**REGULATORY REGISTRY POSTING**

**Posting Source:** Regulatory Registry

**Posting Stage:** For Consultation

**Title:** Towing and Vehicle Storage: Proposed regulations under the Consumer Protection Act, 2002 and the Repair and Storage Liens Act

**Description**: The Ministry of Government and Consumer Services is seeking feedback on the proposed regulatory changes to Ontario Regulation 17/05 (General) under the *Consumer Protection Act, 2002* and proposed regulations (General) under the *Repair and Storage Liens Act*. These changes are intended to establish tow and storage specific consumer protection measures and address storage notification and related issues.

**Ministry Contact Email:** towingandstorage@ontario.ca

**Ministry Contact Address**: Ministry of Government and Consumer Services

Consumer Policy and Liaison Branch

 777 Bay Street, 5th Floor

 Toronto, ON M7A 2J3

Attention: Towing and Vehicle Storage Consultation

**Instrument Type:** Regulations

**Category:** General

**Regulation Number:** Ontario Regulation 17/05 (General) under the Consumer Protection Act, 2002

**This is a new regulation:** New regulation (General) under the Repair and Storage Liens Act

**Bill or Act**: Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014

**Summary of Proposal:**

The Ministry of Government and Consumer Services (MGCS) is seeking feedback on proposed regulatory changes under the *Consumer Protection Act, 2002* (CPA) and the *Repair and Storage Liens Act* (RSLA).

On November 20, 2014, the *Fighting Fraud and Reducing Automobile Insurance Rates Act, 2014* received Royal Assent. The MGCS-led provisions of the Act:

* Amend the CPA to establish tow and storage specific consumer protection measures; and
* Amend the RSLA to address storage notification and related issues.

To assist in the development of proposed regulations, the towing and storage consultation panel provided recommendations to government. The ministry received additional feedback on the panel’s recommendations during regional consultation sessions (held in Mississauga, London, Pickering, Ottawa and Sudbury) and through the regulatory registry posting of the Towing and Vehicle Storage Consultations Findings and Recommendations Report which occurred from July 14 – August 12, 2015.

Links to the proposed regulations and a summary report can be found below.

**How You Can Help**

The ministry welcomes feedback on the proposed regulations and encourages anyone interested to provide comments.

You may submit your feedback by:

* Commenting on the proposal through the Regulatory Registry;
* E-mailing towingandstorage@ontario.ca with “Towing and Vehicle Storage Proposed Regulations” in the subject line; or
* Mailing comments to:

Ministry of Government and Consumer Services

Consumer Policy and Liaison Branch

777 Bay Street, 5th Floor, Toronto, Ontario M7A 2J3

You may submit comments directly or use the feedback form provided.

Thank you for taking the time to review the draft regulations. We look forward to your response.

**Subject Keywords:** towing, tow truck operator, tow truck owner, tow truck driver, tow truck broker, storer, requirements, consumer, rights, notification period, fair value, municipalities, municipal, lien

**Posting Date:**  September 16, 2015

**Comments Due Date:** October 30, 2015

**PUBLIC CONSULTATION FEEDBACK FORM**

**Towing and Vehicle Storage: Proposed regulations under the**

**Consumer Protection Act and the Repair and Storage Liens Act**

The Ministry of Government and Consumer Services would like your feedback on the proposed regulatory changes to Ontario Regulation 17/05 (General) under the *Consumer Protection Act, 2002* (CPA) and proposed regulations under the *Repair and Storage Liens Act*. These changes are intended to establish tow and storage specific consumer protection measures and address storage notification and related issues.

Please submit your general comments and/or input on proposed regulations posted on the Regulatory Registry at <http://www.ontariocanada.com/registry/>.

You may also use this form to provide your comments. Please save and email your completed form to the Ministry of Government and Consumer Services at towingandstorage@ontario.ca. Please include “Towing and Vehicle Storage Proposed Regulations” in the subject line.

The closing date for providing feedback is October 30, 2015.

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| **Contact Information**Please provide your name, title and the full name and address of your organization (if you are submitting comments on behalf of an organization).*(insert contact information)* |
| **About You or Your Organization***(please check the appropriate box/boxes)*☐ Tow truck driver, operator/owner or broker ☐ Vehicle storage owner/operator ☐ Vehicle financing and leasing☐ Insurance |  ☐ Municipal☐ Law Enforcement ☐ Industry association☐ Other \_\_\_\_\_\_\_\_\_\_ |  |
| **Region***(please refer to map and check appropriate box)** 1. Central Ontario
* 2. Eastern Ontario
* 3. Greater Toronto Area
* 4. Northern Ontario
* 5. Southeastern Ontario
* 6. Southwestern Ontario
* 7. Western Ontario
 |  |  |
| **Proposed Regulations** |
| **Definitions**For the purposes of this regulation, a tow and storage provider means:* A tow and storage services operator; and
* A tow truck broker or a tow truck driver.

In all cases a tow and storage provider would be a supplier under the CPA.A definition is proposed for a tow and storage services operator. For tow services, it would be a supplier who holds or is required to hold a valid Commercial Vehicle Operator’s Registration (CVOR) certificate for a commercial motor vehicle, for driving or operating a tow truck under the Highway Traffic Act (HTA). It would also include a supplier, who would have been required to hold a CVOR certificate if one or more of its trucks had been registered under the HTA, in order to capture a supplier with a tow truck from another province, who is engaging in a transaction with a consumer in Ontario. For storage services, a tow and storage services operator would mean a supplier who provides storage services in respect of a tow service that is subject to Part VI.1 of the CPA, such as when a vehicle is towed to a storage facility after breaking down on the highway. A tow and storage services operator can be one that provides only tow or storage services or both. |
| **Do you have any comments regarding definitions?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Disclosure**Towing and storage providers would be required to give consumers the following information, before the consumer or a person acting on the consumer’s behalf gives authorization for the services:* The name of the provider and, if different, the name under which the provider carries on business;
* The telephone number of the provider, the address of the principal place of business and information about other ways, if any, that the consumer can contact the provider, such as by fax, email or through a website;
* A current statement of rates; and
* The address of the location where the provider will take the vehicle.

In addition, a tow and storage provider must disclose if it has a direct or indirect interest in a location or facility where vehicles may be towed for repair, storage or appraisal. This disclosure requirement would not apply in circumstances where a tow and storage provider provides services as a result of the vehicle being impounded, detained under the authority of other laws, or otherwise lawfully seized. |
| **Do you have any comments regarding disclosure?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Authorization**A tow and storage provider would be required to get a written authorization from the consumer. If the consumer is unable to give authorization as a result of the circumstances – for example due to injury – it could be provided by a person acting on behalf of the consumer. The authorization would have to include the name and contact information of the consumer or the person acting on their behalf, and the date and time the authorization was given. A copy of the authorization would have to be given to the consumer or the person acting on their behalf. If the authorization is not given in writing, it would have to be recorded in a way that would allow the person who gave the authorization to retain and make a copy of it.An authorization would not apply in circumstances where a tow and storage provider provides services as a result of the vehicle being impounded, detained under the authority of other laws, or otherwise lawfully seized. |
| **Do you have any comments regarding authorization?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Prohibitions** *Recommendations*A tow and storage provider would not be allowed to recommend salvage yards, auto body repair shops, storage yards or garages unless they are asked by the consumer to do so. If a recommendation is given, the tow and storage provider would have to give a written statement of the benefits due to the provider, or another person as a result of making the recommendation. This written statement would have to be given no later than when the consumer is authorizing the tow, where an authorization is required. The written statement must be given as soon as practical, if an authorization is not required.*Fees*A tow and storage provider would not be allowed to charge an amount for services that is greater than what the provider usually charges, just because the tow or storage services are provided as a result of a vehicle having been impounded or otherwise detained under the authority of any other act or regulation, or municipal by-law, unless there is an agreement in place providing for terms of payment for these types of tows. |
| **Do you have any comments regarding prohibitions?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Identifiers**Tow and storage providers would be required to clearly post on both sides of every tow truck that they operate:* The name of the provider, and if different, the name under which the provider carries on business;
* The telephone number of the business; and
* If applicable, the provider’s municipal licence number.

This information would be required to be posted at all business premises from which the provider operates. If the tow and storage provider operates more than one tow truck, a unique number that identifies each truck would also be required to be posted.The tow and storage provider would be required to have a copy of the current statement of rates available at all business premises from which they conduct business, and on their website (if one is maintained). |
| **Do you have any comments regarding identifiers?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Invoice Requirements**Tow and storage providers would be required to deliver a written invoice that contains:* The provider’s name and, if different, the name under which the provider carries on business;
* The telephone number of the provider;
* If the provider operates more than one tow truck, the unique number identifying the tow truck providing the services;
* The provider’s municipal business licence number, if applicable;
* The make, model, vehicle identification number and licence number of the vehicle being towed;
* The date and time when the services are provided or will be provided;
* The address of the location where the services started, the address of the location where the vehicle was towed to, the address of any stops anticipated or have occurred in between, and if applicable the business name of each of those locations;
* A unique invoice number;
* The name of the tow truck driver; and
* An itemized list of services and the cost for each service, as well as the total cost.

These invoice requirements would not apply in circumstances where a tow and storage provider provides tow and storage services as a result of the vehicle being impounded, detained under the authority of other laws, or otherwise lawfully seized. |
| **Do you have any comments regarding invoice requirements?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Insurance Requirements**A tow and storage provider who offers tow services would be required to maintain the following insurance:* 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 million exclusive of interests and costs;
* Coverage against liability for damage to a vehicle while in the provider’s care, custody or control, in the amount of at least $100,000; and
* Cargo liability insurance in the amount of at least $50,000.

These insurance requirements would not apply in circumstances where a tow and storage provider provides tow and storage services as a result of the vehicle being impounded, detained under the authority of other laws, or otherwise lawfully seized. |
| **Do you have any comments regarding insurance requirements?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Access to Vehicle**Tow and storage providers would have to give a consumer whose vehicle is towed or stored, or a person acting on their behalf, access to the vehicle without charge to remove all property contained in the vehicle belonging to or in the care of the consumer. This could include money, documents and records. A tow and storage provider shall not retain anything that a consumer is entitled to remove to pressure the consumer into making a payment under the agreement for tow and storage services. Access shall be provided from 9:00am to 6:00pm from Monday to Friday at the location where the vehicle is stored. A reasonable fee can be charged for access outside those times. These access provisions would not apply in circumstances where a tow and storage provider provides tow and storage services as a result of the vehicle being impounded, detained under the authority of other laws, or otherwise lawfully seized. |
| **Do you have any comments regarding access to the vehicle?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Determination of Fair Value** To determine the fair value of the repair or part of a repair of a vehicle, it is proposed that the following factors shall be considered and may be included in calculating the fair value amount: * The repairer’s fixed costs, variable costs, direct costs and indirect costs;
* The repairer’s profit; and
* Other relevant factors.

To determine the fair value of storage, storage and repair, or storage and part of a repair of a vehicle, it is proposed that certain factors would continue to be included, such as expenses related to insurance and labour, and all lawful claims for money advanced in relation to the vehicle. This reflects the current rules, under the RSLA, that require that those amounts be included in determining fair value. The proposed amendments would add additional factors that shall be considered and that may be included in calculating the fair value amount. These additional factors are the storer’s fixed costs, variable costs, direct costs and indirect costs, as well as the storer’s profit and any other relevant factors. |
| **Do you have any comments regarding the determination of fair value?** |
| *(insert comments – if necessary the box will expand as you type)* |
|  **Notice**A storer currently has 60 days after the day it receives a vehicle, to inform the owners and other interested persons of the lien, where a storer knows or has reason to believe that the motor vehicle was received from a person other than the owner or a person having the owner’s authority. It is proposed that the 60-day notice period be shortened to 15 days when the motor vehicle is registered in Ontario.The notice period would remain 60 days for vehicles registered in another province or country. Proposed amendments would provide that where documents are required to be or may be given under the RSLA, they can be sent electronically or faxed. This would be in addition to the methods identified currently in the RSLA, such as by delivering the document personally or by certified or registered mail.No lien arises for tow and storage services that are subject to the Consumer Protection Act, unless the provisions regarding disclosure, authorization, invoicing, insurance and disclosure of an interest has been complied with. For example, if an authorization to tow is required and none is obtained, no lien would arise for that unauthorized tow service. |
| **Do you have any comments regarding notice?** |
| *(insert comments – if necessary the box will expand as you type)* |
| **We are interested in any other comments or suggestions you wish to make.** |
| *(insert comments – if necessary the box will expand as you type)* |
| **Send Feedback to** **towingandstorage@ontario.ca** **by October 30, 2015*****Privacy Statement***Please note that unless requested and agreed otherwise by the Ministry of Government and Consumer Services, all materials or comments received from organizations in response to this consultation will be considered public information and may be used and disclosed by the ministry to assist the ministry in developing the proposed regulatory amendments. This may involve disclosing materials or comments, or summaries of them, to other interested parties during and after the request for public comment process.  An individual who provides materials or comments and who indicates an affiliation with an organization will be considered to have submitted those comments or materials on behalf of the organization so identified. Materials or comments received from individuals who do not indicate an affiliation with an organization will not be considered public information unless expressly stated otherwise by the individual. However, materials or comments from individuals may be used and disclosed by the ministry to assist in developing the proposed regulatory amendments. Personal information of those who do not specify an organizational affiliation, such as an individual's name and contact details, will not be disclosed by the ministry without the individual’s consent unless required by law. If you have any questions about the collection of this information, please contact Melissa Martin at Melissa.martin2@ontario.ca. |