

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

Public Notice of Proposed Rule-Making

Pursuant to the provisions of R.I. Gen. Laws § 5-38-28 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 Commercial Licensing Regulation 5 - Motor Vehicle Glass Installation.

The purpose of this amendment is to eliminate the use of the work completed certification form which was eliminated from statute by amendment to 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 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, 2015 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 amendment shall be held on February 12, 2015 at 10:00 am at 1511 Pontiac Avenue, Cranston, Rhode Island 02920 at which time and place all persons interested therein will be heard.

All are welcome at the Rhode Island Department of Business Regulation ("DBR"). If any reasonable accommodation is needed to ensure equal access, service or participation, please contact DBR at 401-462-9551, RI Relay at 7-1-1, or email dbr.directorofficeinquiry@dbr.ri.gov at least three (3) business days prior to the hearing.

Paul McGreevy
Director, Department of Business Regulation

Date posted: January 5, 2015

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Concise Summary of Proposed Non-technical Amendments
to
Commercial Licensing Regulation Number 5

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:

Section 6 and appendix A are proposed to be eliminated from the regulation in accordance with the elimination of the work completion certificate form by amendment to R.I. Gen. Laws §§ 5-38-28 and 27-10.1-9.

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~~233 Richmond Street~~**1511 Pontiac Avenue**
Providence~~Cranston~~, RI ~~02903~~**02920**
www.dbr.ri.gov

Commercial Licensing Regulation 5 - Motor Vehicle Glass Installation

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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 Limited Glass Licenses for Motor Vehicle Glass Installation 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 Limited Glass License.
- (D) "Department" means the Department of Business Regulation.
- (E) "Director" means the Director of the Department.
- (F) "Licensee" means a Person holding a Limited Glass License.
- (G) "Limited Glass License" means the license from the Department issued to a Person engaged in the operating business of Motor Vehicle Glass Installation.
- (H) "Motor Vehicle" means any automobile, truck or other self-propelled vehicle of any type.
- (I) "Motor Vehicle Glass Installation" means the act of replacing, repairing or installing glass on a Motor Vehicle.
- (J) "Person" means any individual, partnership, corporation, limited liability company, association, sole proprietorship, public or private association or any other legal entity, however formed.

.Section 4 Licenses

(A) License Required. No Person may engage in the business of Motor Vehicle Glass Installation without first obtaining a Limited Glass License from the Department. The initial term for each Limited Glass License shall be no more than two (2) years and shall have an expiration date of December 31, 2000. All Limited Glass Licenses issued on or after January 1, 2001 shall have a term of not more than three (3) years before a renewal application is required.

(B) Application. Every Applicant for a Limited Glass License or renewal of an existing Limited Glass License must submit to the Department the following

- (1) the completed application form adopted by the Department;
- (2) the license fee of one hundred dollars (\$100.00) for each year the Limited Glass License is to be issued;
- (3) a certificate of financial responsibility;
- (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

(C) Minimum Value. Every Licensee must maintain a service repair shop and/or vehicles and related tools and equipment collectively having a minimum value of \$5000 at the time of the issuance and/or renewal of the Limited Glass 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.

(D) Evidence of Financial Responsibility. Each Applicant shall furnish to the Director and maintain during the term of the Limited Glass License a certificate of insurance issued by an insurance company authorized 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 indemnity in the sum of not less than twenty-five thousand dollars (\$25,000) in the case of one (1) person injured and not less than fifty thousand dollars (\$50,000) in the case of injury of two (2) or more persons in any one accident, and indemnity of not less than twenty-five thousand dollars (\$25,000) for damage to property.

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.

(E) Space Requirements. Except as otherwise provided below, Licensees must conduct Motor Vehicle Glass Installation at a fixed location with at least 2400 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.

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.

Section 5 Reinspection

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 Glass Installation has been completed. Any such reinspections performed hereunder shall be included in satisfying the reinspection requirements of R.I. Gen. Laws § 27-10.1-9.

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 Glass Installation has been completed and shall make the Motor Vehicle available for reinspection on the following business day unless the insurance company representative agrees to another time. Licensees may charge up to thirty-two dollars (\$32.00) per hour for the use of testing equipment, if such testing equipment is necessary to perform the reinspection, or for services rendered.

~~Section 6 — Work Completion Certificate Form~~

~~Every Licensee and insurance company shall complete the work completion certification form attached hereto as Appendix A. The Licensee or the insurance company representative executing the form shall forward the completed form to the insurance company.~~

Section 76 Miscellaneous

(A) 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) A Limited Glass License shall be granted only to the Applicant. The Limited Glass License is not subject to transfer, assignment or leasing to another Person without prior application to, and approval from the Department.

(C) When a Licensee ceases operating the business of Motor Vehicle Glass Installation, the Licensee must return the original Limited Glass License to the Department within fifteen (15) days thereof.

(D) No Licensee shall be permitted to perform automobile body repair shop work or to advertise or represent in any form or manner that such Licensee is licensed to perform automobile body repair shop work, other than Motor Vehicle Glass Installation, unless such Licensee also has an automobile body repair shop license from the Department.

(E) Any Person who possesses an automobile body repair shop license from the Department shall not be required to hold a Limited Glass License in order to perform Motor Vehicle Glass Installation.

(F) The provisions of R.I. Gen. Laws § 27-10.2-1 *et seq.* are applicable to Licensees. Therefore, Licensees shall not use aftermarket parts in Motor Vehicle Glass Installation 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.

Section 87 Complaints/Hearings

(A) Complaints. All complaints against Licensees or other Persons for violations of this Regulation or the Act shall be investigated by the Department. In furtherance thereof, the Department shall 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 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 ~~98~~** **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 ~~109~~** **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 ~~110~~** **Effective Date**

This Regulation shall become effective upon twenty (20) days of filing with the office of secretary of state pursuant to R.I. Gen. Laws § 42-35-4.

EFFECTIVE DATE: December 31, 1998
REFILED: December 19, 2001
AMENDED: February , 2015

~~Appendix A~~

~~CERTIFICATION OF AUTOMOBILE REPAIRS~~

~~R.I. Gen. Laws § 5-38-1 et seq. requires that the following certification be completed and signed. The law does not mandate how or if the automobile is repaired, but it does mandate the completion of this form. The return of this form is not a condition of payment.~~

~~Part 1~~

~~TO BE COMPLETED BY THE INSURER~~

~~Insured Name: _____ Claim Number: _____
Address: _____ Policy Number: _____

_____ Date of Accident: _____~~

~~Name of Insurer: _____
Address: _____

_____~~

~~I, _____ representing _____
Insurance Company have verified the auto body shop listed has a valid auto body license in
accordance with existing laws.~~

~~Date: _____~~

~~Signature of Insurance Company Representative: _____~~

~~Part 2~~

~~TO BE COMPLETED BY THE AUTOMOBILE BODY SHOP~~

~~I, _____ a representative of _____ Auto
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 invoice, to the automobile owned by _____.~~

Date: _____

PART 3

TO BE COMPLETED BY THE INSURED

I, _____, certify, under penalties of perjury, that:

~~Check (a) or (b) or (c) and (d) if Direct Payment to the Repairer is Desired.~~

~~(a) ___ I have not made any repairs to my automobile as a result of the captioned accident, or~~

~~(b) ___ All the repairs allowed by the insurer have been repaired by the automobile repairer, and I have paid \$ _____ (may be \$0.) to the automobile repairer, which amount is the deductible amount applicable to this accident; or if not,~~

~~(c) ___ My automobile has been repaired according to the attached itemized invoice and I have paid \$ _____ (may be \$0.) to my automobile repairer.~~

~~(d) ___ I hereby authorize payment of \$ _____ directly to the auto body shop identified in Part 2.~~

IMPORTANT NOTICE TO INSURED

~~IF YOU DO NOT REPAIR ALL OR PART OF THE DAMAGES ALLOWED BY THE INSURER, AND YOU HAVE A SUBSEQUENT LOSS, THE COMPANY MAY, TO THE EXTENT RELEVANT, DEDUCT SUCH ITEMS AS PREVIOUS DAMAGE IN SETTling THE SUBSEQUENT LOSS. THEREFORE, IF AFTER SIGNING THIS CERTIFICATION, YOU REPAIR THE DAMAGE, YOU SHOULD NOTIFY THE COMPANY IMMEDIATELY. THE COMPANY MAY AT THAT TIME ELECT TO INSPECT YOUR AUTOMOBILE. NO INSURANCE COMPANY OR ITS REPRESENTATIVE MAY MAKE PAYMENT ON A CLAIM TO AN INSURED OR AUTO BODY REPAIR FACILITY IF REPAIRS ARE MADE AT A FACILITY NOT IN ACCORDANCE WITH R.I. GEN. LAWS § 5-38-1 et seq.~~

Date: _____ Signature of Insured: _____

~~NOTICE: THIS FORM MUST BE COMPLETED BY THE INSURED AND AUTOMOBILE REPAIRER AND RETURNED TO THE INSURER.~~