

Public Notice of Direct Final Rulemaking

Rhode Island Government Register

AGENCY: Rhode Island Department of Business Regulation (“Department”)

DIVISION: Commercial Licensing

RULE IDENTIFIER: n/a

ERLID: 8267 (operative language being incorporated into 8269)

REGULATION TITLE:

Motor Vehicle Body and Salvage Vehicle Repair Technician Certification
(Commercial Licensing Regulation 16)

RULEMAKING ACTION: Direct Final

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Date of Public Notice:	September 26, 2017
End of Comment Period:	October 26, 2017

SUMMARY OF PROPOSED ACTION ON THE RULE:

As part of the reformatting process for codification into the RICR, the Department has decided to incorporate this regulation into 230-RICR-30-05-2 Motor Vehicle Body Repair (formerly Commercial Licensing Regulation 4) and repeal it. The consolidation of these regulations will result in a single regulation that contains all licensing requirements for Motor Vehicle Body Shops and Motor Vehicle Salvage Repair licensees. The majority of Commercial Licensing Regulation 16 will be deleted because the language is already repeated verbatim in 230-RICR-30-05-2. However, §§ 3(D), 4 and 5 of Commercial Licensing Regulation 16 have been added to 230-RICR-30-05-2 in §§ 2.3(A)(7) and 2.12. The Department does not expect that this proposed repeal will be controversial.

WHERE AMENDMENTS MAY BE INSPECTED:

A copy of the proposed repeal will be available for examination from September 26, 2017, through October 26, 2017, by mail or at the offices of the Department of Business Regulation, Attn: Amy Stewart, Esq., 1511 Pontiac Avenue, Cranston, Rhode Island 02920, or requested by emailing amy.stewart@dbr.ri.gov or by calling Amy Stewart at (401) 462-9619. Electronic copies of the proposed repeal will also be available on the DBR website at www.dbr.ri.gov and Secretary of State’s at <http://sos.ri.gov/ProposedRules/>. A copy of the proposed repeal is also found below in the body of this webpage.

COMMENTS:

Interested persons may submit written objections to the proposed repeal of this regulation. If no objection is received on or before October 26, 2017, the Department will file the repeal without

opportunity for public comment and the repeal will be effective on October 26, 2017. Any written objections should be sent to the following addresses and must be received no later than 11:59 PM on October 26, 2017.

amy.stewart@dbr.ri.gov

OR

Department of Business Regulation
Legal Division
Attn: Amy Stewart
1511 Pontiac Ave, Bldg 68-1
Cranston, RI 02920

FOR FURTHER INFORMATION CONTACT:

Amy Stewart, Esq., at (401) 462-9619, or at the email or mailing address listed above.

SUPPLEMENTARY INFORMATION:

Regulatory Analysis:

These proposed amendments will result in no impact upon small businesses. The unique parts of this regulation are being incorporated into 230-RICR-30-05-2.

Authority for This Rulemaking: R.I. Gen. Laws §§ 5-38-5(4) and 42-14-17.

Regulatory Findings:

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.

The Proposed Amendment:

Consistent with the above Summary of Proposed Action on the Rule, the Rhode Island Department of Business Regulation proposes to repeal Motor Vehicle Body and Salvage Vehicle Repair Technician Certification (Commercial Licensing Regulation 16) as specifically shown in the attached redlined document.

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

~~Commercial Licensing Regulation 16~~
~~Motor Vehicle Body and Salvage Vehicle Repair~~
~~Technician Certification~~

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Section 1 — *Authority*

This Regulation (the “Regulation”) is promulgated pursuant to the authority granted in R.I. Gen. Laws § 5-38-5(4).

Section 2 — *Purpose*

The purpose of this Regulation is to establish minimum requirements for the certification of motor vehicle body repair technicians.

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. — “Applicant” means a Person filing an application for a License issued pursuant to Commercial Licensing Regulation 4.
- C. — “Automobile Body Shop” is as defined in R.I. Gen. Laws § 5-38-1, and includes any establishment, garage, or work area enclosed within a building where repairs

~~are made or caused to be made to motor vehicle bodies, including fenders, bumpers, chassis and similar components of motor vehicle bodies as distinguished from the seats, motor, transmission, and other accessories for propulsion and general running gear of motor vehicles, except as provided in § 5-38-20.~~

- D. ~~“Certification Organization” means an organization that certifies individuals in motor vehicle body repair work. Such organizations shall include, but are not limited to” Automotive Service Excellence (“ASE”), Inter Industry Conference on Auto Collision Repair (“ICAR”), New England Technical Institute, Rhode Island auto body repair associations, and other certified or accredited public or private educational institutions.~~
- E. ~~“Department” means the Department of Business Regulation~~
- F. ~~“License” means a License as named in Commercial Licensing Regulation 4, issued by the Department pursuant to R.I. Gen. Laws §5-38-1 et seq., as amended or 31-46-1 et seq., as amended.~~
- G. ~~“Motor Vehicle” means any automobile, truck or other self-propelled vehicle of any type.~~
- H. ~~“Motor Vehicle Body Work” means the act or acts of preparing, fixing, restoring, painting, or putting together a motor vehicle body, or the subcontracting of said work.~~
- I. ~~“Person” means any individual, partnership, corporation, limited liability company, sole proprietorship, or any other legal entity, however formed.~~
- J. ~~“Shop Employee” means any individual employed (including owners, partners and all other individuals whether paid or unpaid) by an Automobile Body Shop repair shop who *does not* perform repairs to the frame, the structural systems, the mechanical systems, or the safety related systems of a Motor Vehicle.~~
- K. ~~“Technician” means any individual employed (including owners, partners and all other individuals whether paid or unpaid) by an Automobile Body Shop who performs repairs to the frame, the structural systems, the mechanical systems, or the safety related systems of a Motor Vehicle.~~

Section 4 ~~—————~~ Certification Organizations – Reporting

All “Certification Organizations” shall report a written description of the certification program it offers, including subjects offered and method of testing or evaluation, to the Auto Collision Repair Licensing Advisory Board of the Department.

Section 5 **Technician Certification**

A. Requirements:

1. FULL COLLISION REPAIR LICENSE CLASS A (“Class A License”)

Upon submission of a new or renewal application for a Class A License pursuant to Commercial Licensing Regulation 4 Section 4 (B) (1) (i), each Applicant must certify under the penalty of perjury to the Department that all Technicians it has in its employ are certified in the following areas:

i) Identification and Analysis of Damage to Vehicles;

ii) Frame Measuring and Straightening Systems and Techniques;

iii) Welding in Collision Repair;

iv) Structural Steel Repairs;

v) Suspension, Steering, and Alignment Systems;

vi) Safety Restraint Systems; and

vii) Corrosion Protection.

2. CLASS B LICENSEES WITH A SALVAGE VEHICLE REPAIR LICENSE

Upon submission of a new or renewal application for a Class B License with the additional Salvage Vehicle Repair License, pursuant to Commercial Licensing Regulation 4, Sections 4(B)(1)(ii) and 4(C)(3), each Applicant must certify under the penalty of perjury to the Department that for every two (2) Technicians working for the Licensee, one full set of certifications is held by any combination of the Technicians. Any combination of the certifications shall suffice as long as all seven (7) certifications identified in Regulation 16, Section 5A(1) are held in the appropriate 1 for every 2 ratio, where fractions shall be rounded up to the next highest whole number. For example: A shop with 1 or 2 Technicians would need 1 full set of certifications, either held by a single Technician or distributed between the Technicians in any combination. But a shop with 5 Technicians would require 3 full sets of certifications, distributed amongst the 5 Technicians in any combination.

3. FULL COLLISION REPAIR LICENSE CLASS B (“CLASS B LICENSE”) AND ALL OTHER MOTOR VEHICLE BODY LICENSES

Upon submission of a new or renewal application for a Class B License or any other Motor Vehicle Body License issued pursuant to Commercial Licensing Regulation 4, Section 4(B)(2-4), each Applicant must certify under the penalty of perjury to the Department that for every five (5)

~~Technicians working for the Licensee, one full set of certifications is held by any combination of the Technicians. Any combination of the certifications shall suffice as long as all seven (7) certifications identified in Regulation 16, Section 5A(1) are held in the appropriate one (1) full set for every five (5) Technician ratio, where fractions shall rounded up to the next highest whole number. For example: A shop with 1, 2, 3, 4, or 5 Technicians would need 1 full set of certifications, either held by one Technician or distributed between the two Technicians in any combination. But a shop with 6 Technicians would require 2 full sets of certifications, distributed amongst the 6 Technicians in any combination.~~

B. — Certification Documentation.

~~All applicable licensees must maintain a record of certification for each Technician in its employ. Such documentation must include the Technician's transcript and related certifications, and must be readily available. All Technician certifications must be maintained and current throughout the term of the license.~~

Section 6 — Complaints/Hearing

A. — Complaints.

~~All properly filed complaints by 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 review the answer and submit a copy thereof to the complainant for further response, if necessary. Upon receipt of the response the Department will 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.~~

B. — Hearings.

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

Section 7 — Penalties for Violations

~~Any licensee or other Person who fails to comply with or violates 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 8 ————— **Severability**

If any provision of this Regulation or application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications 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 9 ————— **Enforcement**

The Department will allow Licensees 60 days after the effective date of this Regulation to come into compliance with the new requirement for Technicians to be certified in Corrosion Protection, from Section 5A(1)(vii).

Section 10 ————— **Effective Date**

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

EFFECTIVE DATE: ————— **May 12, 2009**
AMENDED: ————— **March 17, 2016**