

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing
1511 Pontiac Avenue
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making
Commercial Licensing Regulation 15 – Automobile Body Repair Shop On-Site
Inspection Standards

Pursuant to the provisions of R.I. Gen. Laws § 5-38-5 and 42-14-17 and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation hereby gives notice of its intent to adopt Commercial Licensing Regulation 15 – Automobile Body Repair Shop On-Site Inspection Standards.

The purpose of this adoption is to establish standards of conduct between insurers and auto body shops in the appraisal of motor vehicles.

The proposed regulation is available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by email nsavage@dbr.state.ri.us or by calling Neena Sinha Savage at (401) 462 9540.

In the development of the proposed regulation consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulation by November 21, 2008 at 11:00 am to Neena Sinha Savage, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, nsavage@dbr.state.ri.us. A public hearing to consider the proposed regulation shall be held on November 21, 2008 at 11:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 in Building 73 at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling (401) 462 9520 or TDD 711.

A. Michael Marques
Director, Department of Business Regulation

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing and Racing & Athletics
1511 Pontiac Avenue
Cranston, RI 02920

Commercial Licensing Regulation 15–Automobile Body Repair Shop
On-Site Inspection Standards

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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 §§ 5-38-2, 5-38-7, 5-38-26, and 42-35-1 *et seq.*, and Commercial Licensing Regulations 3 and 4.

Section 2 Purpose

The purpose of this Regulation is to: (i) provide definitions for terms related to automobile body shop conduct during on-site inspections of vehicles; (ii) establish on-site inspection standards relating to automobile body shop conduct during inspection (for photographs, vehicle identification number (“VIN”) number checks, or other inspection), initial and supplemental motor vehicle damage appraisal, reinspection, and any other reasonable contact by an insurance representative, lienholder, or owner related to the appraisal and/or inspection of the vehicle at issue; and, (iii) provide guidelines and standards to promote efficient and professional on-site inspections of vehicles. This Regulation applies to all automobile body repair shops licensed by the Department and applies to every On-Site Visit by an Insurance Representative, lienholder, or owner of the vehicle. This Regulation also provides a submission process (a non-complaint mechanism) to allow Insurance Representatives to inform the Department of any alleged violations of this Regulation.

Section 3 Definitions

- A. Insurance Representative means: means any agent duly authorized by an Insurance Company with potential liability related to a claim, a motor vehicle damage appraiser licensed pursuant to R.I. Gen. Laws § 27-10.1-1 *et seq.* seeking to appraise or inspect a vehicle, or a claim adjuster licensed pursuant to R.I. Gen. Laws § 27-10-1 *et seq.*
- B. On-Site Visit means: any time in which an Insurance Representative, lienholder, or owner of the vehicle appears at an automobile body repair shop for the purpose of inspecting, appraising, supplementally appraising, photographing, taking vehicle identification numbers, re-inspecting or for any other legitimate purpose related to a vehicle in the possession of the auto body shop.
- C. Professional Manner means: that automobile body repair shop licensees and their agents and employees must adhere to all statutory and regulatory requirements and conduct themselves in a calm, courteous, and respectful manner at all times. Professional manner specifically bars yelling, screaming, assaulting, threatening to assault, battery, name-calling, cursing, or otherwise physically or verbally harassing or intimidating or berating any person in any dealings associated with licensed automobile body repair work.

Section 4 Minimum Space Requirements

Unless the vehicle is damaged such that it cannot be moved in advance, there shall be a minimum of two and one half (2 ½) feet of unobstructed space around each of the four (4) sides of the vehicle to facilitate movement of the Insurance Representative, lienholder and/or owner and allow sufficient space for the taking of photographs and views of vehicle.

Section 5 Lighting Requirements

If the area in which the vehicle is located is equipped with lights, the lighting shall be maintained and available throughout the appraisal process during normal business hours of the shop. The Insurance Representative shall be permitted to bring his or her own portable lighting.

Section 6 Access to Vehicle

An automobile body repair shop shall allow an Insurance Representative, lien holder, and/or owner the opportunity to inspect the damaged vehicle. The vehicle to be appraised/inspected must be unlocked or the keys must be readily available to the appraiser if the automobile body repair shop has custody of the keys. Access to all compartments, including the engine compartment, of the vehicle relative to the damage must be allowed.

Section 7 Non-Interruption of Inspection/Appraisal

Automobile body repair shops shall not terminate an appraisal or inspection from the time it begins until it is completed by the motor vehicle damage appraiser, other Insurance Representative, lienholder, or owner during the normal business hours of the shop.

Section 8 Appointments

- A. Insurance Representatives shall be allowed 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 request to inspect. The deletion of the allowance for oral requests to inspect in this Regulation supersedes the allowance for oral requests in Commercial Licensing Regulations 3 and 4.
- C. Given that Insurance Representatives are expected to contact the automobile body repair shop in advance to establish an opportunity for an appraisal inspection visit pursuant to Insurance Regulation 42, automobile body repair shops shall accommodate such requests as soon as practical, with the motor vehicle damage appraisal to occur no later than three (3) business days from the date of the request. The automobile body repair shop shall not unduly delay the Insurance Representative when the Insurance Representative arrives for the appointment.
- D. All automobile body repair shop licensees shall provide an email address to the Department within thirty (30) days of the effective date of this Regulation. Said email shall be used by the automobile body repair shops for the purpose of confirming appointments pursuant to regulatory requirements and any other reasonable communication with the Department and/or Insurance Representatives.
- E. The purpose of the On-Site Visit shall be confirmed in writing, including but not limited to email, by both the Insurance Representative and automobile body repair shop prior to the On-Site Visit; unless the On-Site Visit is for the purpose of conducting a VIN check or for the purpose of taking photographs.
- F. Automobile Body Repair Shops are only required to produce invoices and receipts of repair work upon a request for reinspection pursuant to R.I. Gen. Laws § 27-10.1-9 not an inspection request to assess supplemental damage.

Section 9 Automobile Body Shop Conduct During Motor Vehicle Damage Appraisal Visit

Automobile body repair shop personnel shall conduct themselves in a Professional Manner by fair and honorable dealings and shall refrain from intimidation, threats, yelling, harassing or from offering or paying gratuities or inducements to Insurance Representatives and lien holders.

Section 10 Supplemental Inspection by Non-Initial Inspection Appraiser

Automobile body repair shops must allow motor vehicle damage appraisals for supplemental appraisals to be performed by a motor vehicle damage appraiser who did not perform the initial appraisal on the claim.

Section 11 Tracking of Time Related to Inspection/Appraisal

In the event that a vehicle has been disassembled, the insurance company may require the automobile body repair shop to re-assemble the vehicle. The automobile body repair shop shall keep a record of all hours related to dismantling and re-assembly of vehicles and shall provide said records to the Insurance Representative if necessary to support payment for said time.

Section 12 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 13 Submissions Regarding Statutory/Regulatory Violations

- A. Submissions by Insurance Representatives regarding violation(s) of this Regulation by an automobile body repair shop licensee, shall be presented in writing to the Department subject to the following:
 - (1) Such submissions will be processed by the Department in its discretion if the Department believes reasonable cause exists to investigate the allegations.
 - (2) Such submissions shall provide documentary evidence of alleged violations which substantiate the allegations with specific reference to both statutory and regulatory sections at issue.
 - (3) If the submissions made by Insurance Representatives provide evidence of statutory and/or regulatory violations, the Department may prosecute said issues pursuant to its authority to initiate Departmental Hearings pursuant to Central Management Regulation 2.
 - (4) Such submissions may, and are encouraged to, combine allegations of multiple violations in one correspondence.

- B. Any abuse of the process under this section by Insurance Representative(s) shall result in a bar of the ability of that Insurance Representative and its affiliated Insurance Company to file any future submissions under this section. Said bar shall be at the sole discretion of the Director and shall not be appealable.

Section 14 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 15 Effective Date

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

EFFECTIVE DATE: December INSERT, 2008