repair facility that engages in the business of performing or employing persons who perform vehicle body work.

Motor Vehicle Service and Repair Act (MVSRA or the Act). A law enacted by the Michigan legislature to regulate the motor vehicle repair industry in Michigan, including registration of motor vehicle repair facilities and the testing and certification of mechanics performing major repairs. Also see Act.

NIASE. See Automotive Service Excellence.

Notice of Noncompliance (NNC). A form of communication or "ticket" used by a Regulatory Monitoring Division investigator to notify the licensee of an alleged violation of the *Motor Vehicle Service and Repair Act*, the *Michigan Vehicle Code*. The allegation is based on evidence gathered during the investigation.

Original Equipment Manufacturer (OEM). OEM refers to the manufacturer of the original equipment, that is, the parts assembled and installed during construction of a new vehicle.

Partnership. A Michigan business which is owned by two or more persons, usually with a written partnership agreement. Each partner is responsible for the acts of the other partners, and each partner is an agent of the other partners. Michigan partnerships are governed by a statute setting forth the rights and duties of the partners.

Person. A natural person, as well as a corporation, trust, partnership, incorporated or unincorporated association or other legal entity, including a motor vehicle repair facility.

Police Book. A hardcover, bound volume, record keeping device in which a dealer and/or repair facility keeps pertinent information about vehicles bought and sold. It includes information required by law or by the Michigan Department of State (MCL 257.41a).

Power of Attorney. The authorization for another to act as a person's agent or attorney. A person having power of attorney may sign a dealer license application or renewal, a repair facility registration application or renewal, or other document. A copy of the power of attorney appointment must be attached to the document.

Reassembly Charge. The charge or cost for work performed which is necessary to reconstruct a motor vehicle. Michigan law stipulates this must be a reasonable charge.

Renewal. The process required by state law to continue operation as a registered repair facility or a certified mechanic. This is accomplished through administrative procedures under the direction of the Business Licensing Section.

Repair. The reconditioning, adjustment, alteration, maintenance or diagnosis of the operating condition of a motor vehicle, with or without the replacement of any component or subassembly of a motor vehicle, for compensation or under the terms of a warranty.

Replacement--Mechanic Certificate or Mechanic Trainee Permit. An administrative process established by the Business Licensing Section to replace a motor vehicle mechanic certificate or trainee permit which is lost or destroyed.

Replacement--Repair Facility Registration. An administrative process established by the Business Licensing Section to replace a repair facility registration which is lost or destroyed.

Representation. A statement made by a facility to a customer in regard to some past, present or future fact, circumstance or set of facts pertinent to the contract.

Salvageable Part. A serviceable major component part from a late model vehicle.

Shop Supplies. Materials, rags, cleaning fluids or lubricants used in the performance of motor vehicle repairs.

Small Claims Court. A division of the District Court which allows persons to seek recovery for damages in amounts up to \$5,500. Cases are heard before a judge or magistrate, and the plaintiff and defendant argue their own cases without attorneys. Small Claims Court is sometimes suggested to complainants whose cases are not within the Business Compliance and Regulation Divisions' jurisdiction or to complainants who are not satisfied with the outcome of the Regulatory Monitoring Divisions' investigation.

Sole Proprietorship. A Michigan business which is owned and operated by one individual. If the business is responsible for an action, then so is the sole proprietor.

Special Need Testing. The testing process used to accommodate persons with reading or language restrictions.

Specialty Mechanic. A motor vehicle mechanic who is certified by the Michigan Department of State for one or more specific repair categories.

Storage Charges. The cost a repair facility may charge a customer for storage when the customer leaves a vehicle at a repair facility and does not reclaim it after notice to remove it. Storage charges may include costs incurred when there are delays in repairs caused by lack of parts provided the customer has been informed of the expected delay and has consented to the daily storage charge.

Towing and Road Service. Services performed on the road to start, pull or haul a motor vehicle. These charges are not applicable under the *Motor Vehicle Service and Repair Act* unless the charges are for repairs and other work performed beyond the initial towing or road service.

Used Vehicle Parts Act--Public Act 119 of 1986. A law enacted by the Michigan legislature to regulate the business of buying or receiving used motor vehicle parts (MCL 257.1351 et seq.).

Vehicle Body Work. The business or activity of repairing physical damage to a motor vehicle by repairing, mending, straightening or replacing a major component part, except for the engine or transmission.

Waiver of Written Estimate. An act by the customer to abandon or reject his or her right to a written estimate for vehicle repairs. The waiver must be in writing and signed by the customer. It is not effective unless it is voluntarily given by the customer and is printed in the type size and wording prescribed in Appendix B.

Warranty. A guarantee given by a motor vehicle repair facility, in writing or by implication, of the merchantability, the integrity of the subject of a contract or of the maker's responsibility for the replacement or repair of defective parts or services, or both, assuring performance, product or conditions as promised or declared. A repair facility does not have to guarantee its repairs. If it does, the warranty must be in writing and must disclose the scope of the warranty, including any limitations or disclaimers that may exist.