

State of Rhode Island and Providence Plantations
DEPARTMENT OF BUSINESS REGULATION
Division of Insurance
233 Richmond Street
Providence, RI 02903

INSURANCE REGULATION 108
AUTO BODY LABOR RATE SURVEY

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Section 1 **Authority**

This Regulation is promulgated in accordance with R.I.G.L. §§ 27-29-4.4 and 42-14-17.

Section 2 **Purpose**

The purpose of this Regulation is to implement the provisions of R.I.G.L. §§ 27-29-4.4.

Section 3 **Applicability**

Each insurer that writes more than one percent (1%) of the total premium volume of Motor Vehicle Liability Insurance during the immediately preceding calendar year shall conduct an auto body labor rate survey in accordance with R.I.G.L. §§ 27-29-4.4 and this Regulation.

Section 4 **Definitions**

As used in this Regulation:

- A. "Auto body labor rate survey" is an analysis of information gathered from auto body repair shops regarding the rates of labor that repair shops charge in a certain geographic area.
- B. "Contract Rate" shall mean any labor rate to which an auto body repair facility and an insurer have agreed in a formal agreement and/or written contract.
- C. "Department" shall mean the Department of Business Regulation, Insurance Division.
- D. "Full Collision Repair Auto Body Facilities" are those facilities designated as such in Commercial Licensing Regulation 4.
- E. "Motor Vehicle Liability Insurance" shall mean those lines of insurance reported by the insurer in an insurers' annual statement as other private passenger auto liability, other commercial auto liability, private passenger auto physical damage, and commercial auto physical damage.
- F. "Insurance Group" shall mean a number of insurers within a holding company who are assigned a single group code by the National Association of Insurance Commissioners.
- G. "Prevailing auto body labor rate" means the rate determined and set by an insurer as a result of conducting an auto body labor rate survey in a particular geographic area, and used by insurers as a basis for determining the cost to settle automobile property damage claims.

Section 5 **Determination of Market Share**

The percentage of premium volume of Motor Vehicle Liability Insurance for the preceding calendar year will be determined by the Department in accordance with the premium reported in an insurers' annual statement. Prior to May 1 of the subsequent calendar year, the Department will publish on its website a list of those insurers who meet the applicability requirement. The one percent (1%) premium volume may be reached either by an individual insurer or by an Insurance Group whose writings reach one percent (1%) or more when combined. For the 2007 report only, premium volume will be determined based upon calendar year 2005 data.

Section 6 **Procedure and Deadlines**

- 1. Prior to February 1, 2007, each insurer that wrote more than one percent (1%) of the total premium for Motor Vehicle Liability Insurance in Rhode Island in 2005 shall send a questionnaire substantially in the form attached hereto as Exhibit A to Full Collision Repair Auto Body Facilities. In determining the facilities to which the questionnaire must be sent, insurers shall follow the direction in subsections (3), (5) and (6) below.

2. Each insurer to which this Regulation applies shall, prior to June 1, 2008 and June 1 of each subsequent calendar year, send a questionnaire substantially in the form attached hereto as Exhibit A to Full Collision Repair Auto Body Facilities.
3. With regard to the questionnaire to be sent in 2007 only, the Department's Commercial Licensing Division will post a partial list of Full Collision Repair Auto Body Facilities on its website which shall be updated (with indications on the list as to facilities added and deleted) up to and including January 21, 2007. Qualifying insurers must send questionnaires to the Facilities on this list prior to February 1, 2007.
4. Beginning in 2008, no later than sixty (60) days prior to conducting the survey, the Department's Commercial Licensing Division will provide a list of Full Collision Repair Auto Body Facilities which insurers must survey for that year's compliance. The list will be posted on the Department's website.
5. Insurers will omit from the list obtained in subsections 3 and 4 above all of those Full Collision Repair Auto Body Facilities with whom the insurer, or Insurance Group, if reporting on a group basis, has a formal agreement and/or written contract to pay contract rates in order to provide auto body repair services.
6. Insurers will send the questionnaire to all of the Full Collision Repair Auto Body Facilities that remain after deletion of those facilities indicated in subsection 5 above.
7. Insurers may choose to survey on an Insurance Group basis. If so, one questionnaire may be sent for the Insurance Group indicating all of the insurers within that group writing Motor Vehicle Liability Insurance in Rhode Island.

Section 7 **Report of Labor Rate Survey to the Department**

1. The first report to the Department must be filed not later than June 1, 2007.
2. The second report must be filed no later than September 1, 2008. A report must thereafter be filed no later than September 1 of each subsequent year.
3. The Report of the Labor Rate Survey must include the following:
 - a. A list, including the name and address, of all Full Collision Repair Auto Body Facilities to which the labor rate survey was sent.
 - b. A list of the Full Collision Repair Auto Body Facilities that failed to respond to the questionnaire within the time specified by the insurer.

- c. A list of questionnaires that were not taken into consideration by the insurer in its analysis of the survey, including the reason that each such questionnaire was rejected for consideration.
 - d. Results of the questionnaires considered by the insurer.
 - e. The total number of shops surveyed.
 - f. A description of the formula or manner in which the insurer has calculated or determined the prevailing labor rate which it pays to auto body repair facilities.
 - g. The prevailing labor rate established by the insurer.
 - h. If the calculation or formula indicated in subsection f above is not based on the results of the questionnaires identified in subsection d above, a complete explanation as to why it is not so based.
4. Insurers should include, in detail, all costs associated with complying with this Regulation.
 5. Insurers may choose to report on an Insurance Group basis. If so, one Labor Rate Survey may be filed with the Department for the Insurance Group indicating all of the insurers within that group writing Motor Vehicle Liability Insurance in Rhode Island.

Section 8 **Questionnaire**

1. Each insurer to which this Regulation applies shall utilize a survey based on the questionnaire attached hereto as Exhibit A. Insurers may customize the questionnaire with formatting; however, the substance must be in accordance with Exhibit A.
2. Insurers shall specify a date upon which the questionnaire must be returned to the insurer. The date specified must grant at least thirty (30) days notice for response.
3. Insurers may allow Full Collision Repair Auto Body Facilities to respond electronically (e.g. by email); however, insurers must allow response by hard copy if the Full Collision Repair Auto Body Facility does not consent to electronic submission.
4. With regard to the survey conducted in 2007, if an insurer finds that the response to a questionnaire is not properly completed or does not provide the full information requested, it shall notify the auto body facility in question of the deficiencies in the information provided.

5. Insurers may disregard the questionnaire if the further information identified, as indicated in subsection 4 above, is not provided within fourteen (14) days of the date of notification to the Full Collision Repair Auto Body Facilities of the additional information required.
6. With regard to all surveys conducted subsequent to 2007, insurers may reject any questionnaire that is not properly completed or does not provide the full information requested and are not required to provide notification to the Full Collision Auto Body Facility. Insurers shall keep detailed records for such rejection to allow audit by the Department. Insurers may be ordered by the Department to consider any questionnaire so “rejected” to be accepted if the Department finds that enough information has been provided to allow for consideration of the questionnaire. All questionnaires and all other information regarding the survey shall be maintained by the insurer for a minimum of five years.

Section 9 **Severability**

If any provision of this Regulation or the application thereof to any person or circumstances is held invalid or unconstitutional, the invalidity or unconstitutionality shall not affect other provisions or applications of this Regulation which can be given effect without the invalid or unconstitutional provision or application, and to this end the provisions of this Regulation are severable.

Section 10 **Effective Date**

This Regulation shall be effective as indicated below.

EFFECTIVE DATE: October 2, 2006

Exhibit A

LABOR RATE QUESTIONNAIRE

To: _____ (Auto Body Repair Facility)

From: _____ Insurance Company

Instructions: This questionnaire should be completed by the auto body repair facility to which it is addressed and returned to _____ Insurance Company at **[insert address]** no later than **[insert due date]**. If the information is not complete the survey may be rejected.

Hourly Rate Charged – Please indicate the hourly rate charged by your facility for auto body repair work. If the rate charged varies, please indicate each and every rate actually charged for all categories of customers, including but not limited to insurance related claims versus non-insurance related claims. The information on hourly rate charged must include all labor rate agreements other than those with insurance companies. This information must include, but is not limited to, labor rate agreements with any and all rental car companies for the repair of rental vehicles, labor rate agreements with any and all vehicle leasing companies for the repair of leased vehicles, labor rate agreements with the State of Rhode Island for the repair of state vehicles, and labor rate agreements made with the United States government for the repair of government vehicles.

Supporting Documentation: Please provide a full and complete description of all of the documents that evidence each actual rate charged (i.e. for each category of customer invoices, rates posted in shop, customer receipts, estimates or other applicable documentation). Please note that you may be requested to produce documentary evidence supporting your response to the Department of Business Regulation, Commercial Licensing Division.

Complete Description: Please describe the manner in which you calculate each labor rate charged, providing a complete description of the components, including, but not limited to salary costs, overhead (including a complete and detailed description of the costs you include in overhead) and margin for profit.

**FAILURE TO COMPLETE THIS QUESTIONNAIRE IN FULL MAY RESULT
IN ITS EXCLUSION FROM THE AUTO BODY LABOR RATE SURVEY FILED
WITH THE DEPARTMENT OF BUSINESS REGULATION.**

I declare under penalty of perjury that the information provided is true and correct.

Name: _____
Title: _____