

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
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 remove the requirement for a work completed form consistent with the repeal of R.I. Gen. Laws §§5-38-28 and 27-10.1-9.

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, or requested by email Elizabeth.Dwyer@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 regulations by February 12, 2013 to Elizabeth Kelleher Dwyer, Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920, Elizabeth.Dwyer@dbr.ri.gov. A public hearing to consider the proposed amendments shall be held on February 12, 2013 at 11:00 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 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 6 and Appendix A are deleted and section 8 (now section 7) is amended to reflect the amendment to R.I. Gen. Laws § 5-38-28 that removed the requirement of a “work completed form.”

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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.
- E. "Department" means the Department of Business Regulation.
- F. "Director" means the Director of the Department or his or her designee.
- G. "Licensee" means a Person holding a Motor Vehicle Body License.
- H. "Motor Vehicle" means any automobile, truck or other self-propelled vehicle of any type.
- I. "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, seats, motor, transmission, air conditioning condenser, radiator and other accessories for propulsion and general running gear of motor vehicles.
- J. "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.
- K. "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.
- L. "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, which may 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 (C) 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 (C) 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.

(4) SPECIAL USE LICENSE-

This License permits limited, specially identified activities within the definition of Motor Vehicle Body Work 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 (C) below, the Department will inform the applicant of other requirements necessary to obtain a Special Use License.

(C) 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:

1. the completed application form adopted by the Department;
2. the License fee of three hundred dollars (\$ 300) for each year the Motor Vehicle Body License is to be issued;
3. certificate of financial responsibility pursuant to the requirements of Section 4(E);
4. evidence of compliance with state and local zoning, fire, health and safety laws and regulations;
5. a designation of the person and address where the Department may send notices;
6. an EPA number; and
7. evidence of technician certification in conformance with the requirements of Commercial Licensing Regulation 16, Section 5(A). This requirement shall not apply to Motor Vehicle Glass installation licenses. (Effective January 1, 2012)

D. Minimum Value. Every Licensee must maintain 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.

E. 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 bodily injury and property damage liability in the amount of not less than five hundred thousand (\$500,000) per occurrence and garage keepers legal liability including comprehensive and collision for damage to customers vehicles 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.

F. 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.

The provisions of this subsection 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 or motor vehicle class installation licensees.

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.

I. 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, 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) per hour during the calendar year 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 each successive calendar year 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.

~~**Section 6** — Work Completion Certification Form~~

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

Section 76 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.* 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.

Section 8-7 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) Consumer's name;
- (ii) Consumer's address;
- (iii) Vehicle make, model and year;
- (iv) Vehicle VIN (Vehicle Identification Number);
- (v) Written authorization from the 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 98 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 may be investigated by the Department. In furtherance thereof, the Department 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 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 ~~109~~ 109 *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 ~~110~~ 110 *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 ~~121~~ 121 *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: March 1, 2012

| AMENDED: February __, 2013

Appendix A
WORK COMPLETION CERTIFICATION FORM

R.I. Gen. Laws § 5-38-28 requires that the following Work Completion Certification Form be completed and signed. The return of this form is not a condition of payment, and payment shall not be withheld for failure to complete this form. 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

Consumer Name: _____ Claim Number: _____
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: _____

**Section 3
TO BE COMPLETED BY THE 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 CONSUMER

~~IF YOU DO NOT REPAIR ALL OR PART OF THE DAMAGE ALLOWED BY THE INSURER, AND YOU HAVE A SUBSEQUENT LOSS, PREVIOUS DAMAGE MAY EFFECT THE SETTLEMENT OF THE SUBSEQUENT LOSS. IF YOU REPAIR THE DAMAGE, YOU SHOULD NOTIFY THE INSURER. THE INSURER MAY ELECT TO INSPECT YOUR AUTOMOBILE. NO INSURER OR ITS REPRESENTATIVE MAY MAKE PAYMENT ON A CLAIM TO AN AUTOMOBILE BODY SHOP IF 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 Consumer _____

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