

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing and Racing & Athletics
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POST-AUGUST 25, 2009 HEARING REVISIONS WITH TRACKED CHANGES¹

Commercial Licensing Regulation 3–Automobile Body Shop Storage Rates

Table of Contents

Section 1	<u>Authority</u> Maximum Vehicle Storage Charges
Section 2	<u>Purpose</u> Definitions
Section 3	<u>Definitions</u> Insurance Representative
Section 4	<u>Maximum Rates of Storage</u> Stolen Vehicles
Section 5	<u>Storage Charges Prohibited for Repaired Vehicles</u> Application
Section 6	<u>Storage for Totaled and Partially Repaired Vehicles</u>
<u>Section 7</u>	<u>Insurance Representatives</u>
<u>Section 8</u>	<u>Stolen Vehicles</u>
<u>Section 9</u>	<u>Variances</u> Enforcement
<u>Section 10</u>	<u>Enforcement</u> Severability
<u>Section 11</u>	<u>Severability</u> Effective Date
<u>Section 11</u>	<u>Effective Date</u>

Section 1 Authority

This regulation (“Regulation”) is promulgated by the Department of Business Regulation (“Department”) pursuant to the authority granted in R.I. Gen. Laws §§ 5-38-27 and 42-35-1 *et seq.*

Section 2 Purpose

The purpose of this Regulation is to: (i) provide definitions for terms related to the imposition of storage fees; (ii) establish reasonable maximum rates that may be

¹ Titles and Sections headings were previously in bold. No changes have been made to section titles or headings. The Regulation as proposed is in underline, existing (proposed) changes are noted through a single strikethrough, post-hearing deletions are noted through double strikethrough, and post-hearing additions within the body of the sections are in bold. **The post-August 25, 2009 additions are noted in larger (16 font) bold text and deletions are noted with a double strike-through for all amended sections except for Section 6, which is being adopted as proposed in the July 23, 2009 regulatory amendment notice filing. For ease of reference, the only post-August 25, 2009 amendments are to Sections 2, 4, 5(B)(iii), and 6 (Section 6 is being adopted as proposed in the notice filed on July 23, 2009).**

charged by automobile body repair shops licensed pursuant to R.I. Gen. Laws § 5-38-1 et seq. for storage of automobiles; (iii) clarify different categories of storage fees and charges; and (iv) provide standard procedures for the notice and imposition of storage fees. This Regulation applies to all automobile body repair shops licensed by the Department. This Regulation does not apply to non-consensual tows prior to the owner of the automobile signing an authorization to repair the vehicle. This Regulation does not require an automobile body repair shop to charge for storage nor does it prohibit an automobile body repair shop from charging less than the maximum rates established herein.

The purpose of this Regulation is also to provide insurers subject to Title 27 of the Rhode Island General Laws with information and criteria for the imposition of storage fees and charges by licensed automobile body repair shops. While insurers must comply with the Department’s Insurance Regulation 73, any issues related to **the payment of storage fees by insurers** and the determination of unfair claims settlement practices must be directed to the Insurance Division of the Department for processing consistent with the statutes, regulations, and policies of the Insurance Division. **Any violation of Commercial Licensing Regulation 3 by automobile body repair shops is subject to enforcement under Section 9 of Commercial Licensing Regulation 3.**

Section 3 Definitions

- A. “Day” as used herein shall mean each calendar day in which the vehicle is on the premises of the automobile body repair shop for eight (8) hours or more.
- B. “Storage” as used herein shall mean vehicles stored in a secured, lighted area surrounded by a six-foot or higher fence, with a reasonable and operational security system.

Section 4 Section 1 Maximum Rates of Storage Vehicle Storage Charges

The maximum rate for vehicle storage charged by auto body shops shall be as follows:

Inside Storage	A	B
Vehicles less than 20 ft.	\$18.00 per day	\$30.00 per day
Vehicles 20 ft. to 31 ft.	\$22.00 per day	\$40.00 per day
Vehicles 32 ft. or more	\$25.00 per day	\$50.00 per day
Outside Secured		
Vehicles less than 20 ft.	\$15.00 per day	\$24.00 per day
Vehicles 20 ft. to 31 ft.	\$18.00 per day	\$30.00 per day
Vehicles 32 ft. or more	\$20.00 per day	\$36.00 per day
Outside Not Secured		

Vehicles less than 20 ft.	\$12.00 per day	\$20.00 per day
Vehicles 20 ft. to 31 ft.	\$15.00 per day	\$24.00 per day
Vehicles 32 ft. or more	\$18.00 per day	\$30.00 per day

Rates (A) will be in effect for the first seven (7) business days and Rates (B) thereafter (other than for stolen vehicles — see Section 4). If vehicle is repaired by shop, no storage will be charged.

~~A.~~ **A.** The maximum rates of Storage that may be charged by an automobile body repair shop for storage of a vehicle shall be consistent with the storage rate set for vehicle storage by the Division of Public Utilities and Carriers (“DPUC”) pursuant to its jurisdiction over tow away motor vehicle operations under R.I. Gen. Laws §§ 39-12-1 *et seq.* and 39-12.1.1 *et seq.* which is currently, for:

~~(i) A.~~ **(i)** Vehicles ~~less than 20 ft.~~ **feet long or less: \$27.00**
\$24 per day;

~~(ii) B.~~ **(ii)** Vehicles ~~20 ft. to 31 ft.~~ **more than 20 feet long: \$35.00**
per day.

~~(iii) C.~~ Vehicles ~~32 ft. or more~~ ~~\$43.00 per day~~

B. Said rates are to be adjusted consistent with the DPUC rates; provided, however, that there shall be an administrative hearing consistent with R.I. Gen. Laws § 42-35-1 *et seq.* for the amendment of this regulation, subject to the approval by the Director and prior to the imposition of said increased rates.

~~B. The rates indicated in Section 4(A)(i)-(iii) above shall be re-set by the Director of the Department as set forth below:~~

~~(i) The amended fees shall be based upon supporting documentation presented by all interested parties.~~

~~(ii) The Director may review said fee and adjust as appropriate based on the facts and evidence presented.~~

~~(iii) Pursuant to R.I. Gen. Laws § 5-38-2(h) the adoption and publishing of said storage rates must be with the prior approval of the Director of the Department in accordance with the Administrative Procedure Act, R.I. Gen. Laws § 42-35-1 *et seq.*~~

~~“Inside Storage” shall mean containment of the vehicle in a secure building, which shall be locked when the premises are unoccupied.~~

~~“Outside Secured Storage” shall mean storage on a licensed auto body shop’s property in an area secured by a (six) 6 foot high fence, wall or other man-made barrier, lighted at night with an alarm system or similar security system.~~

~~“Outside Not Secured Storage” shall mean storage on a licensed auto body shop’s property other than in an outside secured or inside storage area.~~

~~The auto body shop shall use the least expensive suitable means of storage.~~

~~A “day is defined as any calendar day in which the vehicle is on the auto body property for more than twelve (12) hours.~~

Section 4 — Stolen Vehicles

~~Until the body shop actually notifies the owner or insurance carrier of its custody of a vehicle, which may be proven by use of registered mail, and for the first seven (7) business days thereafter, (A) rates will be charged.~~

Section 5 — Application

~~Storage fees may be disallowed when the body shop has not made reasonable efforts to promptly contact the owner or insurance carrier of a stored vehicle.~~

~~These Regulations are to be followed, enforced and interpreted with a view to maximize the convenience and minimize the cost to the motorist whose car is under repair.~~

Section 5 — Storage Charges Prohibited for Repaired Vehicles

- A. Automobile body repair shops shall not charge ~~s~~Storage fees for vehicles to which repairs have been completed, unless the automobile body repair shop complies with Section 5(B)(i)-(iii) of this Regulation.
- B. Storage fees may only be charged for a vehicle to which repairs have been completed provided that:
 - (i) ~~The owner of the vehicle~~ **The automobile body repair shop has been given written notice to the vehicle owner, sent certified mail return receipt requested, of the completion of repairs, and of the automobile body repair shop’s right to charge ~~s~~Storage fees seven (7) days after the owner or a household member received notice as indicated by the return receipt of certified mail;**
 - (ii) Storage fees shall commence ~~on~~ the seventh (7th) day after the owner or a household member received the written notice evidenced by ~~return receipt from the post office;~~

~~(iii) If eight (8) days after the owner receiving the written notice from the automobile body repair shop as required in subpart B (i) of this section, the owner has failed to contact the automobile body repair shop, then the automobile body repair shop must make all reasonable efforts to advise the title lien-holder(s) of the vehicle and in writing, of the status of the vehicle.~~

~~C. If an automobile body repair shop fails to fulfill its obligations under subsections 5(bB)(i)-(iii) herein, it shall be prohibited from charging storage fees for the repaired vehicle.~~

Explanatory Comment: The amendments to Section 6 below are the amendments proposed at the hearing on August 25, 2009. Further, the redlined amendments to Section 6 below are amendments made to the version proposed after the March 26, 2008 hearing and filed with the Secretary of State on February 6, 2009. The proposed regulation filed on February 6, 2009 was never adopted due to filing the of filing of an Emergency Regulation on February 25, 2009. The only additional revisions (other than those noted above) under consideration as of July 24, 2009 are the revisions to Section 6 below which are noted in bold, larger font (for additions) and deletions are noted with single strike-through.

Section 6 Storage for Totaled and Partially Repaired Vehicles

~~Storage fees may be charged for all totaled vehicles as described below:~~

A. For a vehicle declared a total loss as a result of an insurer's initial appraisal inspection, an automobile body repair shop may charge Storage fees. rates provided that:

B. Such Storage fees shall not be charged for any days on which the automobile body repair shop failed to permit an insurance carrier to conduct an appraisal inspection of the vehicle within three (3) business days after the insurance company's oral or written request for such inspection.

~~(i) the automobile body repair shop has given written notice, sent certified mail return receipt requested, to the vehicle owner that the vehicle has been declared a total loss by the insurer and that the shop has the right to charge Storage fees seven (7) days after the owner or household member received notice indicated by the return receipt of the certified mailing;~~

~~(ii) the Storage fees shall commence on the seventh (7th) day after the owner or household member received the written notice evidenced by the return receipt from the post office; and~~

~~(iii) if eight (8) days after the owner receiving the written notice from the automobile body repair shop as required in subpart A (i) of this section, the owner has failed to contact the automobile body repair shop, then the~~

automobile body repair shop must make all reasonable efforts to advise the title lien holder(s) of the vehicle, in writing, of the status of the vehicle.;

B. C. For a vehicle declared a total loss as a result of an insurer's supplemental appraisal inspection, an automobile body repair shop may charge Storage rates fees under the following circumstances:

~~A. (i) An automobile body repair shop may charge storage fees. If it has commenced repairs to a vehicle, after an appraisal completed by either an insurance company or its agent, and when the vehicle is later deemed to be a total loss as a result of a supplemental appraisal by the insurer.~~

~~B. (ii) In such circumstances as described in Section (A) above, subparagraph BC (i) of this section, Storage fees shall commence two (2) business days after the automobile body repair shop has requested a supplement in any reasonable manner required by the insurer, which supplement caused the vehicle to be deemed a total loss.~~

If an insurance company fails to complete the supplement within two (2) business days of proper notification by the shop, the shop may begin to charge Storage fees after the two (2) business days after the supplement was initially requested.

~~C. (iii) Storage fees may be disallowed for any days for the time period on which the automobile body repair shop failed to permit an insurance carrier to conduct an appraisal inspection of the vehicle within the three (3) business days after the insurance company's oral or written request for such inspection.~~

~~D. (iv) An automobile body repair shop may shall not charge Storage fees for days the shop performs any partial repairs of a vehicle.~~

~~E. Storage fees shall commence on the 7th day after the owner or household member received the written notice evidenced by return receipt from the post office.²~~

(v) The automobile body repair shop shall give immediate written notice, sent certified mail return receipt requested, upon being notified that the vehicle has been declared a total loss by the insurer to the vehicle owner that the vehicle has been a declared a total loss by the insurer as a result of the insurer's supplemental appraisal and that Storage fees will be incurred two (2) business days after the date of the supplemental appraisal which deemed the vehicle a total loss.

~~F. (vi) If eight (8) days after the owner received the written notice from the automobile body repair shop, required in subparagraph B (v) of this section, the owner has failed to contact the automobile body repair shop, then the automobile body repair shop must make all reasonable efforts to~~

~~advise the title lien holder(s) of the vehicle, in writing, of the status of the vehicle.~~

D. For a vehicle declared a total loss for which no insurance company is responsible for payment of the loss, the repair shop must make all reasonable efforts to give written notice of the status of the vehicle to the title lien holder.

Section 37 Insurance Representatives

~~Insurance representatives shall be allowed to inspect any vehicles at any time for photographs and vehicle identification number checks.~~

~~Insurance representatives must be allowed, with or without appointment, to make an appraisal inspection of any vehicle as soon as practically possible, but in any event, not more than three (3) days following the insurance representative's written or oral request to inspect. Storage fees may not be charged for more than three (3) days, if a vehicle is not made available for inspection within three (3) days of a request to inspect. Storage may not be charged for any calendar day occurring between the day the insurance representative seeks access to the vehicle to make an appraisal inspection, and the day the auto body shop permits the insurance representative to enter and conduct the appraisal inspection. (viz: if the insurance representative seeks on Monday an appointment and is not permitted on the premises to make an appraisal until Wednesday, the auto body shop may not charge storage for Tuesday. If the insurance representative is unavailable before the Wednesday, then Tuesday's storage may be charged.)~~

A. Insurance representatives shall be allowed **access by an automobile body repair shop to inspect any vehicle ~~at any time~~ for photographs and vehicle identification number checks; an automobile body repair shop must permit such access within four (4) hours of such request.**

B. Insurance representatives must be allowed, with or without appointment, to make an appraisal inspection of any vehicle as soon as practically possible, but in any event, not more than three (3) days following the insurance representative's written or oral request to inspect. Storage fees may not be charged for more than three (3) days, if a vehicle is not made available for inspection within three (3) days of a request to inspect. Storage may not be charged for any day occurring between the day the insurance representative seeks access to the vehicle to make an appraisal inspection, and the day the automobile body repair shop permits the insurance representative to enter and conduct the appraisal inspection. (e.g., For example, if the insurance representative seeks a Monday appointment and is not permitted on the premises to make an appraisal until Wednesday, the automobile body repair shop may not charge a **Sstorage **fee** for Tuesday. If the insurance representative is unavailable before Wednesday, then Tuesday's **S**storage **fee** may be charged.)**

Section 8 Variances

~~A. An automobile body repair shop or an insurer may petition this Department, in writing, for a variance from the rates indicated in Section 4 above. Upon receipt of a petition claiming undue hardship, the Director may hold a public hearing prior to rendering a decision. If a petition is approved, it shall have general prospective applicability, and shall not be deemed retroactive or applicable in any manner to claims presented prior to the approval date.~~

~~B. The petition shall be addressed to the Director and shall explain in detail, the reason for the requested variance, and the relief sought.~~

~~A. In the event the Director shall issue a denial of a variance, the Director shall clearly state the basis for the denial.~~

Section 8 Stolen Vehicles

Upon obtaining custody of a stolen vehicle, an automobile body repair shop must send written notice, via registered mail, to the owner or insurer of the vehicle, that it has custody of the vehicle.

Section 9 Enforcement

Any violation of this Regulation by an automobile body repair shop shall be enforced by the Department pursuant to its authority under applicable law.

Section 10 Severability

If this Regulation or its application to any individual, entity, or circumstance is held to be invalid, such invalidity, shall not effect other provisions or application of this Regulation, which can be given effect without the invalid provision, and application, and to this end the provisions are declared to be severable.

Section 11 Effective Date

This Regulation shall become effective twenty (20) days from the date of filing with the Secretary of State's Office.

EFFECTIVE DATE: October 27, 1994

REFILED: December 19, 2001

AMENDMENT FILED: September 4, 2009

AMENDMENT EFFECTIVE: September 24, 2009