

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing
233 Richmond Street
Providence, RI 02903

NOTICE OF PROPOSED AMENDED REGULATION
AND NOTICE OF PUBLIC HEARING

Notice is hereby given, in accordance with R.I. Gen. Laws §§ 42-14-17 and 42-35-3, that the Director of the Department of Business Regulation (“Department”) proposes to amend the following Regulation:

Commercial Licensing Regulation 7 – Salvage Vehicle Repair

The Proposed Regulation as amended creates a new class of license allowing the salvage repair of motorcycles only, and adds associated definitions. Additionally, minor grammatical changes were made to enhance organization and readability.

Notice is also hereby given, in accordance with R.I. Gen. Laws § 42-35-2, that the Department of Business Regulation will hold a public hearing regarding the **Amended Commercial Licensing Regulation 7-Salvage Vehicle Repair** beginning at **10:30 a.m. on May 2, 2007** in the Main Hearing Room of the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903.

Copies of the Proposed Amended Regulations are on file at the Department and copies may be obtained from the Legal Division, Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 during normal working hours on regular business days or by mail upon request. The Proposed Amended Regulations may also be obtained from the Department’s website www.dbr.state.ri.us.

In the development of the Proposed Amended Regulations, consideration was given to overlapping approaches, overlap and duplication with other statutory and regulatory provisions and economic impact on small business and cities and towns.

All interested persons may submit their views, data or arguments regarding the Proposed Amended Regulations, including information relating to alternative approaches, duplication or overlap with other state rules or regulations and the economic impact of the Regulations on small business and/or cities and towns, orally at the public hearing or in writing, either by delivering the same in person or United States mail with postage pre-paid thereon to the Department of Business Regulation, 233 Richmond Street, Providence, Rhode Island 02903 to Joseph J. LoBianco, Esq., Hearing Officer or by e-mail to jlobianco@dbr.state.ri.us.

ALL SUBMISSIONS MUST BE RECEIVED NOT LATER THAN MAY 2, 2007 AT 10:30 A.M.

The hearing room is accessible to the handicapped. Individuals requesting interpreter services for the hearing impaired must notify the Office of Legal Counsel at (401) 222 5400 or TDD (401) 222 2999 not less than ninety-six (96) hours in advance of the hearing date.

A. Michael Marques
Director, Department of Business Regulation

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Commercial Licensing Regulation 7 - Salvage Vehicle Repair

Table of Contents

Section 1	Authority
Section 2	Purpose
Section 3	Definitions
Section 4	License
Section 5	Resale of Repaired Salvage Vehicles
Section 6	Change in Ownership or Management
Section 7	Consumer Complaints
Section 8	Denial, Non- Renewal, Suspension or Revocation
Section 9	Conduct of Cases
Section 10	Subsequent Changes in the Regulation
Section 11	Severability
<u>Section 12</u>	<u>Effective Date</u>

Section 1 **Authority**

This Regulation is issued pursuant to the authority vested in the Director of the Department of Business Regulation of the State of Rhode Island under R.I. Gen. Laws §§ 5-38-2, 5-38-4, 31-46-7 and 42-37-17.

Section 2 **Purpose**

The purpose of this Regulation is to create standards and procedures for the issuance of a salvage rebuilder's license to licensed automobile body repair shop facilities so that such facilities may repair total loss salvage vehicles. This Regulation is intended to ensure that vehicles are reconstructed in a safe manner for the consumer/retail buyer, and to prohibit the use of stolen parts/vehicles in the rebuilding of such vehicles.

Section 3 **Definitions**

(A) “Act” means R.I. Gen. Laws § 31-46-1 *et seq.* ("Rhode Island Salvage Law").

(B) “Agent” means an individual specifically authorized by another to act on his or her behalf.

(C) “Applicant” means an Automobile Body Repair Shop licensed pursuant to R.I.

Gen. Laws § 5-38-1 *et seq.* filing an application for a License to conduct the Business of Salvage Vehicle Repairing.

(D) “Business of Salvage Vehicle Repairing” means the act or acts of preparing, fixing, restoring, or putting together Salvage Vehicles for the purpose of resale in the retail market.

(E) “Certificate of Salvage Repair” means a certificate executed by a Licensee which shall certify that the Licensee has rebuilt the Salvage Vehicle in accordance with R.I. Gen. Laws § 31-46-1 *et seq.* and this Regulation and must accompany the vehicle to the inspection station and registry.

(F) “Department” means the Department of Business Regulation.

(G) “Director” means the Director of the Department of Business Regulation.

(H) “License” means a license issued by the Department in accordance with R.I. Gen. Laws § 31-46-7 authorizing an Automobile Body Repair Shop to conduct the Business of Salvage Vehicle Repairing.

(I) “Licensee” means an entity which is authorized to conduct the Business of Salvage Vehicle Repairing.

(J) “Motorcycle” means only those Vehicles having not more than three (3) wheels in contact with the ground and a saddle on which the driver sits astride, except for bicycles with helper motors as defined in R.I. Gen. Laws § 31-1-3.

(K) “Motorcycles Only License” means a License issued by the Department in accordance with R.I. Gen. Laws § 31-46-7 authorizing an Automobile Body Repair Shop to conduct the Business of Salvage Vehicle Repairing of Motorcycles, but not any other type of Vehicle.

(L) “Person” means any individual, partnership, association, trust or corporation.

(M) “Salvage Vehicle” means a vehicle declared to be a total loss because of

(A) damage to such vehicle or

(B) in settlement of a claim for damage or theft.

(N) “Vehicle” means an automobile, truck, or motor vehicle of any type.

Section 4 License

(A) License Required. No Person may engage in the Business of Salvage Vehicle Repairing without first obtaining a License. Only Automobile Body Repair Shops

licensed pursuant to R.I. Gen. Laws § 5-38-1 *et seq.* are eligible. The term of each License issued shall not exceed three (3) years.

(B)(1) Experience and/or education requirements. Prior to applying for licensure, each Applicant, or at least fifty percent (50 %) of its employees, must be certified as defined in paragraph 4B(2) in each of the following areas:

- (a) Identification and Analysis of Damage to vehicles;
- (b) Measuring Principles and Techniques;
- (c) Straightening Systems and Techniques;
- (d) Welding in Collision Repair;
- (e) Replacement of Structural Parts;
- (f) Restoring Corrosion Protection;
- (g) Suspension, Steering, and Alignment; and
- (h) Working with Mechanical and Electrical parts.

(B)(2) The following experience and/or education requirements satisfy paragraph 4B(1) by one (1) of the following:

- (a) Automotive Service Excellence ("ASE") certification;
- (b) A minimum of two (2) years experience as an auto technician, engine mechanic or automobile repairer and refinisher;
- (c) Inter-Industry Conference on Auto Collision Repair ("ICAR") certification;
- (d) Successful completion of courses approved by the Director and a minimum of one (1) year's experience as an auto technician, engine mechanic or automobile repairer and refinisher; or
- (e) Sufficient prior experience deemed acceptable by the Director.

An Applicant who wishes to become certified under paragraph 4B(2) must submit certified copies of his/her transcript demonstrating courses completed and grades achieved. An Applicant must also submit detailed syllabi outlining the content of the courses and certificates of attendance and completion, as applicable.

~~(C)(1)~~ Equipment Requirements. Each Applicant shall have at its facility at least the following equipment:

- (1) Electrical and/or hydraulic pulling equipment;
- (2) Current dimensional guides appropriate to the vehicle being repaired;
- (3) A four (4) point clamping system to secure the vehicle while making structural repairs;
- (4) Equipment/gauges capable of measuring symmetrical and asymmetrical vehicles;
- (5) Appropriate welding equipment that meets or exceeds the manufacturer's

- requirements, but at a minimum shall include a MIG Welder;
- (6) A refinishing area that complies with safety and environmental regulations; and
 - (7) A paint system that can produce an original equipment manufacturer's type finish.

(C)(2) Equipment Requirements for Motorcycles Only License. Each Applicant for a Motorcycles Only License shall have it its facility at least the following equipment:

- (1) A minimum of two (2) motor vehicle lifts;
- (2) Appropriate welding equipment that meets or exceeds the manufacturer's requirements, but at a minimum shall include a MIG welder; and
- (3) Appropriate hand tools that meet or exceed the manufacturer's requirements.

(D) Application. Each Applicant shall submit to the Department the following:

- (1) The completed application form adopted by the Department;
- (2) A copy of a valid Rhode Island Automobile Body Repair Shop License;
- (3) The license fee of six hundred dollars (\$600.00) for three years, two hundred dollars (\$200.00 per year);
- (4) The Applicant's EPA number;
- (5) Evidence of education or work experience by the Applicant or employees; and
- (6) Evidence of minimum equipment compliance.

(E) On Site Inspection. Before issuing a License a field representative of the Department may make an on site inspection of the Applicant's business premises.

(F) License Non-transferable. A License may be used only by the parties named in such license and shall not inure to the benefit of any other parties. The License may not be assigned or transferred.

a. Surrender of License. Any Licensee may surrender any License by delivering to the Director written notice that the Licensee surrenders the License, but the surrender shall not affect the Licensee's civil or criminal liability for acts committed prior to the surrender thereof.

b. Termination of License. Whenever an individual Licensee retires or dies it shall be the duty of the Licensee or his/her estate to deliver the License in person or by first class mail, postage prepaid, to the Director within fifteen (15) days following the retirement or death.

Section 5 Resale of Repaired Salvage Vehicles

(A) No Person shall sell or offer to sell any Salvage Vehicle repaired by a Licensee without first having such vehicle issued a certificate of inspection in accordance with R.I. Gen. Laws § 31-38-1 *et seq.* The provisions of this Regulation are in addition to any and

all other provisions of law and Regulation concerning the rebuilding and sale of Salvage Vehicles.

(B) Each Licensee will be given assigned numbered Certificate of Salvage Repair forms. Failure to supervise and control the Certificate of Salvage Repair forms in conformance with this Regulation may result in the suspension or revocation of the License.

Section 6 Change in Ownership or Management

(A) The Department must be notified in writing within fifteen (15) days if there is a change in the membership of any Licensee which holds a License.

(B) Notification of change must be sent to the Department and shall contain the name and address of the member or officer who has been succeeded, and comparable information about any change in ownership greater than ten percent (10%).

Section 7 Consumer Complaints

All complaints of possible violations of the Act and this Regulation may be investigated by a field representative of the Department. The Director may upon his/her own motion or upon the verified complaint in writing of any person setting forth a cause, hold a hearing for the suspension, revocation or non-renewal of a License.

Section 8 Denial, Non-Renewal, Suspension or Revocation

The Director may deny, non-renew, suspend or revoke the License of any Licensee or an Applicant for any of the following reasons:

- (A) Violation of any provisions of the Act or this Regulation;
- (B) Where an applicant has made a materially untrue statement in the application;
- (C) On proof of unfitness of an Applicant to conduct the Business of Salvage Vehicle Repairing;
- (D) Defrauding any customer;
- (E) Refusal to surrender any automobile to the owner thereof upon tender of payment of the proper charges for towing and work done on the vehicle;
- (F) Having indulged in any unconscionable practice relating to the Business of Automobile Salvage Repairer;
- (G) Willful failure to perform work contracted for;
- (H) Failure to comply with the safety standards of the industry; or
- (I) Any misuse of a Certificate of Salvage Repair.

Section 9 Conduct of Cases

The Administrative Procedures Act and the rules of practice and procedure in administrative hearings before the Department shall govern the procedures to be followed in all cases pursuant to this Regulation.

Section 10 Subsequent Changes in the Regulation

Any changes in the Act which affect the content, language or intent of this Regulation, will be deemed adopted by the Department on the date of implementation of the changes in the Act.

Section 11 Severability

If any provision of the Regulation is held invalid, such invalidity shall not affect other provisions or applications of the Regulation.

Section 12. Effective Date

EFFECTIVE DATE: **July 29, 1996**
REFILED: December 19, 2001
AMENDED: December 13, 2004
AMENDED: **, 2007**