

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing
1511 Pontiac Avenue, Bldg. 69-2
Cranston, Rhode Island 02920

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Gen. Laws § 5-38-1 *et seq* and 42-14-16, 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 amend Commercial Licensing Regulation 4 - Motor Vehicle Body Repair.

The purpose of this amendment is to clarify numerous provisions of the regulation as detailed in the Concise Statement posted with this notice, raise the annual license fee to \$300 and increase the reinspection fee that automobile body shops may charge insurers.

The proposed amended regulation and concise summary of non-technical amendments are available for public inspection at www.dbr.ri.gov, in person at Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, requested by email edwyer@dbr.ri.gov or by calling Elizabeth Kelleher Dwyer at (401) 462 9520.

In the development of the proposed amendment 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 amendments by August 23, 2011 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, edwyer@dbr.ri.gov. A public hearing to consider the proposed amendments shall be held on August 23, 2011 at 10:00 a.m. 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 9520 or TDD 711.

Paul McGreevy
Director, Department of Business Regulation

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Concise Summary of Proposed Non-technical Amendments
to
Commercial Licensing Regulation Number 4 – Motor Vehicle Body Repair

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

1. Section 3 is proposed to be amended to add a definition of “consumer.”
2. Section 4 is proposed to be amended to add restrictions on mobile units added to statute since the regulation was last amended; memorialize that paint systems and spray booths must comply with the requirement of the Fire Marshal; increase the licensing fee to \$300; add the new requirements of Commercial Licensing Regulation 16(5)(A) to the application requirements; clarify the minimum requirements for equipment, apparatus and tools; clarify insurance requirements; provide for the possibility of on-site inspections and require the display of licenses.
3. Section 5 is proposed to be amended to raise the reinspection rates charged by automobile body shops, allow for an automatic annual adjustment of the fee.
4. Section 6 is proposed to be amended to incorporate the term “consumer” and to change the title of the form to that provided by statute.
5. Section 7(E) is proposed to be deleted as the subject matter of that section is now included in Commercial Licensing Regulation 3. A new section (E) has been added to reflect the requirements of R.I. Gen. Laws § 5-38-30.
6. Section 8 is amended to incorporate the term consumer and add the work completion certification form and technician transcripts to the documents that must be maintained by licensees.
7. Appendix A is proposed to be amended to clarify work completion certification form, incorporate “consumer”; add signature of the automobile body shop representative and rewrite the notice to consumers who do not have the vehicle repaired.

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Division of Commercial Licensing
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Commercial Licensing Regulation 4 - Motor Vehicle Body Repair

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Section 1 *Authority*

This Regulation (the "Regulation") is promulgated pursuant to the authority granted in R.I. Gen. Laws § 5-38-1 *et seq.*

Section 2 *Purpose*

The purpose of this Regulation is to establish standards and procedures for the issuance of Motor Vehicle Body Licenses for Motor Vehicle Body Work and to generally assist the Department in carrying out the administration and enforcement of the terms and provisions of the Act so that the public interest may be effectively served.

Section 3 *Definitions*

When used in this Regulation, the following words, except as otherwise required by the context, shall have the following meaning:

- A. "Act" means R.I. Gen. Laws § 5-38-1 *et seq.*, as amended.
- B. "Agent" means an individual or group of individuals authorized by another to act on his, her or its behalf.

- C. "Applicant" means a Person filing an application for a Motor Vehicle Body License.
- D. "Consumer" means the person or entity whose vehicle is being or has been repaired.
- DE. "Department" means the Department of Business Regulation.
- EF. "Director" means the Director of the Department or his or her designee.
- FG. "Licensee" means a Person holding a Motor Vehicle Body License.
- GH. "Motor Vehicle" means any automobile, truck or other self-propelled vehicle of any type.
- HI. "Motor Vehicle Body" means that portion of the Motor Vehicle mounted on the chassis or frame or unibody, including fenders, bumpers, windshields, glass and similar components of motor vehicle bodies as distinguished from the ~~chassis~~, seats, motor, transmission, air conditioning condenser, radiator and other accessories for propulsion and general running gear of motor vehicles.
- IJ. "Motor Vehicle Body License" means any type of License from the Department issued to a Person engaged in the business of Motor Vehicle Body Work.
- JK. "Motor Vehicle Body Work" means the act or acts of preparing, fixing, restoring, painting or putting together a Motor Vehicle Body, including repairing, replacing or installing of glass thereon, or the subcontracting of said work.
- KL. "Person" means any individual, partnership, corporation, limited liability company, sole proprietorship, or any other legal entity, however formed.

Section 4 Licenses

A. License Required. No Person may engage in the business of Motor Vehicle Body Work without first obtaining a Motor Vehicle Body License from the Department. All Motor Vehicle Body Work must be performed at a fixed, licensed location. Except for glass repair and installation, and paintless dent repairs, Motor Vehicle Body Work shall not be performed using mobile units. The term of each Motor Vehicle Body License shall be for not more than three (3) years before a renewal application is required.

B. Types of Motor Vehicle Body Licenses:

The Department will issue four (4) types of Motor Vehicle Body License

1. FULL COLLISION REPAIR LICENSE-

This License permits a Licensee to perform all types of Motor Vehicle Body Work. In addition to completing the application process set forth in subsection (eC) below, all applicants for a Full Collision Repair License must submit proof of the following requirements:

- a. Electrical and/or hydraulic pulling equipment;
- b. Current dimensional guides;
- c. Four (4) point clamping system to secure vehicle;
- d. Equipment/gauges capable of measuring symmetrical and asymmetrical vehicles;
- e. Welding equipment to meet manufacturers' requirements;
- f. A paint system or access to a paint system capable of producing original manufacturers' requirements and a spray booth that conforms to the requirements of the State of Rhode Island Fire Marshal; and
- g. Parking in compliance with local laws and regulations to perform the repair work.

(#2) LIMITED HEAVY TRUCK AND EQUIPMENT LICENSE-

This License permits the refinishing and body repair of trucks over the GVW (gross vehicle weight) of 24,000 pounds, cranes, trailers or other equipment. In addition to completing the application process set forth in subsection (c) below, applicants must submit proof of the following requirements:

- a. Parking in compliance with local laws and regulations to perform the repair work; and
- b. Welding equipment to meet manufacturers requirements.
- c. A paint system or access to a paint system capable of producing original manufacturers' requirement; and a spray booth that conforms to the requirements of the State of Rhode Island Fire Marshal.

(#3) LIMITED PAINT, RESTORATION AND CUSTOMIZATION LICENSE-

This License permits restoration or customization of automobiles but not collision damaged vehicles. In addition to completing the application process set forth in subsection (eC) below, the applicant must submit proof of the following requirements:

- a. Parking in compliance with local laws and regulations to perform the repair work; and
- b. Welding equipment to meet manufacturers' requirements.
- c. A paint system or access to a paint system capable of producing original manufacturers' requirement; and a spray booth that conforms to the requirements of the State of Rhode Island Fire Marshal.

(iv4) SPECIAL USE LICENSE-

This License permits limited, specially identified activities within the definition of Motor Vehicle Body Work ~~as previously approved by the Department~~that are not consistent with the definitions set forth in Section 4(B)(1), (2) and (3). In addition to completing the application process requirement set forth in subsection ~~3(eC)~~ below, the Department will inform the applicant of other requirements necessary to obtain a Special Use License.

(vC) Application Requirements for all Motor Vehicle Body Licenses listed in Section 4(B)(1-4).

Every Applicant for a Motor Vehicle Body License or renewal of an existing Motor Vehicle Body License must submit to the Department the following:

- ~~a~~1. the completed application form adopted by the Department;
- ~~b~~2. the License fee of ~~one-three~~ hundred ~~fifty~~ dollars (\$ ~~150300.00~~) for each year the Motor Vehicle Body License is to be issued;
- ~~e~~3. certificate of financial responsibility pursuant to the requirements of Section 4(E);
- ~~d~~4. evidence of compliance with state and local zoning, fire, health and safety laws and regulations;
- ~~e~~5. a designation of the person and address where the Department may send notices;
~~and~~
- ~~f~~6. an EPA number; and
7. evidence of technician certification in conformance with the requirements of Commercial Licensing Regulation 16, Section 5(A). (Effective January 1, 2012)

~~CD.~~ Minimum Value. Every Licensee must maintain ~~a service repair shop and/or vehicles and related tools and equipment collectively having a minimum value of \$10,000 at the time of the issuance and/or renewal of the Motor Vehicle Body License as appraised and valued by the Department or its duly authorized representative. The Department, at its discretion, may rely on the representations of Applicant with regard to said value or waive or amend this requirement for good cause. equipment, apparatus, and tools, as described in Section 4(B)1(a-g), Section 4(B)(2)(a-c) and Section 4(B)(3)(a-c), as applicable, in order to meet the minimum standards required for issuance and renewal of the license.~~

~~DE.~~ Evidence of Financial Responsibility. Each Applicant shall furnish to the Director and maintain during the terms of the Motor Vehicle Body License a certificate of insurance issued by an insurance company licensed to transact business in this state showing that the Applicant has a policy insuring him, her or it against liability for injury to persons and damage to property which may be caused by the operation of the business. Such policy shall provide for ~~liability against~~ bodily injury and property damage liability in the sum of not less than ~~three hundred thousand~~

~~(\$300,000) per person and six hundred thousand (\$600,000) per occurrence; and liability for property damage of not less than three hundred thousand (\$300,000) per occurrence and garagekeepers liability for damage to customer property in the amount of not less than one hundred thousand (\$100,000) per occurrence.~~

Such insurance shall be non-cancelable by either party to the contract, except with five (5) days prior written notice to the Department furnished by the Licensee. Licensee shall also request the insurance company that issued the policy to send written notice to the Department at least five (5) days prior to any cancellation of the contract. Cancellation shall be effective not sooner than five (5) days after receipt of said notice by the Department from the Licensee or insurance company, whichever is earlier.

~~**EF.** Space Requirements. Except as otherwise provided below, Licensees must conduct the Motor Vehicle Body Work at a fixed location with at least 4000 square feet of heated ground level floor space, with a specific location and common boundaries where Motor Vehicles may be serviced. Basements, second floors and any upper or lower may not be considered in computing the required minimum amount of floor space.~~

The provisions of this subsection ~~E-F~~ do not apply to any motor vehicle body shop in existence and having a valid License as of the date of this regulation or any transfer thereof.

Upon written request, the Department may waive the minimum space requirements in part or in whole upon a written finding by the Department that there will be minimal or no adverse effect to the public.

~~**G.** 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.~~

~~**H.** Display of Licenses. Every Licensee must conspicuously display the Motor Vehicle Body license issued by the Department at the location listed on the license. The license number must appear on all business communications, estimates, signs, business cards, and other written documentation related to that business.~~

~~**FI.** Denial, Suspension, Revocation. The Department may deny an application for a Motor Vehicle Body License or revoke or suspend a Motor Vehicle Body License if it determines that an employee or manager or owner of an Applicant or Licensee has engaged in any the following activities so that the Applicant or Licensee is unfit to do business and/or it impacts the Applicant's or Licensee's financial responsibility and/or it impacts the Applicant's or Licensee's business integrity:~~

- ~~(i) said individual has been convicted of any criminal felony involving dishonesty, breach of trust, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, fraud, false dealing or any similar offense(s) or has had a Motor Vehicle Body License revoked or suspended or an application for a Motor Vehicle Body License denied or any other License issued by this State revoked or suspended or an application for such denied.~~

- (ii) said individual has performed work outside the scope of their License classification.

Section 5 Reinspection

~~In accordance with the provisions of R.I. Gen. Laws § 27-10.1-9, are applicable to Licensees. Therefore,~~ upon written or verbal request by an insurance company to reinspect a Motor Vehicle, the Licensee shall allow representatives of the insurance company to reinspect the Motor Vehicle after the Motor Vehicle Body Work has been completed.

After receipt of a request from an insurance company to reinspect a Motor Vehicle, the Licensee shall inform the insurance company representative who requested reinspection when the Motor Vehicle Body Work has been completed and shall make the Motor Vehicle available for reinspection no later than the following business day unless the insurance company representative agrees to another time. Licensees may charge a fee up to forty two dollars and ninety cents (\$42.90)~~thirty eight dollars and ten cents (\$38.10)~~ per hour during the calendar year 2005-2011 (to commence after the effective date of this regulation) for the use of testing equipment, if such testing equipment is necessary to perform the reinspection. This fee shall be automatically increased for each successive calendar year as delineated below: by three percent (3%) unless a review by the Department of the Consumer Price Index issued by the U.S. Department of Labor (CPI) on calendar year basis indicates a negative or positive change of one percent (1%) from the prior year's CPI.

~~2006: Licensees may charge a fee up to thirty nine dollars and twenty five cents (\$39.25) per hour;~~

~~2007: Licensees may charge a fee up to forty dollars and forty cents (\$40.40) per hour;~~

~~2008: Licensees may charge a fee up to forty one dollars and sixty five cents (\$41.65) per hour;~~

~~2009: Licensees may charge a fee up to forty two dollars and ninety cents (\$42.90) per hour;~~

~~The above fees reflect an approximate three percent (3%) prospective annual increase based on an evaluation of the year end Consumer Price Index which was adjusted by the Department for any inconsistent aberrations.~~

~~Thereafter, if necessary, the Director may review said fee and adjust as appropriate based on the facts and evidence presented.~~

Section 6 Work Completion Certification Form

Every Licensee, Claimant Consumer, and insurance company shall complete and execute the applicable section of the form entitled "Work Completion Certification of Automobile Repairs Form" which is attached hereto as Appendix A. After completing and executing Part I Section 1 of said form, the Insurer shall forward the Certification of Automobile Repairs form to the Claimant Consumer who shall complete and execute Part Section 3 thereof and return it to the Insurer. The Insurer shall then forward said forms to the Licensee who shall complete and execute Part Section 2 of said form and then return it to the Insurer.

Section 7 **Miscellaneous**

A. Change of Address. Written notice shall be given to the Department by each Licensee within five (5) days of any change in mailing or business address, or any other change in any information reported on the most recent application

B. License. A Motor Vehicle Body License shall be granted only to the Applicant. The Motor Vehicle Body License is not subject to transfer, assignment or leasing to another Person without prior application to, and approval from the Department.

C. Licensee Ceases Operations. When a Licensee ceases operating the business of Motor Vehicle Body Work, the Licensee must return the original Motor Vehicle Body License to the Department within fifteen (15) days thereof.

D. After Market Parts. ~~In accordance with the provisions of R.I. Gen. Laws § 27-10.2-1 et seq. are applicable to Licensees. Therefore, Licensees~~ shall not use after market parts in Motor Vehicle Body Work on any Motor Vehicle less than thirty (30) months beyond the date of manufacture without the written consent of the Person who owns the Motor Vehicle as required by this statute.

E. In accordance with the provisions of R.I. Gen. Laws § 5-38-30 all auto body repair facilities must post a sign in a conspicuous location in boldfaced typed letters at least two (2) inches high that states:

PURSUANT TO RHODE ISLAND LAW, THE CONSUMER HAS THE RIGHT TO CHOOSE THE REPAIR FACILITY TO COMPLETE REPAIRS TO A MOTOR VEHICLE; AND AN INSURANCE COMPANY MAY NOT INTERFERE WITH THE CONSUMER'S CHOICE OF REPAIRER.

~~E. Insurance Inspections and Appraisals. Licensees shall permit insurance company representatives to inspect Motor Vehicles at any time for the purpose of taking photographs and for checking vehicle identification numbers. In addition, Licensees shall permit insurance company representatives, with or without an appointment, to make an appraisal inspection of a Motor Vehicle as soon as practically possible but, in any event, not later than three (3) days following the insurance company representative's written or oral request to inspect.~~

Section 8 **Records of Transactions to be Maintained**

A. Licensees must maintain at a minimum the following information in the files for each motor vehicle repaired for a two (2) year period:

- (i) ~~Customer's~~ Consumer's name;
- (ii) ~~Customer's~~ Consumer's address;
- (iii) Vehicle make, model and year;

- (iv) Vehicle VIN (Vehicle Identification Number);
- (v) Written authorization from the ~~customer~~ consumer to repair the vehicle;
- (vi) All invoices and receipts in connection with the repairs made; and
- (vii) the final repair bill which contains itemized listings of manufactured parts, used parts and generic parts used in the repair; and
- (viii) A completed and fully executed work completion certification form, if such a form has been received by the licensee

B. All Files kept in accordance with this regulation must be maintained at the address at which the premises is Licensed and available for inspection during regular business hours.

Section 9 Complaints/Hearing

A. Complaints. All complaints from consumers or law enforcement officials against Licensees or other Persons for violations of this Regulation or the Act ~~shall~~ may be investigated by the Department. In furtherance thereof, the Department ~~shall~~ may notify the Licensee or Person in writing of the Department's receipt of the complaint, enclosing a copy thereof. The Licensee or Person shall within ten (10) days from the date of the Department's letter to the Licensee file with the Department a written answer to the complaint. The Department ~~shall review the answer and~~ may submit a copy thereof to the complainant for further response, if necessary. Upon receipt of the response, the Department will then evaluate the complaint and response thereto and the matter will be handled in compliance with the Department's applicable procedures and regulations for such matters. The Department may, upon its own motion, with or without a complaint, notice a hearing for the purposes of further investigating whether to sanction a Licensee or other Person.

B. Hearings. The notice for and conduct of any hearings held pursuant to this Regulation or the Act shall be governed by the applicable provisions of the Act, the Department's rules and regulations for the conduct of such hearings and the provisions of the Rhode Island Administrative Procedures Act.

Section 10 Penalties for Violations

Any Licensee or other Person who fails to comply with the provisions of this Regulation or the provisions of the Act may be subject to any of the penalties, administrative, civil and criminal, as outlined in the Act.

Section 11 Severability

If this Regulation or the application thereof to any Person 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 or application, and to this end the provisions are

declared to be severable.

Section 12 ***Effective Date***

This Regulation shall become effective on twenty (20) days from the date of filing as indicated below.

EFFECTIVE DATE: April 8, 1999

REFILED: December 19, 2001

AMENDED: December 16, 2002

AMENDED: December 13, 2004

AMENDED October 12, 2005

AMENDED: September , 2011

Appendix A

WORK COMPLETION CERTIFICATION OF AUTOMOBILE REPAIRS FORM

R.I. Gen. Laws § 5-38-~~1 et seq.~~28 requires that the following Work Completion eCertification Form be completed and signed. ~~The law requires submission of the repair invoice whenever repairs are made, and although the law does not mandate how or if the automobile is repaired, it does mandate the completion of this form and its return to the insurer.~~ The return of this form is not a condition of payment, and payment shall not be withheld for failure to complete this form. ~~A return envelope has been furnished for your convenience.~~ R.I. Gen. Laws § 5-38-29 requires that each repair bill must contain an itemized listing of the manufactured parts, used parts, and generic parts installed by the Automobile Body Shop in the repair of the vehicle and the repair bill must be furnished to the consumer when the automobile has been repaired.

**Section 1
TO BE COMPLETED BY THE INSURER**

~~Claimant~~ Claim Number: _____
~~Consumer~~ Name: _____
Address: _____ Policy Number: _____
Date of Accident: _____
Name of Insurer: _____
Address: _____

I, _____, representing _____, [insert name of insurance company] have verified the automobile body shop listed below has a valid automobile body shop License in accordance with existing laws.

Date: _____

Signature of insurance company representative: _____

**Section 2
TO BE COMPLETED BY THE AUTOMOBILE BODY SHOP**

I, _____, a representative of _____ automobile body shop, located at _____, holding auto body License number _____ do certify, under penalties of perjury that I have made the repairs listed on the attached repair bill to the automobile owned by _____.

Date: _____

Signature of automobile body shop representative: _____

After signing this form return it to [insert name and contact information for insurer.]

Section 3
TO BE COMPLETED BY THE CLAIMANT-CONSUMER

I, _____, certify, under penalties of perjury, that: CHECK (a) OR (b) OR (c). YOU MUST ALSO CHECK (d) IF DIRECT PAYMENT TO THE REPAIRER IS DESIRED.

- (a)_____ I have not had any repairs made to my automobile as a result of the accident on _____; OR
- (b)_____ All the repairs allowed by the insurer have been repaired by the automobile body shop, and I have paid \$ ____ (may be \$0.) to the automobile body shop, which amount is the deductible amount applicable to this accident; OR
- (c)_____ My automobile has been repaired according to the attached repair bill and I have paid \$ ____ (may be \$0.) to my automobile body shop.
- (d)_____ I hereby authorize payment of \$ _____ directly to the auto body shop identified in Part 2.

IMPORTANT NOTICE TO CLAIMANT-CONSUMER

~~IF YOU ARE A FIRST PARTY INSURED AND~~ IF YOU DO NOT REPAIR ALL OR PART OF THE DAMAGES ALLOWED BY THE INSURER, AND YOU HAVE A SUBSEQUENT LOSS, ~~THE INSURER MAY, TO THE EXTENT RELEVANT, DEDUCT FOR SUCH ITEM (\$)~~ AS PREVIOUS DAMAGE ~~IN SETTLING~~ MAY EFFECT THE SETTLEMENT OF THE SUBSEQUENT LOSS. ~~THEREFORE, IF AFTER SIGNING THIS CERTIFICATION, YOU REPAIR THE DAMAGE, YOU SHOULD NOTIFY THE INSURER IMMEDIATELY.~~ THE INSURER MAY ~~AT THAT TIME~~ ELECT TO INSPECT YOUR AUTOMOBILE. ~~WHETHER YOU ARE A FIRST PARTY INSURED OR NOT~~ NO INSURER OR ITS REPRESENTATIVE MAY MAKE PAYMENT ON A CLAIM TO AN CLAIMANT OR AUTOMOBILE BODY SHOP IF REPAIRS ARE MADE AT A FACILITY THE SHOP IS REQUIRED TO BE BUT IS NOT LICENSED IN ACCORDANCE WITH R.I. GEN. LAWS § 5-38-1 *et seq*

Date: _____ Signature of Claimant Consumer_____

After signing this form return it to [insert name and contact information for insurer]

~~NOTICE: CLAIMANT MUST COMPLETE FORM AND RETURN TO INSURER AS LISTED IN SECTION 1.~~

~~UPON RECEIPT, THE INSURER SHALL THEN FORWARD SAID FORM TO THE AUTOMOBILE BODY SHOP TO COMPLETE SECTION 2. SAID SHOP SHALL THEN COMPLETE AND RETURN SAID FORM TO INSURER.~~