

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Commercial Licensing and Racing & Athletics
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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 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 the payment of storage fees by insurers 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. Any violation of Commercial Licensing Regulation 3 by automobile body repair shops is subject to enforcement under Section 9 of Commercial Licensing Regulation 3.

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 for eight (8) hours or more.
- 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 and operational security system.

Section 4 Maximum Rates of Storage

- A. The maximum rates of Storage that may be charged by an automobile body repair shop for storage of a vehicle shall be consistent with the storage rate set for vehicle storage by the Division of Public Utilities and Carriers ("DPUC") pursuant to its jurisdiction over tow away motor vehicle operations under R.I. Gen. Laws §§ 39-12-1 *et seq.* and 39-12.1.1 *et seq.* which is currently, for:
 - (i) Vehicles 20 feet long or less: \$24.00 per day
 - (ii) Vehicles more than 20 feet long: \$35.00 per day
- B. Said Storage rates are to be adjusted consistent with the DPUC rates; provided, however, that there shall be an administrative hearing consistent with R.I. Gen. Laws § 42-35-1 *et seq.* for the amendment of this regulation, subject to the approval by the Director and prior to the imposition of said increased rates.

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 automobile body repair shop has 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 Storage fees seven (7) days after the owner or a household member received notice as indicated by the return receipt of certified mail;

- (ii) Storage fees shall commence on the seventh (7th) day after the owner or a household member received the written notice evidenced by return receipt from the post office;
- (iii) If eight (8) days after receiving 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 lienholder(s) of the vehicle in writing of the status of the vehicle.

Section 6 Storage for Totaled and Partially Repaired Vehicles

- 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.
- 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.
- 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 fees under the following circumstances:
 - (i) If it has commenced repairs to a vehicle, after an appraisal completed by either an insurance company or its agent, and the vehicle is later deemed to be a total loss as a result of a supplemental appraisal by the insurer.
 - (ii) In such circumstances as described in subparagraph C (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.

- (iii) Storage fees may be disallowed 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.
 - (iv) An automobile body repair shop shall not charge Storage fees for days the shop performs any partial repairs of a 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 lienholder(s).

Section 7 Insurance Representatives

- A. Insurance representatives shall be allowed access by an automobile body repair shop to inspect any vehicle 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. For example, 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 a Storage fee for Tuesday. If the insurance representative is unavailable before Wednesday, then Tuesday's Storage fee may be charged.

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

AMENDMENT FILED: September. 4, 2009

AMENDMENT EFFECTIVE: September 24, 2009