

DEPARTMENT OF CONSUMER AFFAIRS
TITLE 16. BUREAU OF AUTOMOTIVE REPAIR

PROPOSED REGULATORY LANGUAGE

Storage and Towing Fees for Automotive Repair Dealers

Legend: Added text is indicated with an underline.

Omitted text is indicated by (* * * *)

Amend section 3303 of Article 1 of Division 33 of Title 16 of the California Code of Regulations to read as follows:

§ 3303. Definitions.

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(x) “Vehicle Storage” means an automotive repair dealer (ARD) having possession of a vehicle.

(y) “Safekeeping” means an ARD shall ensure that no damage or loss of property occurs to a customer’s vehicle while in the ARD’s possession.

NOTE: Authority cited: Sections 9882, 9884, 9884.9, 9884.19 and 9887.1, Business and Professions Code. Reference: Sections 9880.1(a), 9880.1(f), 9880.1(k), 9882, 9884, 9884.7(a)(2), 9884.9, 9888.5, 9889.50, 9889.51 and 9889.52, Business and Professions Code.

Amend section 3351.2 of Article 6 of Division 33 of Title 16 of the California Code of Regulations to read as follows:

§ 3351.2. Renewal of Automotive Repair Dealer Registration.

* * * *

(c) An ARD who performs repairs as the result of an accident or theft recovery shall report to the Bureau on an annual basis—when renewing their registration—their daily storage rate for the registration renewal period.

(1) ARDs shall determine the daily storage rate based upon tangible factors such as the following:

- (A) The value of the storage space as determined by revenue potential of that space absent the stored vehicle;
 - (B) Whether the storage area is inside an enclosed building, in a secure outdoor parking area, or at a separate secured location;
 - (C) Labor costs for staff to ensure the safekeeping of vehicles;
 - (D) Operating costs such as supplies, utilities, payroll, and other expenses that contribute to the value of the storage area;
 - (E) Any other actual and direct costs associated with the storage of the vehicle.
- (2) If an ARD charges varied storage rates based on the location where the vehicle is stored, the ARD shall report the highest daily storage rate.
- (3) The storage rate reported shall remain unchanged for the duration of the registration renewal period.

NOTE: Authority cited: Section 9882, Business and Professions Code.

Reference: Sections 152.5, 152.6, 9884.3 and 9884.4, Business and Professions Code.

Adopt Article 6.2 and sections 3351.8.1, 3351.8.2, and 3351.9 in Division 33 of Title 16 of the California Code of Regulations to read as follows:

Article 6.2. Storage and Towing Fees for Automotive Repair Dealers

§ 3351.8.1. General Requirements for Vehicle Storage.

- (a) An ARD may charge storage fees when receiving possession of a motor vehicle for storage if they are unable to contact the customer, or the ARD knows they cannot or will not repair the vehicle.
- (b) An ARD who charges storage fees shall display their current daily storage rate(s) in a conspicuous place where the storage rate(s) are visible, legible, and adjacent to a counter where customers are served.
- (c) Utilizing the daily storage rates reported pursuant to section 3351.2(c), the Bureau shall create a search tool on its website to enable the public, third-party payors, and other stakeholders to identify an average daily storage rate for a locale.

- (1) The search tool is not intended to regulate, establish, or otherwise influence actual storage rates and is a reference tool only.
 - (2) For the purposes of this article, locale is defined as a radius of an ARD sufficient to identify the ten (10) geographically closest ARDs performing the same type of repairs and reporting daily storage rates.
 - (A) The maximum radius shall be ten (10) miles, at which point the search tool shall report the average daily storage rate within that radius.
 - (B) If there are additional ARDs that are equidistant to one (1) or more of the ten (10) geographically closest ARDs the search tool shall also report the average daily storage rate for all equidistant ARDs.
 - (3) This subdivision shall become operative one-year after the effective date of these regulations.
- (d) An ARD charging for vehicle storage shall permit the customer or the customer's third-party payor access to that vehicle for inspection.
- (1) The vehicle shall be stored at the ARD's primary business address as registered with the Bureau;
 - (2) If necessary for the vehicle to be stored at a location other than the ARD's primary business address, the ARD shall notify the customer of the storage location in writing on the estimate; and
 - (3) The ARD shall not charge the customer for moving the vehicle between locations unless the customer authorizes the charge to transfer the vehicle to a different location.
- (e) An ARD charging storage fees for a vehicle shall accept all of the following forms of payment from the consumer, third-party payor, agent, or tow hauler for towing and storage charges: cash, a valid bank credit card, insurer's check, or bank draft.

Note: Authority cited: Sections 9882 and 9884.16, Business and Professions Code. Reference: Sections 9884.6, 9884.8, 9884.9, and 9884.16, Business and Professions Code; Sections 3068 and 3068.1, Civil Code; Sections 22524.5 and 22651.07, Vehicle Code; and Sections 758.5 and 790.03, Insurance Code.

§ 3351.8.2. Storage Fees Resulting from a Repair Transaction.

- (a) When an ARD performs repairs as result of an accident or theft recovery and charges for vehicle storage, the following shall apply:
- (1) The storage fees shall be reasonable in accordance with Vehicle Code section 22524.5(c)(1).
 - (2) Terms or expressions of like meaning to the presumptively unreasonable fees listed in Vehicle Code section 22524.5(c)(3) shall also be deemed unreasonable.
 - (3) Storage fees and rates shall be comparable to those charged by other ARDs in the same locale as defined in section 3351.8.1(c), and in accordance with Vehicle Code section 22524.5(c)(2)(B).
 - (4) Storage fees and rates that are higher or lower than the average daily rate as specified in section 3351.8.1(c)(2) shall be permitted if determined reasonable.
- (b) To charge for vehicle storage incurred after completion of repairs, an ARD shall have:
- (1) Obtained customer authorization as specified in section 3353.1 of the California Code of Regulations for the specific repair(s) being performed;
 - (2) Generated an itemized invoice with all repair work performed and parts supplied upon completion of the authorized repairs; and
 - (3) Notified the customer that the repairs are complete.
- (c) An ARD shall not charge storage fees while the vehicle is undergoing repairs, including the tear down of a vehicle or part in accordance with section 3353 of the California Code of Regulations.
- (d) Upon completion of authorized repairs, an ARD shall not dismantle, disengage, remove, or strip from the vehicle any of the parts used to complete the repairs without customer authorization.
- (e) When obtaining authorization to perform a tear down as defined in section 3352, the ARD shall inform the customer in writing on the estimate the following information:

- (1) The number of days after receipt of an itemized estimate following completion of the tear down that the customer has to authorize repairs or remove the vehicle prior to the accrual of storage fees; and
 - (2) The daily storage fee rate.
- (f) The itemized storage fees shall be included on the invoice for automotive repair services and shall include the actual daily storage rate and number of days charged along with any other storage related fees or services.
- (g) If an ARD provides or contracts for a towing service, and subsequently repairs the vehicle, the towing fees shall be authorized by the customer on a separate form from the repair estimate. The form shall contain all of the information required pursuant to Vehicle Code section 22651.07(g).

Note: Authority cited: Sections 9882 and 9884.16, Business and Professions Code. Reference: Sections 9884.6, 9884.8, 9884.9, and 9884.16, Business and Professions Code; Sections 3068 Civil Code; Sections 22524.5 and 22651.07, Vehicle Code; and Sections 758.5 and 790.03, Insurance Code.

§ 3351.9. Towing and Storage Fees with no Repair Transaction.

- (a) When an ARD charges fees for the towing, storage, or both of a motor vehicle as a result of an accident or theft recovery, and where no repairs have been performed, the ARD shall do the following:
- (1) Ensure those fees are reasonable in accordance with Vehicle Code section 22524.5. Those fees shall not exceed the towing rates and storage fees charged for similar services provided in response to requests from a public agency such as the California Highway Patrol or local police department.
 - (2) Provide an itemized invoice for those services and fees to the customer, that shall include a notice stating that copies of the Towing and Storage Fees and Access Notice, as required pursuant to Vehicle Code section 22651.07, are available upon request.
- (b) The itemized storage fees shall be provided on an invoice and shall include the actual daily storage rate and number of days charged, along with any other storage related fees or services.

(c) An ARD who provides towing services shall display the Towing and Storage Fees Access Notice in a conspicuous place where it is visible, legible, and adjacent to a counter where customers are served, and have copies available to the public.

Note: Authority cited: Sections 9882 and 9884.16, Business and Professions Code. Reference: Sections 9884.6, 9884.8, 9884.9, and 9884.16, Business and Professions Code; Sections 3068 and 3068.1, Civil Code; Sections 22524.5 and 22651.07, Vehicle Code; and Sections 758.5 and 790.03, Insurance Code.