

# OVERVIEW

THE AUDITOR  
STATE OF HAWAII

## Sunset Evaluation Update: Regulation of Motor Vehicle Repairs

### Summary

We evaluated the regulation of motor vehicle repairs under Chapter 437B, Hawaii Revised Statutes, and conclude that the public interest is best served by reenactment of the statute.

We found that regulation of motor vehicle repairs is warranted. A substantial number of complaints are made about industry practices and regulation provides protection for consumers.

Motor vehicle repair dealers and motor vehicle mechanics correct malfunctions of automobiles, trucks, motorcycles, and other vehicles. Those wishing to repair motor vehicles for compensation must be licensed as repair dealers or mechanics by the Motor Vehicle Repair Industry Board. The board is administratively attached to the Department of Commerce and Consumer Affairs (DCCA), which provides administrative services to the board. The Regulated Industries Complaints Office (RICO) handles consumer complaints and pursues legal action when appropriate.

We found that motor vehicle repair dealers should continue to be licensed but regulation of individual mechanics is unwarranted. Unlike motor vehicle repair dealers, who operate shops, the regulation of mechanics is not necessary to protect the public. Other than Michigan, Hawaii is the only state to license mechanics. Few complaints are directed against mechanics. Mechanic licensing does not ensure competency, is restrictive, and is replete with inconsistencies. Ending it would place responsibility more clearly on the motor vehicle repair dealer, who would continue to be regulated under existing provisions on disclosure, dishonest or fraudulent practices, and others.

We also found that the Motor Vehicle Repair Industry Board is not needed. Routine administrative functions relating to licensing could readily be assumed by DCCA staff. Other program functions do not require a board. The University of Hawaii administers certification of mechanics and this could continue as an independent program. The DCCA director could conduct disciplinary adjudications.

In addition, we found clarification is needed on settlement agreements and executive meetings. This board, like others within DCCA, is dissatisfied with the amount of information RICO provides for settlements. The

minutes of the board's executive sessions lack sufficient detail to be in compliance with the law.

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## Recommendations and Response

We recommend that the Legislature should continue to regulate motor vehicle repairs. The Legislature should consider amending Chapter 437B to repeal the provisions for licensing motor vehicle mechanics, for a Motor Vehicle Repair Industry Board, and for the board to contract with the University of Hawaii for a certification program. If the board is continued, we recommend that DCCA should assist it by seeking a written opinion from the state attorney general on what information the department can provide for the board on settlement agreements that would not jeopardize due process. The department should also enforce the requirements outlined in the statutes and department policies on minutes of executive sessions.

The board agrees that motor vehicle repairs should continue to be regulated. It disagrees with our recommendation to repeal the provisions on licensing mechanics, which it claims are essential to the well-being of consumers. However, we found that licensing mechanics is unnecessary, restrictive, and does not ensure competency. The board also does not agree that the board should be repealed, because it fulfills major functions of adjudicating complaints and proposing legislation. But we found that DCCA could handle the board's key functions. Finally, the board does not agree with repealing the provisions for contracting with the University of Hawaii for mechanic certification because this goes hand in hand with the licensing of mechanics. As previously stated, we found mechanic licensing unwarranted.

The department says it will take under advisement our recommendation to seek an attorney general opinion on information for settlement agreements. It says it is enforcing the law on executive session minutes. However, the minutes we reviewed do not meet the Chapter 92 requirements that they be a true reflection of the matters discussed, represent the views of the participants, and include the substance of all matters proposed, discussed, or decided.

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