

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2139 Session of
1976

INTRODUCED BY TAYLOR, TOLL, SCHMITT, IRVIS, MANDERINO, WOJDAK,
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BERLIN, BELLOMINI, PIEVSKY AND HAMMOCK, FEBRUARY 17, 1976

REFERRED TO COMMITTEE ON CONSUMER PROTECTION, FEBRUARY 17, 1976

AN ACT

1 Regulating the business of repairing electric appliances;
2 providing for the registration of persons engaged therein;
3 prescribing powers and duties of the Attorney General;
4 prescribing penalties and making an appropriation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short Title.--This act shall be known and may be
8 cited as the "Pennsylvania Electric Appliance Repair Protection
9 Act."

10 Section 2. Definitions.--As used in this act:

11 "Business of repairing electric appliances" shall mean the
12 repair or adjustment of electric appliances for compensation.

13 "Certificate" shall mean a certificate of registration issued
14 under the provisions of this act.

15 "Core charge" shall mean any amount determined, by a supplier
16 of reconditioned or rebuilt parts on an exchange basis to a
17 registrant, as the reasonable value of a worn-out part to be
18 received by the supplier in exchange for a similar reconditioned

1 or rebuilt part, which amount may be levied as a charge by a
2 supplier against a registrant upon a registrant's failure to
3 tender a worn-out part at the time of exchange.

4 "Electric appliance" shall mean any equipment operated by
5 electricity that is primarily for personal use or for use in the
6 home and shall include but shall not be limited to a television,
7 radio, tape recorder, phonograph and home appliance.

8 "Established place of business" shall mean a building or part
9 of a building containing a facility with space for maintenance
10 of required business records, and in which shall be prominently
11 displayed a sign stating the full business name, address and
12 telephone number of the registrant and the name of the owner,
13 partners or manager.

14 "Registrant" shall mean any service dealer holding a valid
15 certificate of registration.

16 "Service dealer" or "dealer" shall mean a person who, for
17 compensation, engages in the business of repairing electric
18 appliances but shall not include any employee of a business for
19 repairing electric appliances if the employee repairs or adjusts
20 electric appliances for compensation only as such employee.

21 Section 3. Signs at Established Place of Business.--The
22 registrant must display a sign prominently in the established
23 place of business stating the full business name, address and
24 telephone number of the registrant, and the name of the owner,
25 partners or manager.

26 Section 4. Registration; Application; Fees and Issuance of
27 Certificates of Registration.--(a) On and after September 1,
28 1977 it shall be a violation of this act for any business which
29 is not the holder of a certificate of registration issued
30 pursuant to this act to engage in the business of repairing

1 electric appliances.

2 (b) An application for one or more certificates of
3 registration shall be filed with the Attorney General in such
4 form and detail as the Attorney General shall prescribe, setting
5 forth:

6 (1) The name and residence address of the applicant; if an
7 individual, the name under which he intends to conduct business;
8 if a partnership, the name and residence address of each member
9 thereof, and the name under which the business is to be
10 conducted; if a corporation, the name of the corporation, the
11 name and residence address of each of the officers and
12 directors, and the name under which the business is to be
13 conducted, if different from the name of the corporation.

14 (2) The place or places, including the complete address or
15 addresses where the business is to be conducted.

16 (3) Such further information as the Attorney General may
17 prescribe. The Attorney General may require the applicant to
18 appear at such time and place as he may designate for
19 examination to enable him to determine the accuracy of the facts
20 set forth in the written application, either for an initial
21 certificate of registration or renewal thereof. Every
22 application shall be affirmed as true by the applicant.

23 (c) Every application shall be accompanied by an application
24 fee of \$25 which shall in no event be refunded. If an
25 application is approved by the Attorney General upon payment by
26 the applicant of an additional fee of \$50 for each place of
27 business, the applicant shall be granted a certificate of
28 registration for each place of business, which certificate or
29 certificates of registration shall be valid for a period of one
30 year. The Attorney General may, however, in his discretion,

1 issue such certificates on a staggered expiration basis. The fee
2 for each certificate initially issued for a period of less than
3 three months will be \$12.50. The fee for a certificate issued
4 for a period of more than three months but less than six months
5 shall be \$25. The fee for each certificate issued for more than
6 six months but less than one year shall be \$50. In the event a
7 certificate of registration is issued on a staggered expiration
8 basis it shall expire on the date fixed by the Attorney General.
9 The annual fee for renewal of any certificate of registration
10 issued pursuant to this act shall be \$50. The Attorney General
11 shall issue a certificate of registration to each applicant
12 pursuant to the provisions of this act, which certificate of
13 registration shall be conspicuously displayed in the
14 registrant's place of business for which such certificate of
15 registration was issued. In the case of loss, mutilation or
16 destruction of a certificate of registration, the Attorney
17 General shall issue a duplicate certificate thereon upon proof
18 of the facts and the payment of a fee of \$25.

19 (d) (1) If a certificate of registration under this act
20 shall be issued in the names of two or more persons as partners
21 and a change occurs in the membership of such partnership, the
22 certificate of registration shall not expire thereupon so long
23 as any one of the persons named in such certificate of
24 registration is a member of the partnership or carries on the
25 business of the partnership as surviving member of the
26 partnership. However, when any change occurs and the certificate
27 of registration does not expire, the partner or surviving member
28 shall forthwith file with the Attorney General a statement
29 regarding such partnership in such form and give such
30 information as the Attorney General shall require, together with

1 the fee of \$25, and the Attorney General shall issue a new
2 certificate of registration. Such new certificate of
3 registration shall expire on the expiration date of the
4 certificate of registration replaced.

5 (2) Where the business is conducted under a franchise, lease
6 or other similar arrangement, the Attorney General, in his
7 discretion, may require the application to be submitted by the
8 franchise holder, lessee or other person actually responsible
9 for the person conducting the business.

10 Section 5. Business Records.--(a) Every registrant shall
11 prepare, at the time an electric appliance is presented by a
12 customer for repair, a standardized repair order as prescribed
13 by the Attorney General, of which a copy shall be given to the
14 customer and a copy to be retained by the registrant and shall
15 contain the following:

16 (1) A consecutive repair order serial number.

17 (2) The full business name, address and telephone number of
18 the registrant and the name of the person preparing the repair
19 order.

20 (3) The full name, address and business or residence
21 telephone number of the customer.

22 (4) The model year, make, model, style and identification
23 number if any of the electric appliance.

24 (5) A description of the repairs to be performed as
25 described in section 6.

26 (b) On completion of the repairs, the registrant shall
27 present to the customer a completely itemized bill containing,
28 in addition to the information described in subsection (a):

29 (1) A clear description of the repair operations performed
30 and the price for each operation or group of operations.

1 (2) A description of each replacement part, with notation if
2 any part is used or reconditioned, together with the price for
3 each part.

4 (3) Subtotals of parts and labor prices, Pennsylvania sales
5 tax, and total price of repairs.

6 (4) Identification of all repairs sublet to other than the
7 registrant.

8 (5) A statement of the warranty, if any, extended by the
9 registrant on materials and workmanship.

10 (c) Upon payment of this bill by the customer, the
11 registrant shall receipt it and deliver a copy to the customer.

12 (d) Copies of all bills, estimates and authorizations
13 relating to electric appliance repair shall be kept at the
14 registrant's place of business for two years and shall be
15 available for inspection by the Attorney General or his
16 representative.

17 Section 6. Estimates and Authorization.--(a) When the repair
18 order is written, the registrant shall provide the customer with
19 one or more of the options described below:

20 (1) Where possible the registrant shall record on the repair
21 order the estimated total price including Pennsylvania sales tax
22 of all repairs to be performed on the electric appliance and the
23 customer may then give his written authorization for those
24 repairs unless the customer elects the option in paragraph (3).

25 (2) If the price of all repairs cannot be accurately
26 estimated, unless the customer elects the option in paragraph
27 (3), the repair order shall state the maximum charge to be made
28 for diagnosis, inspection and preparation of an accurate
29 estimate for which charge only the customer shall give written
30 authorization, and the repair order shall also record whether

1 the customer requests:

2 (i) an accurate estimate in writing from the registrant and
3 the customer's authorization for those repairs only in writing;
4 or

5 (ii) an accurate estimate from the registrant orally by
6 telephone and the customer's oral authorization; in which case
7 the registrant shall record on the repair order at the time the
8 authorization is given the date, time, phone number called and
9 the full name of the person giving such oral authorization; or

10 (iii) on submission of the estimate by the registrant, if
11 the customer elects not to have the repairs performed by the
12 registrant he shall be liable for payment of the charge for
13 diagnosis up to the maximum authorized on the repair order, and
14 the registrant shall return the electric appliance to the
15 customer in the same condition in which it was presented for
16 diagnosis, unless otherwise agreed to by the customer.

17 (3) The customer may authorize performance of any repairs to
18 the electric appliance necessary in the judgment of the
19 registrant in a specific functional area by writing a statement
20 to that effect on the repair order in his own handwriting and
21 affixing his signature to that statement.

22 (b) When one of the options above has been selected, the
23 registrant shall give a copy of the repair order to the
24 customer.

25 (c) When an estimate is given, either orally or in writing,
26 the customer shall not be liable for payment of any overrun in
27 excess of 10% of the total estimated price of repairs, including
28 Pennsylvania sales tax, unless the customer has given subsequent
29 authorization for such overrun in the same form in which the
30 customer gave assent to the original estimate.

(d) In no case shall the customer be liable for payment for any repairs for which his authorization has not been obtained prior to performance of the repairs.

(e) If, after providing an estimate under this section, the registrant obtains authorization to proceed with repairs, the registrant shall credit any charge for the estimate, as provided in subsection (a)(2), against the total of his bill for repairs.

(f) A sign or poster setting forth the requirements of this section in clear language as approved by the Attorney General shall be prominently displayed in each place of business of the registrant.

Section 7. Disposition of Parts.--(a) All parts removed from a customer's electric appliance in the course of repair shall be tendered to the customer on completion of the repairs, at which time the customer may authorize the registrant to dispose of them.

(b) Those parts which are purchased on an exchange basis and for which a core charge is levied by the parts supplier shall also be tendered to the customer for his inspection, after which he may return them to the registrant or retain possession of them upon payment of the core charge to the registrant, for which payment a receipt shall be given by the registrant.

(c) Those parts which are returned to the manufacturer or distributor under a warranty arrangement shall be so identified on the receipt given to the customer with an explanation of what parts and/or service the customer receives in return and what the warranty or guarantee rights are on the exchanged part or parts.

Section 8. Suspension, Revocation or Refusal to Issue or Renew a Certificate of Registration; Civil Penalty; Surrender of

1 Certificate of Registration.--(a) The Attorney General may deny
2 the application of any person for a certificate of registration
3 and may suspend or revoke a certificate of registration or
4 refuse to issue a renewal thereof if he determines that such
5 applicant or registrant:

6 (1) has, within three years prior to the issuance of the
7 certificate of registration then in force or while his current
8 certificate of registration is in force, pleaded guilty, entered
9 a plea of nolo contendere or has been found guilty in a court of
10 competent jurisdiction of this or any other state of forgery,
11 fraud, embezzlement, obtaining money under false pretenses,
12 extortion, conspiracy to defraud, bribery or any other crime
13 involving moral turpitude; or

14 (2) has knowingly failed or refused to account for or to pay
15 over moneys or other valuables belonging to others which have
16 come into his possession arising out of the repair of electric
17 appliances; or

18 (3) has engaged in false, deceptive or misleading
19 advertising of electric appliance repairs; or

20 (4) has committed any act or engaged in conduct in
21 connection with the repair of electric appliances which clearly
22 demonstrated incompetency by accepted industry standards; or

23 (5) has made a material misstatement or concealed a material
24 fact in the application for a certificate of registration; or

25 (6) has grossly overcharged any person for repairs to an
26 electric appliance; or

27 (7) has misrepresented necessary repairs to a customer, or
28 has defrauded any customer by performing unnecessary repairs; or

29 (8) has refused to give a customer a copy of any document
30 requiring his signature as soon as the customer signs such

1 document; or

2 (9) has in the repair of electric appliances performed any
3 act which constitutes a departure from or disregard of accepted
4 trade standards of good workmanlike repairs in any material
5 respect, which action is prejudicial to the owner of the
6 electric appliance and which would be known as such a departure
7 or disregard by any reasonable dealer or repairman in the trade;
8 or

9 (10) has knowingly made a false promise of a character likely
10 to influence, persuade or induce a consumer to authorize the
11 repair of an electric appliance; or

12 (11) has attempted to enter into or entered into any
13 contract or obligation for the repair of an electric appliance
14 which shall contain a provision by which a consumer:

15 (i) waives any right of action against the dealer or other
16 person acting in the dealer's behalf for any unlawful act
17 committed by the dealer or his agents; or

18 (ii) relieves the dealer from any liability for any legal
19 remedies which the consumer may have against the dealer; or

20 (12) was the former holder of a certificate of registration
21 issued hereunder which was revoked or suspended by the Attorney
22 General; or

23 (13) is or was an officer, director, partner or stockholder
24 holding more than 10% of the outstanding stock in a corporation
25 or partnership which was the former holder of a certificate of
26 registration issued hereunder which was revoked or suspended by
27 the Attorney General; or

28 (14) has failed to furnish satisfactory evidence of good
29 character, reputation and fitness; or

30 (15) does not have a place of business as required by this

1 act; or

2 (16) is not the true owner of the repair shop, except where
3 the Attorney General has issued a certificate of registration to
4 a franchise holder or person actually conducting the electric
5 appliance repair business pursuant to the provisions of section
6 4(d)(2); or

7 (17) has failed to comply with any of the provisions of the
8 act of December 17, 1968 (P.L.1224, No.387), known as the
9 "Unfair Trade Practices and Consumer Protection Law"; or

10 (18) has failed to comply with the rules and regulations
11 promulgated by the Attorney General or any of the provisions of
12 this act.

13 (b) The Attorney General in addition to, or in lieu of
14 revoking or suspending the certificate of registration of a
15 registrant in accordance with the provisions of this act, may,
16 in any one proceeding, order the registrant to pay to the
17 Commonwealth a penalty in a sum not exceeding \$100 for each
18 violation, and not exceeding \$500 in the aggregate for all
19 violations, and upon the failure of such registrant to pay such
20 penalty within 20 days of the receipt by the registrant of such
21 order, postage prepaid, registered, and addressed to the last
22 known place of business of such registrant, unless such order is
23 stayed by an order of a court of competent jurisdiction, may
24 revoke the certificate of registration of such registrant or may
25 suspend the same for such period as he may determine. The
26 penalty provided in this section may be recovered by an action
27 brought by the Attorney General in any court of competent
28 jurisdiction.

29 (c) Any registrant holding or possessing a certificate of
30 registration which has been suspended or revoked pursuant to

1 this act, who fails to deliver the same to the suspending or
2 revoking officer or to any peace officer directed by the
3 Attorney General to secure possession thereof, is guilty of a
4 misdemeanor of the third degree.

5 Section 9. Non-registered Service Dealers.--Any service
6 dealer who is not registered is guilty of a summary offense, and
7 upon conviction thereof, shall be sentenced to pay a fine of
8 \$100 for the first offense and of \$500 for the second or
9 subsequent offense, and the Attorney General or his
10 representative may seek appropriate civil remedies against a
11 second or subsequent offender.

12 Section 10. Removal of Electric Appliance from Premises;
13 Receipt; Contents.--Any person who for the purpose of repairing
14 a television, radio, phonograph, tape recorder set or electric
15 appliance removes the set or appliance from the premises of the
16 owner shall furnish the owner at the time of such removal with a
17 receipt containing all the information required by sections 5
18 and 6.

19 Section 11. Hearings; Judicial Review.--(a) No certificate
20 of registration shall be suspended or revoked or penalty imposed
21 until after a hearing, upon written notice to the registrant,
22 before an officer or employee designated by the Attorney
23 General: Provided, however, That where a notice of hearing is
24 mailed to a registrant at the address shown in the records of
25 the Attorney General and such registrant fails to attend such
26 hearing, the Attorney General may suspend his certificate of
27 registration without a hearing. Upon the denial of an
28 application for a certificate of registration the Attorney
29 General shall grant a hearing to an applicant therefor upon
30 receipt of a request for such a hearing made within 30 days

1 after the applicant is notified of such denial. In the event a
2 certificate of registration is revoked or an application is
3 denied, no certificate of registration shall be issued to such
4 former registrant or applicant for at least six months or
5 thereafter, except in the discretion of the Attorney General.
6 The applicant or registrant may be heard in person or by
7 counsel. Such hearings shall be at such time and place as the
8 Attorney General shall prescribe. The Attorney General, or his
9 designate, shall have the power of subpoena and may bring before
10 him or his designate, any person in this Commonwealth or
11 document, record or other relevant evidence. He shall have the
12 power to administer oaths and take the testimony of any such
13 person or cause his deposition to be taken. A subpoena issued
14 under this act shall be regulated by the Pennsylvania Rules of
15 Civil Procedure.

16 (b) All actions of the Attorney General shall be taken
17 subject to the right of notice, hearing and adjudication and the
18 right of appeal therefrom, in accordance with the provisions of
19 the act of June 4, 1945 (P.L.1388, No.442), known as the
20 "Administrative Agency Law," or any amendments or reenactment
21 thereof, relating to adjudication procedure.

22 Section 12. Regulations.--The Attorney General may adopt
23 such rules and regulations as may be necessary for the
24 enforcement and administration of this act. Such rules and
25 regulations when promulgated pursuant to the act of July 31,
26 1968 (P.L.769, No.240), known as the "Commonwealth Documents
27 Law," shall have the force and effect of law.

28 Section 13. Personnel.--The Attorney General may appoint and
29 fix the compensation of such clerical, inspection, attorneys,
30 investigation, and auditing personnel as may be necessary to

1 carry out the provisions of this act.

2 Section 14. Investigations.--The Attorney General or his
3 representative shall investigate violations of this act and of
4 any regulation established hereunder, by any service dealer,
5 whether registered or not, and by any employee, partner,
6 officer, or member of any service dealer. The Attorney General
7 or his representative shall, on his own initiative, conduct spot
8 check investigations of service dealers throughout the
9 Commonwealth on a continuous basis.

10 Section 15. Advisory Council.--There is hereby created an
11 advisory council, which shall advise the Attorney General in
12 administering this act. The council shall consist of eight
13 individuals appointed by the Governor, four of whom shall be
14 service dealers registered under this act with at least five
15 years' experience in the Commonwealth, one of whom shall be
16 employed by a service dealer registered under this act with at
17 least three years' experience in the Commonwealth. The remaining
18 three members shall be chosen from the public at large and
19 represent the interest of the general public.

20 The terms of office of members of the council shall be three
21 years or until their successors are qualified. Any vacancy of
22 the council shall be filled for the remainder of the unexpired
23 term, in the same manner as the original appointments.

24 Members of the council shall receive no compensation, but
25 shall be entitled to reimbursement for actual expenses incurred
26 in the performance of duties under this act.

27 Section 16. Waiver of Provisions.--A waiver by the customer
28 of any of the provisions of this act shall be deemed contrary to
29 public policy and shall be void and unenforceable.

30 Section 17. Unlawful Method; Act or Practice.--Any method,

1 act or practice which violates any of the provisions of this act
2 is hereby declared unlawful.

3 Section 18. Restraining Prohibited Acts.--Whenever the
4 Attorney General, or a district attorney, or the solicitor of
5 any county or city of the first or second class has reason to
6 believe that any person is using or is about to use any method,
7 act or practice declared by this act to be unlawful, and that
8 proceedings would be in the public interest, he may bring an
9 action in the name of the Commonwealth against such person to
10 restrain by temporary or permanent injunction the use of such
11 method, act or practice. The action may be brought in the court
12 of common pleas of the county in which such person resides, has
13 his principal place of business, or is doing business, or may be
14 brought in the Commonwealth Court. The said courts are
15 authorized to issue temporary or permanent injunctions to
16 restrain and prevent violations of this act, and such
17 injunctions shall be issued without bond.

18 Section 19. Assurances of Voluntary Compliance.--In the
19 administration of this act, the Attorney General may accept an
20 assurance of voluntary compliance with respect to any method,
21 act or practice deemed to be violative of the act from any
22 person who has engaged or was about to engage in such method,
23 act or practice. Such assurance may include a stipulation for
24 voluntary payment by the alleged violator providing for the
25 restitution by the alleged violator to consumers, of money,
26 property or other things received from them in connection with a
27 violation of this act. Any such assurance shall be in writing
28 and be filed with the court of common pleas in which the alleged
29 violator resides, has his principal place of business, or is
30 doing business, or the Commonwealth Court. Such assurance of

1 voluntary compliance shall not be considered an admission of
2 violation for any purpose. Matters thus closed may at any time
3 be reopened by the Attorney General for further proceedings in
4 the public interest, pursuant to this act.

5 Section 20. Civil Penalties.--Any person who violates the
6 terms of an injunction issued under this act or any of the terms
7 of an assurance of voluntary compliance duly filed in court
8 under this act shall forfeit and pay to the Commonwealth a civil
9 penalty of not more than \$5,000 for each violation. For the
10 purposes of this section, the court issuing an injunction or in
11 which an assurance of voluntary compliance is filed shall retain
12 jurisdiction, and the cause shall be continued, and, in such
13 cases, the Attorney General, the appropriate district attorney,
14 or solicitor acting in the name of the Commonwealth of
15 Pennsylvania, may petition for recovery of civil penalties and
16 any other equitable relief deemed needed or proper.

17 Section 21. Appropriation.--(a) The sum of \$200,000, or as
18 much thereof as may be necessary, is hereby appropriated to the
19 Attorney General for use in carrying out the provisions of this
20 act.

21 (b) The total appropriation to the Attorney General for the
22 purpose of carrying out the provisions of this act may not
23 exceed the total amount of revenue collected by the registration
24 fees as provided by this act.

25 Section 22. Effective Date.--This act shall take effect
26 immediately.