

2012 -- H 7690

=====
LC01266
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

—————
A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- AUTOMOBILE BODY REPAIR
SHOPS

Introduced By: Representative Michael J. Marcello

Date Introduced: February 16, 2012

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 5-38-10 and 5-38-28 of the General Laws in Chapter 5-38 entitled
2 "Automobile Body Repair Shops" are hereby amended to read as follows:

3 **5-38-10. Grounds for denial, suspension, or revocation of licenses.** -- The department
4 of business regulation may deny an application for license or suspend or revoke a license after it
5 has been granted, for the following reasons:

6 (1) On proof of unfitness of the applicant to do business as an automobile body repair
7 shop;

8 (2) For any misstatement by the applicant in his or her application for license;

9 (3) For any failure to comply with the provisions of this section or with any rule or
10 regulation promulgated by the commission under section 5-38-5;

11 (4) For defrauding any customer;

12 (5) For dismantling any automobile without the written authorization of the owner of the
13 automobile and without providing three (3) business days advance notice to the insurer adjusting
14 the claim for damage to the vehicle for the purpose of allowing the insurer an opportunity to
15 appraise and photograph the vehicle prior to dismantling;

16 (6) For refusing to surrender any automobile to its owner upon tender of payment of the
17 proper charges for towing storage, and work done on that automobile;

18 (7) For having indulged in any unconscionable practice relating to the business as an

1 automobile body repair shop;

2 (8) For willful failure to perform work as contracted for;

3 (9) For failure to comply with the safety standards of the industry; ~~or~~

4 (10) For the purchase of used vehicle parts from unlicensed entities;

5 (11) For failure to comply with the requirements of section 5-38-30;

6 (12) For failure to provide the owner or insurer upon request with copies of invoices for
7 all parts, materials and subcontracted services used in the repair of the vehicle;

8 (13) For adding a markup on towing or subcontracted services;

9 (14) For failure to permit access to the vehicle during the repair process by the appraiser
10 retained by the insurer;

11 (15) For failure to permit one or more licensed appraisers from an insurer to access the
12 vehicle for the purposes of an appraisal;

13 (16) For failure to provide the insurer with a true and accurate repair certification form as
14 required by section 5-38-28.

15 **5-38-28. Repair certification form.** ~~-- The director of the department of business~~

16 ~~regulation is authorized to create a work completion certification form which is executed by an~~
17 ~~insured and the automobile repairer and which shall certify under the penalties of perjury, the~~
18 ~~repairs to a particular vehicle that have actually been made.~~ (a) On an insured repair, the insured

19 and the automobile repairer shall certify in writing to the insurer, under the penalties of perjury,
20 on the work completion certification form, that the repairs to the vehicle have actually been made
21 in accordance with the insurers appraisal, and that the insured's deductible has been paid. If an
22 insured desires to limit the scope of repair to reduce the insured's deductible, the amount of such
23 reduction and the repairs not performed must be detailed to the insurer in writing, and the value of
24 any repairs not performed must fairly reflect the amount of the reduction in the deductible paid.
25 The automobile repairer is not permitted to omit repairs that may affect the safety of the vehicle.
26 The insurer shall have no liability arising from the insured's decision to limit the scope of repair.

27 (b) The insurer is not required to make payment until the executed work completion
28 certification form and proof of payment of any deductible have been provided. The insurer may
29 also inspect the vehicle prior to payment

30 (c) The director of the department of business regulation shall by regulation create a work
31 completion certification form consistent with this section. In addition to the certifications
32 described in this section, the director may require that the form contain certifications and proof
33 regarding compliance with other requirements of state and federal law.

34 (d) A false statement in a certification under this section constitutes insurance fraud

1 [pursuant to section 11-41-29 of the general laws.](#)

2 SECTION 2. Section 27-10.1-6 of the General Laws in Chapter 27-10.1 entitled "Motor
3 Vehicle Damage Appraisers" is hereby amended to read as follows:

4 **27-10.1-6. Conduct of motor vehicle damage appraisers.** -- (a) Each appraiser, while
5 engaged in appraisal duties, shall carry the license issued to that appraiser by the department of
6 business regulation and shall display it, upon request, to an owner whose vehicle is being
7 inspected, to the auto body shop representative involved, or to any authorized representative of
8 the department of business regulation.

9 (b) The appraiser shall leave a legible copy of his or her appraisal with the auto body
10 shop selected to make the repairs, which appraisal shall contain the name of the insurance
11 company ordering it, if any, the insurance file number, the number of the appraiser's license, and
12 the proper identification number of the vehicle being inspected, and notice in boldface type,
13 reading as follows:

14 "PURSUANT TO RHODE ISLAND LAW, THE CONSUMER HAS THE RIGHT TO
15 CHOOSE THE REPAIR FACILITY TO COMPLETE REPAIRS TO A MOTOR VEHICLE;
16 AND AN INSURANCE COMPANY MAY NOT INTERFERE WITH THE CONSUMER'S
17 CHOICE OF REPAIRER." All damage unrelated to the incident or accident that occasioned the
18 appraisal of the vehicle, or old damage, shall be clearly indicated in the appraisal.

19 (c) The appraiser shall not obtain a competitive estimate from another auto body shop
20 unless the owner of that other shop, or his or her authorized agent, has inspected the vehicle. No
21 competitive estimate shall be obtained by the use of photographs, telephone calls, or in any
22 manner other than a personal inspection.

23 (d) No appraiser shall ~~request~~ [require](#) that repairs be made in a specified auto body shop;
24 [however, an appraiser may provide truthful, non-coercive information about repair options](#)
25 [available to an insured or claimant.](#)

26 (e) Every appraiser shall re-inspect damaged vehicles when supplementary allowances
27 are requested by the auto body shops.

28 (f) No appraiser shall receive directly or indirectly any gratuity or other consideration in
29 connection with his or her appraisal services from any person except his or her employer, or, if
30 self-employed, his or her customers.

31 (g) No appraiser shall traffic in automobile salvage if it is obtained in any way as a result
32 of appraisal services rendered by the appraiser.

33 (h) No appraiser shall obtain an estimate from an unlicensed automobile body repair
34 shop nor shall any appraiser agree on a price for repairing a damaged motor vehicle with an

1 unlicensed automobile body repair shop. Nothing contained in this section shall be construed to
2 preclude an appraiser from dealing with any entity not subject to the licensing provisions of
3 section 5-38-4.

4 SECTION 3. This act shall take effect upon passage.

=====
LC01266
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- AUTOMOBILE BODY REPAIR
SHOPS

1 This act would amend provisions of the auto body repair shop statute to provide for
2 notice prior to the dismantling of a insured's vehicle, would amend the conduct requirements of
3 appraisers relative to where auto body repairs are made and would require a more comprehensive
4 repair certification form for auto body work.

5 This act would take effect upon passage.

=====
LC01266
=====