

**STATE OF RHODE ISLAND**  
**DEPARTMENT OF BUSINESS REGULATION**  
**1511 PONTIAC AVENUE**  
**Division of Commercial Licensing and Racing & Athletics**  
**BUILDING 69-1**  
**CRANSTON, RI 02920**

**Public Notice of Proposed Rule-Making**

Pursuant to the provisions of 5-38-27, and 42-14-17 of the General Laws of Rhode Island and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Department of Business Regulation (“Department”) hereby gives notice of its intent to amend Commercial Licensing Regulation 3 entitled *Automobile Body Shop Storage Rates*.

The purpose of the amendment is to set forth guidelines and requirements to automobile body repair shop licensees, insurers, and the public of storage rate regulation to ensure compliance with R.I. Gen. Laws § 5-38-1 *et seq.*

The proposed amendments to the regulation and a concise summary of non-technical differences between the existing and proposed new regulation are available for public inspection at [www.dbr.ri.gov](http://www.dbr.ri.gov), in person at the Department of Business Regulation, located at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 or by email at [NSSVG1@dbr.state.ri.us](mailto:NSSVG1@dbr.state.ri.us) or by calling (401) 462-9540.

In the development of the proposed amendments, 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, overlap, or impact was identified based upon available information.

This is the third public hearing conducted in order to amend this regulation and the written and public comments made at the June 19, 2007 and March 26, 2008 hearings have been incorporated into this proposed amended regulation. The post-hearing (March 26, 2008 and June 19, 2007) red-lined amendments and concise explanatory statement were filed with the Secretary of State on February 6, 2009. Due to the unintended consequences of the filed amendments to Section 6 of the regulation filed on February 6, 2009, the only additional amendments to the Commercial Licensing 3 filed on February 6, 2009 is to Section 6. On February 25, 2009, the Department filed an Emergency Regulation reinstating the pre-February 6, 2009 (current) regulation and prevented the adoption of the amendments contained in the amended regulation filed on February 6, 2009.

All interested parties are invited to submit written or oral comments concerning the proposed regulation by August 25, 2009 to Neena Sinha Savage, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island, 02920, [NSSVG1@dbr.state.ri.us](mailto:NSSVG1@dbr.state.ri.us), or by calling (401) 462-9540. A public hearing to consider the proposed amendment shall be held on August 25, 2009 at 10:00 a.m. in Conference Room 69-1 at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 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) 462-9556 or TDD 711.

A. Michael Marques  
Director, Department of Business Regulation

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DEPARTMENT OF BUSINESS REGULATION  
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**Concise Summary of Proposed Non-Technical Differences Between the Existing and  
Proposed Commercial Licensing Regulation 3  
Automobile Body Shop Storage Rates**

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, the following is a concise summary of proposed non-technical amendments and an explanation of the travel of the amendments to this regulation:

1. The Department of Business Regulation “Department” conducted hearings on this regulation on June 19, 2007 and on March 26, 2008. The Department re-noticed the Proposed Regulation on March 26, 2008, without any new or additional amendments in order to comply with R.I. Gen. Laws § 42-35-3(a)(5) (because the Department did not provide adequate notice of its redlined changes between the Current Regulation and the Proposed Regulation).
2. The attached redlined document delineates: (i) the proposed amendments as of March 26, 2008; (ii) the amendments filed on February 6, 2009 (but not adopted due to the filing of the Emergency Regulation on February 25, 2009 which reinstated the current regulation); and (iii) the redlined additional amendments proposed to Section 6 as of July 2009. The amendments to Section 6 of the Post-hearing Amended Regulation are described in Section 13 (e) (which is the only new amendment being proposed in this (July 2009) notice). The Department is proposing to adopt the redlined amendments filed on February 6, 2009 and the current redlined amendments to Section 6 attached to this filing. The redlined amendments filed for the March 26, 2008 are attached for informational purposes and to show the progress of the proposed amendments to the current regulation.
3. Proposed Section 1 (“Authority”) and proposed Section 2 (“Purpose”) have been added to provide clarification regarding the statutory authority for the Proposed Regulation and to provide clarification to interested parties of the purpose of the Proposed Regulation. There were no substantive amendments to Sections 1 and 2 of the Proposed Regulation in the Post-hearing Amended Regulation.
4. The definition of “Day” was amended from the prior definition in Section 1 of the Current Regulation from “any calendar day in which the vehicle is on the property for more than twelve (12) hours” and the definition in the Proposed Regulation Section 3 was further amended in response to comments to “any calendar day in which the vehicle is on the premises of the automobile body repair shop for eight (8) hours or more.” (Emphasis added). The “eight (8) hours or more” was added in the Post-hearing Amended Regulation in response to comments requesting that the Department set a minimum time parameter for the imposition of storage rates.

5. The definition of “Storage” was amended in the Post-hearing Amended Regulation in response to submitted comments to clarify that the security system had to be operational. The words “and operational” were added to the definition of “Storage” in the Post-hearing Amended Regulation.
6. The prior definitions of “Inside Storage,” “Outside Secured Storage,” and “Outside Not Secured Storage” in the Current Regulation have been deleted because the Proposed Regulation no longer includes rates categorized by inside storage, outside secured storage, or outside not secured storage. “Storage” is defined in Section 3 of the Proposed Regulation as “ vehicles stored in a secured, lighted area surrounded by a six-foot or higher fence, with a reasonable and operational security system.”
7. The requirement that the automobile body shop use the least expensive suitable means of storage in the Current Regulation Section 2 has been deleted because there is no longer a distinction between the different types of storage as described in number 3 above.
8. The distinction in the prior Section 1 of the Current Regulation between storage for the first seven (7) days and rates for more than seven (7) days has been deleted.
9. The Current Regulation Section 3 (Proposed Regulation Section 7) has been amended to require that an automobile body repair shop must permit an insurance representative access to inspect any vehicle for photographs and vehicle identification number checks within four (4) hours of the request.
10. Proposed Regulation Section 4 (A) is an amendment that sets storage rates based on the size of vehicle.
11. Proposed Regulation Section 4 (B) which was proposed has been deleted in the Post-hearing Amended Regulation because the Department has the authority to set rates at any time as set forth in statute and a clarification of that authority is redundant and unnecessary. Additionally, any future amendment to this Regulation, as is the case with any Departmental regulation, is subject to requirements of R.I. Gen. Laws § 42-35-1 *et seq.*
12. Proposed Regulation Section 5 sets forth processes for the prohibition of storage charges on repaired vehicles except under certain specific circumstances and specific conditions. Proposed Regulation Section 5 (C), was deleted in the Post-hearing Amended Regulation because it duplicated the requirement in Section 5A in the Proposed Regulation. Section 5(B) was re-written in the Post-hearing Amended Regulation in order to clarify the requirements in response to comments submitted to the Department. Subsection 5(B)(i) was re-worded to clarify that the automobile body repair shop is responsible for providing the written notice that was implicit in the Proposed Regulation. This is not a new requirement—the storage charges in this subsection were proposed to be conditioned upon the return of the receipt of certified mail.

13. AMENDMENTS TO SECTION 6 AS OF FEBRUARY 6, 2009:

- (a) Proposed Regulation Section 6 sets forth conditions, circumstances, and processes for the imposition of storage fees for totaled or partially repaired vehicles. Section 6 was re-written in the Post-hearing Amended Regulation in response to comments requesting clarification between vehicles declared a total loss as the result of an insurer's initial appraisal inspection compared to a vehicle declared a total loss as a result of a supplemental appraisal inspection. Sections 6 (A), (B), (C), and (D) in the Proposed Regulation applied to vehicles that are deemed a total loss after repairs had commenced and after a supplemental appraisal by the insurer deems it a total loss. Sections 6 (E) and (F) in the Proposed Regulation were applicable to vehicles that are deemed a total loss by the insurer at the initial appraisal as well as those vehicles deemed a total loss by the insurer upon a supplemental appraisal. Therefore, in response to comments submitted requesting clarification, and in order to clarify the applicability of Section 6 of the Proposed Regulation to either vehicles totaled at initial appraisal or after supplemental appraisal, Section 6 was re-worded after hearing into Sections 6 (A) and 6 (B) in the Regulation.
- (b) Section 6(A)(i) in the Regulation reflects the requirements in Sections 6(E) and (F) in the Proposed Regulation which implicitly required the automobile body shop to provide written notice via certified mail to the vehicle owner. This is not a new or additional requirement because this requirement to provide written notice was implicit in Section 6(E) and 6(F) of the Proposed Regulation. Section 6(A)(i) addresses the written notice and Section 6(A)(ii) of the Regulation reflects that portion of the requirements in 6(E) of the Proposed Regulation that address when the storage fees may commence.
- (c) Section 6(A)(iii) of the Regulation reflects requirements in Section 6(F) of the Proposed Regulation.
- (d) Sections 6(B)(i), (ii), (iii), (iv), (v), and (vi) in the Regulation reflect requirements in Section 6(A), (B), (C), (D), (E), and (F) of the Proposed Regulation, respectively. Section 6(B)(v) was added in the Post-hearing Amended Regulation to ensure that notice was provided to vehicle owners whose vehicles had been declared a total loss after a supplemental appraisal. Additionally, Section (B)(v) in the Post-hearing Amended Regulation clarifies that the seven (7) day notice requirement in Section 6(B) of the Proposed Regulation applied only to vehicles declared a total loss as a result of the initial appraisal inspection.
- (e) ADDITIONAL AMENDMENTS PROPOSED TO SECTION 6 BY BOARD ON FEBRUARY 25, 2009. Although Section 6 was proposed as recommended by the Auto Collision Repair Licensing Advisory Board ("Board"), the Department was notified of unintended consequences of the proposed amendments to Section 6 after the filing of the amended regulation on February 6, 2009. The proposed amendments as of February 6, 2009 would result in depriving automobile body repair shops of long-

standing storage fees collected on vehicles involving lienholders, declared total losses, and would result in a deviation from past practice. The Board asserted that this seven day “rate-less” period (contained in the proposed Section 6A (i), (ii), and (iii)) was never intended to be a part of Section 6. On February 25, 2009 the Board recommended certain amendments to Section 6 which are delineated below.

The July 2009 proposed amendments to CLR3, Section 6 amendments filed on February 6, 2009 are:

Section 6(A): “provided that” deleted from end of sentence.

Sections 6(A)(i), (ii), and (iii) deleted;

New Section 6(B) added: “Such storage rates 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 the three (3) business days after the insurance company’s oral or written request for such inspection.”

Prior Sections 6(B)(v) and (vi) deleted.

Prior Section 6(B) is now Section 6(C) due to addition of new Section 6(B).

Section 6(D) added: “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 lienholder.”

14. Current Regulation Section 5 entitled “Application” has been deleted and substituted with Proposed Regulation Sections 5 and 6.
15. Proposed Regulation Section 8 which set forth a process for automobile body repair shops to submit variances from the rates set forth in Proposed Regulation Section 4 was deleted. This proposed section was deleted in the Post-hearing Amended Regulation because no such petition had ever been utilized by the industry, and unnecessarily subjects the established rates to administrative review.

Section 8(B) was added as a condition to ensure compliance with statutory and regulatory requirements.

16. Section 4 of the Current Regulation entitled “Stolen Vehicles” has been deleted and substituted with the relevant processes described in the Proposed Regulation Sections 5 and 6. Additionally, Section 8 was added to the Post-hearing Amended Regulation in response to comments from several insurers requesting that an owner or insurer get notice that an automobile body shop is in possession of a stolen vehicle and as an added consumer protection measure.
17. Proposed Regulation Section 8 (renumbered to Section 9 in Regulation), entitled “Enforcement” has been added to the Regulation to allow for enforcement of violations of the Proposed Regulation.

18. Proposed Regulation Section 9 (renumbered Section 10 in Regulation) , entitled, “Severability” has been added to the Regulation to protect the validity of the Regulation in the event that one of its provisions is deemed invalid.
19. Proposed Regulation Section 10 (renumbered Section 11 in Regulation), entitled, “Effective Date” has been added to clarify the effective date of the Regulation.

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

**EXPLANATORY COMMENT: PROPOSED REGULATION**  
**WITH TRACKED CHANGES**  
**(PROPOSED FOR MARCH 26, 2008 HEARING)**

**Commercial Licensing Regulation 3 –Automobile Body Shop Storage Rates**

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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 §§ 5-38-27 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 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 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 Regulation 73, any issues related to storage fees 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.

**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.
- 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 security system.

**Section 2 Definitions**

~~“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 Section 1 Maximum Rates of Storage Vehicle Storage Charges**

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

<b>Inside Storage</b>	<b>A</b>	<b>B</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
<b>Outside Secured</b>		
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
<b>Outside Not Secured</b>		
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. The maximum rates that may be charged by an automobile body repair shop for storage of a vehicle shall be as follows:

- (i) Vehicles less than 20ft. \$27.00 per day
- (ii) Vehicles 20ft. to 31 ft. \$35.00 per day
- (iii) Vehicles 32 ft or more \$43.00 per day

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.

#### **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 — Storage Charges Prohibited for Repaired Vehicles**

A. Automobile body repair shops shall not charge 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 has been given written notice of the completion of repairs and of the automobile body repair shop's right to charge storage fees seven (7) days after the return of the receipt of certified mail;
- (ii) Storage fees shall commence on the seventh (7<sup>th</sup>) day after the owner or household member received the written notice evidenced by return receipt from the post office;

(iii) If eight (8) days after the owner received the written notice from the automobile body repair shop, the owner fails to contact the automobile body repair shop, 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;

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

## **Section 6 Storage for Totaled and Partially Repaired Vehicles**

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

A. 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, when the vehicle is later deemed to be a total loss by the insurer.

B. In such circumstances as described in Section (A) above, storage fees shall commence two 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. Storage fees may be disallowed for the time period in which the automobile body repair shop fails 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.

D. An automobile body repair shop may not charge storage fees for days the shop performs any partial repairs of a vehicle.

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

F. If eight (8) days after the owner received the written notice from the automobile body repair shop, the owner fails to contact the automobile body repair shop, 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.

### Section 3.7 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 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.

C. 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., 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 storage for Tuesday. If the insurance representative is unavailable before Wednesday, then Tuesday's storage may 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 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.
  
- C. In the event the Director shall issue a denial of a variance, the Director shall clearly state the basis for the denial.

**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

AMENDED: INSERT DATE

State of Rhode Island and Providence Plantations  
DEPARTMENT OF BUSINESS REGULATION  
Division of Commercial Licensing and Racing & Athletics  
1511 Pontiac Avenue  
Building 69-1  
Cranston, RI 02920  
233 Richmond Street  
Providence, RI 02903

EXPLANATORY COMMENT: POST MARCH 26, 2008 HEARING REVISIONS  
WITH TRACKED CHANGES<sup>1</sup>

Commercial Licensing Regulation 3–Automobile Body Shop Storage Rates

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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 §§ 5-38-27 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 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

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<sup>1</sup> 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.

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 storage fees 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.

**Section 3 Definitions**

- D. “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.**
- E. “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:

<u>Inside Storage</u>	<u>A</u>	<u>B</u>
<u>Vehicles less than 20 ft.</u>	<u>\$18.00 per day</u>	<u>\$30.00 per day</u>
<u>Vehicles 20 ft. to 31 ft.</u>	<u>\$22.00 per day</u>	<u>\$40.00 per day</u>
<u>Vehicles 32 ft. or more</u>	<u>\$25.00 per day</u>	<u>\$50.00 per day</u>

<u>Outside Secured</u>		
<u>Vehicles less than 20 ft.</u>	<u>\$15.00 per day</u>	<u>\$24.00 per day</u>
<u>Vehicles 20 ft. to 31 ft.</u>	<u>\$18.00 per day</u>	<u>\$30.00 per day</u>
<u>Vehicles 32 ft. or more</u>	<u>\$20.00 per day</u>	<u>\$36.00 per day</u>

<u>Outside Not Secured</u>		
<u>Vehicles less than 20 ft.</u>	<u>\$12.00 per day</u>	<u>\$20.00 per day</u>
<u>Vehicles 20 ft. to 31 ft.</u>	<u>\$15.00 per day</u>	<u>\$24.00 per day</u>
<u>Vehicles 32 ft. or more</u>	<u>\$18.00 per day</u>	<u>\$30.00 per day</u>

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. The maximum rates that may be charged by an automobile body repair shop for storage of a vehicle shall be as follows:~~

~~(i)A. Vehicles less than 20 ft. \$27.00 per day~~

~~(ii)B. Vehicles 20 ft. to 31 ft. \$35.00 per day~~

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

~~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:~~

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

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

~~(vi) 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.~~

## ~~Section 2 Definitions~~

~~“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:
- (iv) ~~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;
  - (v) Storage fees shall commence on the seventh (7<sup>th</sup>) day after the owner or a household member received the written notice evidenced by return receipt from the post office;
  - (vi) If eight (8) days after ~~the owner received~~ 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, 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.~~

## 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 rates provided that:
- (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 (7<sup>th</sup>) 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 received~~ 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. 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 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 B (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 7<sup>th</sup> day after the owner or household member received the written notice evidenced by return receipt from the post office.~~<sup>2</sup>

(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.~~

### 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 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., 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~~

Storage for Tuesday. If the insurance representative is unavailable before Wednesday, then Tuesday's Storage 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.~~

~~C. 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

AMENDED: \_\_\_\_\_

State of Rhode Island and Providence Plantations  
DEPARTMENT OF BUSINESS REGULATION  
Division of Commercial Licensing and Racing & Athletics  
1511 Pontiac Avenue  
Building 69-1  
Cranston, RI 02920

*EXPLANATORY COMMENT: 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 of 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 (7<sup>th</sup>) 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 received 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 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 7<sup>th</sup> day after the owner or household member received the written notice evidenced by return receipt from the post office.<sup>3</sup>~~

~~(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.**