***Disclaimer:***

*This consultation draft is intended to facilitate dialogue concerning its contents. Should the decision be made to proceed with the proposal, the comments received during consultation will be considered during the final preparation of the regulation. The content, structure, form and wording of the consultation draft are subject to change as a result of the consultation process and as a result of review, editing and correction by the Office of Legislative Counsel.*

ontario regulation

to be made under the

Consumer Protection Act, 2002: a consultation draft

Amending O. Reg. 17/05

(GENERAL)

 1.  Ontario Regulation 17/05 is amended by adding the following section:

Agreement for tow and storage services

 **13.1**Sections 22, 23 and 27 to 47 of the Act do not apply to a consumer agreement for tow and storage services, if the agreement is also a future performance agreement, a time share agreement, a personal development services agreement, a direct agreement, an internet agreement or a remote agreement.

 2.  The French version of paragraph 1 of subsection 47 (1) of the Regulation is revoked and the following substituted:

 1. L’assertion expresse ou implicite qu’il est agréé ou inscrit par le gouvernement du Canada, celui de l’Ontario ou celui d’une autre province ou d’un territoire du Canada ou titulaire d’un permis octroyé par un de ces gouvernements.

 3.  Paragraph 10 of section 48 of the Regulation is amended by adding “other than services to which Part VI.1 of the Act applies” after “temporary basis”.

 4.  The Regulation is amended by adding the following Part:

Part VI.1
Tow and Storage Services

Definitions and interpretation

 **52.1**(1)  In this Part,

“address” means a municipal address or, if one is not available, such geographic and other information sufficient to identify the relevant location;

“tow and storage services operator” means,

 (a) with respect to tow services, a supplier who holds a valid CVOR certificate for a commercial motor vehicle for driving or operating a tow truck or who, under the Highway Traffic Act, is required to hold such a certificate, or a supplier who, if one or more of his or her tow trucks had been registered under the *Highway Traffic Act*, would have been required to hold such a certificate, or

 (b) with respect to storage services, a supplier who provides storage services in respect of a tow service that is subject to this Part; (“exploitant de services de remorquage et d’entreposage”)

“tow truck” means a vehicle that has been configured or equipped so that it is capable of towing or transporting other vehicles in any combination, but does not include,

 (a) an off-road vehicle as defined in the Off-Road Vehicles Act,

 (b) a motorized snow vehicle as defined in the Motorized Snow Vehicles Act,

 (c) a farm tractor or self-propelled implement of husbandry as defined in the Highway Traffic Act,

 (d) a motor vehicle that is capable of towing or transporting other vehicles simply by being equipped with a trailer coupling, or

 (e) a stinger-steer combination composed of a tractor and semi-trailer and to which Schedule 14 to Ontario Regulation 413/05 (Vehicle Weights and Dimensions — For Safe, Productive and Infrastructure-Friendly Vehicles) made under the Highway Traffic Act applies; (“dépanneuse”)

“tow truck broker” means a supplier who, in the course of business, arranges for the hiring of tow services that are provided by using a tow truck not owned by the supplier. (“courtier en dépanneuses”)

 (2)  For the purposes of Part VI.1 of the Act, a tow truck driver is a supplier.

Non-application of Part VI.1 of the Act and this Part of this Regulation

 **52.2**For the purposes of subsection 65.2 (2) of the Act, the following do not apply to tow and storage services arising as a result of a vehicle being impounded or otherwise detained under the authority of any other Act or regulation of Ontario or Canada or any municipal by-law, or pursuant to a lawful power of seizure with respect to the vehicle:

 1. Part VI.1 of the Act, except for sections 65.5 (posting identifiers and other information), 65.8 (publication of rates), 65.15 (payment options), 65.16 (prohibitions) and 65.17 (additional duties and obligations) of that Part.

 2. This Part of this Regulation, except for sections 52.5 (posting identifiers and other information), 52.8 (publication of rates), 52.11 (prohibitions) and 52.12 (additional duties and obligations).

Disclosure

 **52.3**(1)  The following information is prescribed information for the purposes of section 65.3 of the Act:

 1. The name of the tow and storage provider and, if different, the name under which the provider carries on business.

 2. The telephone number of the tow and storage provider, the address of the principal place of business of the provider and information respecting other ways, if any, in which the consumer can contact the provider, such as the fax number and e-mail address of the provider.

 3. A statement of rates that complies with section 65.8 of the Act and that the tow and storage provider charges for the tow and storage services that the provider provides, which statement shall include the amount of the fee described in subsection 52.10 (2).

 4. The address of the location to which the tow and storage provider will have the vehicle that is the subject of the tow and storage services towed, and the address of the location of any anticipated stops before that destination.

 5. The Tow and Storage Consumers Bill of Rights if a Minister’s regulation has established it under subsection 65.11 (2) of the Act.

 (2)  For the purposes of section 65.3 of the Act, a tow and storage provider shall provide the information required by that section to the consumer or the prescribed person acting on behalf of the consumer under subsection 65.4 (1) of the Act in writing before the consumer or the person, as the case may be, gives the authorization required by section 65.4 of the Act.

Authorization required

 **52.4**(1)  For the purposes of subsection 65.4 (1) of the Act, a prescribed person means a person acting on behalf of the consumer.

 (2)  For the purposes of subsection 65.4 (1) of the Act, a consumer is unable to give the authorization required by section 65.4 of the Act if the consumer is unable to give the authorization as a result of the circumstances that gave rise to the need for the tow and storage services or has been removed from the scene of an accident or apparent accident.

 (3)  An authorization required by section 65.4 of the Act is not effective unless it includes,

 (a) the name and contact information of the consumer, if the consumer gave the authorization;

 (b) the name and contact information of the person acting on behalf of the consumer, if the consumer is unable to give the authorization; and

 (c) the date and time at which the authorization is given.

 (4)  Upon receiving an authorization required by section 65.4 of the Act from a person, a tow and storage provider shall provide a copy of the authorization to the person.

 (5)  If an authorization required by section 65.4 of the Act is not given in writing, the authorization must be recorded in a manner that allows the person who authorized the services to retain and make a copy of the authorization.

Posting identifiers and other information

 **52.5**(1)  The information that section 65.5 of the Act requires a tow and storage provider to post is the following:

 1. The provider’s name, and if different, the name under which the provider carries on business.

 2. The provider’s telephone number.

 3. If the provider operates more than one tow truck, a unique number identifying each tow truck.

 4. The provider’s municipal business licence number, if applicable.

 (2)  The tow and storage provider shall post the information described in subsection (1) on both sides of each tow truck that the provider operates, if any, by attaching it to or having it painted on the body of the tow truck in letters and figures not less than eight centimetres, which is approximately three inches, in height.

 (3)  The tow and storage provider shall post the information described in paragraphs 1, 2 and 4 of subsection (1) on one or more signs so that it is clear, comprehensible and prominent at all business premises from which the provider conducts business.

 (4)  If the tow and storage provider maintains a website, the website shall include the information described in paragraphs 1, 2 and 4 of subsection (1) in a form that can be reproduced.

Invoice

 **52.6**(1)  The invoice that section 65.6 of the Act requires a tow and storage provider to deliver shall be in writing.

 (2)  The additional information that section 65.6 of the Act requires a tow and storage provider that provides tow and storage services with respect to a vehicle to deliver is the following:

 1. The provider’s name, and if different, the name under which the provider carries on business.

 2. The provider’s telephone number.

 3. If the provider operates more than one tow truck, the unique number identifying the tow truck providing the services.

 4. The provider’s municipal business licence number, if applicable.

 5. The make, model, vehicle identification number and licence number of the vehicle.

 6. The date and time when the services commenced or are to commence.

 7. The address of the location where the services commenced or are to commence, the address of the location to which the vehicle was towed or is to be towed, the address of the location of any stops that are anticipated or have occurred in between, and, if applicable, the business name of each of those locations.

 8. A unique invoice number.

 9. The name of the tow truck driver.

Insurance

 **52.7**For the purposes of subsection 65.7 (1) of the Act, a tow and storage provider who provides tow services shall maintain insurance coverage for the following kinds of liability in the following amounts in respect of any one claim:

 1. Coverage against liability resulting from bodily injury to or the death of one or more persons and loss or damage to property, in the amount of at least $2,000,000 exclusive of interest and costs.

 2. Coverage against liability for damage to a vehicle of the consumer while in the provider’s care, custody or control, in the amount of at least $100,000.

 3. Cargo liability insurance in the amount of at least $50,000.

Publication of rates

 **52.8** (1)  A tow and storage provider shall make available a copy of the current statement of rates required by section 65.8 of the Act at all business premises from which the provider conducts business, and shall provide a copy to any person upon request.

 (2) If a tow and storage provider maintains a website, the website shall include the information described in subsection (1) in a form that can be reproduced.

Disclosure of interest

 **52.9** The disclosure of interest that section 65.10 of the Act requires a tow and storage provider to make must be made before the authorization required by section 65.4 of the Act.

Duty re contents of vehicle

 **52.10**(1)  A tow and storage provider shall provide the access required by subsection 65.12 (1) of the Act by,

 (a) having the location where the vehicle is stored be open to the public from 9:00 a.m. to 6:00 p.m. from Monday to Friday; and

 (b) providing a telephone number that the consumer or a person acting on behalf of the consumer can call to gain access to the vehicle at other times.

 (2)  A tow and storage provider may charge a reasonable fee for permitting access to the consumer or a person acting on behalf of the consumer at a time other than the times specified in clause (1) (a).

Prohibitions

 **52.11** (1) A tow and storage provider shall not recommend to a consumer or a person acting on behalf of the consumer that any motor vehicle in respect of which the provider’s services are to be provided, be towed, conveyed, driven or delivered to any particular salvage yard, body shop, storage yard, garage, building or place, unless the consumer or the person specifically so requests.

 (2) A tow and storage provider shall not charge an amount for tow and storage services that is greater than the amount that the provider usually charges for those services merely because the provider provides them as a result of a vehicle having been impounded or otherwise detained under the authority of any other Act or regulation of Ontario or Canada or any municipal by-law.

 (3) Subsection (2) does not apply in cases where there is an agreement that contains terms of payment for tow and storage services in respect of the impoundment or other detention of a vehicle authorized under any other Act or regulation of Ontario or Canada or any municipal by-law.

Additional duties and obligations

 **52.12**(1)  If a tow and storage provider makes a recommendation described in subsection 52.11 (1) upon the request of a consumer or a person acting on behalf of the consumer, the provider shall ensure that the consumer or the person receives a written statement of the consideration and benefits that are due to the provider or another person as a result of making the recommendation.

 (2)  The written statement described in subsection (1) shall be provided to the consumer or person acting on behalf of the consumer no later than the time at which the tow and storage provider receives the authorization required by section 65.4 of the Act in circumstances where such authorization is required or, if authorization is not required, as soon as is practical.

Record keeping and reporting

 **52.13**(1)  The following are prescribed records that section 65.19 of the Act requires a tow and storage provider to maintain:

 1. The authorizations that the provider obtains as required by section 65.4 of the Act.

 2. The invoices that section 65.6 of the Act requires the provider to deliver.

 3. A copy of the insurance policy that section 65.7 of the Act requires the provider to maintain.

 4. The current statement of rates that section 65.8 of the Act requires the provider to maintain.

 (2)  A tow and storage provider shall maintain the records described in subsection (1) at the provider’s principal place of business for a period of no less than three years.

Transition

 **52.14**The following provisions of the Act are prescribed provisions for the purposes of subsection 65.21 (2) of the Act:

 1. Section 65.3.

 2. Section 65.4.

 3. Section 65.5.

 4. Section 65.6, if a tow and storage provider under a consumer agreement for tow and storage services has delivered an invoice required by that section to the consumer or a prescribed person for the purposes of that section before the day that section comes into force.

 5. Section 65.10.

 6. Section 65.16.

 7. Section 65.17.

Commencement

 5.  [commencement]