

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 <u>underline</u> .
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 customer’s vehicle prior to, upon completion of, or without a repair transaction.

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

§ 3351. Registration of Automotive Repair Dealers.

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(a)(2)(U) A registrant that charges storage fees after performing repairs to a motor vehicle as a result of an accident or recovery of a stolen vehicle shall provide the Bureau its maximum daily storage rate charged. Daily storage rates shall be determined in accordance with section 3351.8.1(b) of this Chapter. If an ARD charges varied storage rates, the ARD shall report the highest daily storage rate. An ARD may change their daily storage fee rate once per registration cycle and shall provide the Bureau with written notice of that change pursuant to subdivision (e) of this section.

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(e)(9) A change to the maximum daily storage rate.

NOTE: Authority cited: Sections 9882, 9884.2 and 9884.4, Business and Professions Code. Reference: Sections 27, 30, 31, 114.5, 115.4, 135.4, 141, 142, 480, 490, 9884, 9884.1, 9884.2, 9884.4, 9884.7 and 9889.52, Business and Professions Code and section 22524.5, Vehicle Code.

Adopt Article 6.2 and sections 3351.8.1, 3351.8.2, and 3351.8.3 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 who charges storage fees shall display their maximum daily storage rate(s), as reported to the Bureau pursuant to section 3351(a)(2)(U) of this Chapter, in a conspicuous place where the storage rate(s) are visible, legible, and adjacent to a counter where customers are served.
- (b) An ARD who charges for the storage and safekeeping of a vehicle shall establish their daily storage rate based on the actual and direct costs associated with storing the vehicle.
- (c) Utilizing the daily storage rates reported pursuant to section 3351(a)(2)(U) of this Chapter, the Bureau shall create a search tool on its website to enable the public, third-party payors, and other stakeholders to identify daily storage rates for a locale, charged pursuant to Vehicle Code section 22524.5(c)(2)(B).
 - (1) For the purposes of this Article, locale is defined as a geographic radius around each reporting ARD that is sufficient to identify average and median daily storage rates within that locale, as follows:
 - (A) All reporting ARDs within a five (5) mile radius of each individual reporting ARD.
 - (B) If there are fewer than twenty (20) reporting ARDs within a five (5) mile radius, the locale shall expand to a ten (10) mile radius of each individual reporting ARD.

- (C) If there are fewer than ten (10) reporting ARDs within a ten (10) mile radius, the locale shall expand to the entire county in which the individual reporting ARD is located.
- (2) Published storage rates shall not be used to establish or otherwise influence actual storage rates.
- (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 by either oral or electronic means, as defined in section 3352 of this Chapter; 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, and the ARD documents that authorization in accordance with section 3353.1 of this Chapter.
- (e) An ARD charging storage fees for a vehicle shall, at a minimum, accept all of the following forms of payment for storing a vehicle: cash, a valid bank credit card, insurer's check.
- (f) When charging storage fees, an ARD shall comply with the provisions of Chapter 6.5 (commencing with Section 3067) of Title 14 of Part 4 of Division 3 of the Civil Code.
- (g) An ARD that maintains a motor carrier permit under Vehicle Code section 34620 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.

§ 3351.8.2. Storage Fees Resulting from a Repair Transaction.

- (a) When an ARD obtains authorization to perform repairs, including a tear down as defined in section 3352 of this Chapter, as a result of an accident or recovery of a stolen vehicle and upon completion of the contracted repairs charges for vehicle storage, the following shall apply:
- (1) 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)(1) of this Article, and in accordance with Vehicle Code section 22524.5(c)(2)(B).
 - (2) Storage fees and rates that are not comparable to the daily storage rates reported as specified in section 3351.8.1(c) of this Article may be permitted if otherwise determined reasonable.
 - (3) Any storage fee for an item or service identified by a term or expression of like meaning to the presumptively unreasonable fees listed in Vehicle Code section 22524.5(c)(3) shall also be deemed presumptively unreasonable.
- (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 this Chapter 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 this Chapter.
- (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 of this Chapter, the ARD shall inform the customer in writing on the initial tear down estimate the following information:

- (1) The number of days the customer has to authorize repairs or remove the vehicle prior to the accrual of storage fees after receipt of notification that the tear down has been completed and receipt of an itemized estimate containing the estimated price for parts and labor to repair the vehicle; and
 - (2) The daily storage fee rate.
- (f) The ARD shall allow the customer a minimum of 3 business days from presentation of the itemized estimate upon completion of the tear down to determine whether to authorize the repairs as estimated or remove the vehicle from the facility prior to the charging of storage fees.
 - (g) An ARD who charges storage fees shall include the daily storage rate and number of days charged, along with any other storage related fees or services, on the invoice as required pursuant to section 3356 of this Chapter.
 - (h) 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 prior to the repair of the vehicle. 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.

§ 3351.8.3. Towing and Storage Fees with No Repair Transaction.

- (a) An ARD may charge storage fees when receiving possession of a motor vehicle for storage and the ARD knows they cannot or will not repair the vehicle. Those fees shall be charged in accordance with Vehicle Code section 22524.5(c)(2)(A).
- (b) When an ARD charges fees for the towing, storage, or both of a motor vehicle as a result of an accident or recovery of a stolen vehicle, and where no repairs have been performed, the ARD shall do the following:
 - (1) If the ARD receives a vehicle from someone other than the registered owner or their representative, prior to the accrual of storage fees the ARD shall contact the registered owner by either electronic or oral means as defined in sections 3352(f) and (g) of this Chapter and notify them of receipt of the vehicle and that storage fees will accrue. The ARD must

document the notification as specified in section 3353.1 of this Chapter as applicable.

- (2) Provide an invoice for those services and fees to the customer, including the actual daily storage rate and number of days charged, along with any other storage related fees or services and 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.

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.