

CHAPTER 9

WORKING WITH The Regulatory Monitoring Division (RMD)

Section 9-1

INVESTIGATIONS

9-1.1 Authorization. The Motor Vehicle Service and Repair Act (MVSRA) authorizes the Michigan Department of State to make investigations and gather evidence against persons who may have violated, or are about to violate, the Repair Act. Complaints filed by consumers are routinely handled by a field investigator of the Department's Regulatory Monitoring Division (RMD).

9-1.2 Investigations. RMD receives thousands of consumer complaints each year. The Department attempts to gather all of the facts in these cases. Repair facilities are encouraged to provide critical information to RMD and the Business Regulation Section (BRS) to assist in the investigation. When consumer complaints are filed, the Department will contact the repair facility in one or more of the following ways:

- a) **Mail.** RMD will send the repair facility correspondence via mail asking for a response to the consumer's complaint. The facility's side of the dispute is important in resolving the problem. Providing the Department with a written response, in the desired timeframe, will assure that the dispute is handled quickly and fairly.
- b) **Telephone Contact.** The RMD agent may call the repair facility to discuss the consumer's complaint. It is important that the facility's side of the dispute is provided. Providing the Department with forthright answers and copies of transaction records will assist in a proper resolution of the complaint.
- c) **Personal Contact.** Sometimes in-person visits to repair facilities are necessary for certain complaints that are filed. The RMD agent will properly identify themselves when contacting the facility. Section 17 of the *MVSRA* (MCL 257.1317) permits RMD and other law enforcement officers to inspect repair facilities during normal business hours. All records pertaining to repair transactions performed within the past three years are subject to inspection.

NOTE: All records of warranties, contracts or agreements that extend beyond three years must be maintained until the warranty or contract period expires.

9-1.3 Timely and Favorable Responses. When a repair facility is contacted by RMD, a timely response will help ensure that the complaint is resolved quickly. Delays in answering inquiries will prolong the investigation. Failing to cooperate with a RMD agent can result in administrative action being taken against the repair facility for hindering or obstructing an investigation including a summary suspension of your registration. Here are some helpful hints:

- a) Reply promptly. This may avoid the need for further follow-up.
- b) Include copies of all relevant paperwork with your response.
- c) When responding to a letter, reply in writing. A written response may avoid the need for further contacts.

Section 9-2

VIOLATIONS

9-2.1 Restitution. There are times when the repair facility will agree that the consumer is indeed entitled to compensation. This can come in the form of a refund, reworking a repair job, paying for the repair to be completed by another registered facility, or extending a warranty period. Anytime a facility can provide this kind of restitution, it helps to bring the case to a close.

9-2.2 When Violations Are Alleged. During the course of an investigation or an inspection, the RMD agent may determine that the repair facility failed to meet the requirements of the MVSRA. The agent may find it necessary to issue a Notice of Noncompliance (NNC), which is similar to a “ticket.” By issuing an NNC, the RMD agent believes there was enough evidence to justify issuing a violation notice. The cited repair facility can appeal the NNC, in writing, and must include the reason the facility believes the violation was inappropriately issued. Supporting documents must be attached. Appeals should be sent to:

Michigan Department of State
Regulatory Monitoring Division
P O Box 30046
Lansing, MI 48909-7546

9-2.3 Disciplinary Action. When an NNC has been issued, it is the responsibility of the BRS to determine what disciplinary action, if any, should be taken against the repair facility or mechanic.

- a) Depending on the seriousness of the violations, the past record of the repair facility or mechanic, and the action taken to satisfactorily resolve the matter, disciplinary action may include: a warning letter; probation or suspension, with or without a penalty; or revocation of the repair facility’s registration or mechanic’s certification.
- b) Typically, before action is taken to suspend or revoke a facility registration or

mechanic certification, the repair facility or mechanic is given an informal opportunity to meet with BRS representatives to discuss the matter and, hopefully, reach an agreeable conclusion.

- c) Only in the most serious cases, or when an agreeable conclusion cannot be reached, an administrative hearing is held to determine whether it is appropriate to suspend or revoke the registration of the repair facility or the certification of the mechanic.

9-2.4 Disputes: If the Department notifies a repair facility a dispute has arisen and a specific repair transaction is under investigation, all documents pertaining to the dispute must be retained until the matter is resolved or three years has elapsed, whichever is longer.

The MVSRA authorizes the Department to do the following during an investigation:

- a) Require or permit a person to file a statement as the Department determines to all the facts and circumstances concerning the matter being investigated.
- b) Mediate disputes among parties arising from violations of the MVSRA.
- c) Conduct unscheduled inspections of motor vehicle repair facilities, registered or required to be registered, to determine if the facility is in compliance with the MVSRA.
- d) Conduct mechanical and diagnostic examinations of vehicles when there are reasonable grounds to believe that an unlawful act or practice was used to produce the repair or to make the repair.
- e) Pursue administrative action against a facility or mechanic. The administrative action could include any of the following:
 - 1) No Further Action.
 - 2) Warning Letter.
 - 3) Probation Agreement, with or without a financial penalty.
 - 4) Suspension Agreement, with or without a financial penalty.
 - 5) Revocation Request.

9-2.5 Violation Retention. Records of NNCs issued to a repair facility or are kept by the Department indefinitely and are a matter of public record.

Section 9-3

AUDITS

RMD periodically conducts audits regarding the calculations used to establish repair facility registration renewal fees. In most cases, audits are completed by mail.

- a) The facility being audited is asked a number of questions concerning its gross annual revenue for one or more years.
- b) The audit form and supporting documents must be sent to RMD.
- c) Facilities that do not respond to an audit letter, or where additional information is needed, receive a personal visit from a RMD agent. When it is determined that a repair facility provided false information concerning its reported gross annual revenue, disciplinary action is taken.