

(f) If there are multiple locations for an auto body repair facility, then a separate application, accompanying documents, and application fee as specified in N.J.A.C. 13:21-21.6 shall be submitted for each such place of business.

(g) Upon preliminary approval of each initial license application, a license shall be issued to the auto body repair facility. Each initial license issued to an auto body repair facility on or after October 1, 1984 shall continue in force and effect until September 30 of every other year, unless such license is suspended or revoked by the Director. If there are multiple places of business for an auto body repair facility, then a separate license shall be issued for each such place of business.

Amended by R.1996, d.27, effective January 16, 1996.
See: 27 N.J.R. 4153(a), 28 N.J.R. 275(a).

13:21-21.5 Applicant qualifications

(a) Each applicant shall in the discretion of the Director, be a proper person to hold an auto body repair facility license.

1. In assessing whether an applicant is a proper person, the director may consider the character, responsibility and criminal record of the individual applicant, if the applicant is a natural person; of the individual partners if the applicant is a partnership; or of the officers, directors and/or persons possessing a controlling interest, if the applicant is a corporation; or anyone else employed by, or otherwise associated in business with, the applicant.

(b) Each applicant must have legal capacity to contract, to be sued and to be liable for all debts.

(c) No applicant shall be entitled to licensure who is under 18 years of age.

Amended by R.1996 d.27, effective January 16, 1996.
See: 27 N.J.R. 4153(a), 28 N.J.R. 275(a).

13:21-21.6 Application and license fees

(a) Every application for an auto body repair facility license shall be accompanied by a nonrefundable application fee of \$20.00 payable to the Division.

(b) Every application for an auto body repair facility license shall be accompanied by a license fee of \$350.00 payable to the Division. Such license fee shall only be returned to the applicant in the event that the Director refuses to grant or renew an auto body repair facility license to the applicant. Such license fee, or any portion thereof, shall not be refunded to the licensee in the event that the auto body repair facility license is suspended or revoked pursuant to N.J.S.A. 39:13-1 et seq. or this subchapter.

13:21-21.7 License renewals

(a) Every licensee, no later than 30 days before the expiration of the current auto body repair facility license, shall submit to the Director an application to renew its auto body repair facility license provided that such licensee is not prohibited from applying for an auto body repair facility license as specified in N.J.A.C. 13:21-21.21. An application to renew an auto body repair facility license may be obtained from the Auto Body Repair Facility Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a).

(b) Each application to renew an auto body repair facility license shall be accompanied by the applicable fees specified in N.J.A.C. 13:21-21.6.

(c) Upon approval of each renewal application, a license shall be issued to the auto body repair facility. Every license issued to an auto body repair facility pursuant to this paragraph on or after October 1, 1984 shall continue in force and effect until September 30 of every other year, unless such license is suspended or revoked by the Director.

Amended by R.1996 d.27, effective January 16, 1996.
See: 27 N.J.R. 4153(a), 28 N.J.R. 275(a).

13:21-21.8 Surrender of license

(a) Every auto body repair facility license document, although issued and delivered to a licensee, shall at all times be the property of the State of New Jersey.

(b) Upon any suspension, revocation, refusal to renew or other termination of an auto body repair facility license, the license shall no longer be in force and effect and the license document shall, within one business day, be surrendered to the Auto Body Repair Facility Licensing Unit of the Division. The licensee or other person having possession or custody of the license document shall surrender such license document, either by personal delivery or by certified mail, to the Auto Body Repair Facility Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a). Failure to surrender such license document within one business day shall result in administrative action pursuant to this subchapter.

Amended by R.1996 d.27, effective January 16, 1996.
See: 27 N.J.R. 4153(a), 28 N.J.R. 275(a).

13:21-21.9 Responsibility of licensees

(a) In the case of a sole proprietorship, the owner and/or possessor of a controlling interest in the auto body repair facility shall be responsible to the Director for the conduct of the business of the facility and for all actions performed by its employees in connection with the business of the facility concerning violations of the Auto Body Repair Facilities Act and this subchapter.

(b) In the case of a partnership or corporation, each partner, or corporate officer and/or Director, or any person

or entity possessing a controlling interest, as the case may be, shall be held individually responsible to the Director for the conduct of the business of the facility and for all actions performed by its employees in connection with the business of the facility concerning violations of the Auto Body Repair Facilities Act and this subchapter.

13:21-21.10 Estimates and repairs

(a) Every licensed auto body repair facility shall provide a written estimate to any customer seeking their services, provided that the auto body repair facility is willing and able to perform the requested repair services.

(b) Each written estimate shall bear the name of the auto body repair facility and its license number.

(c) Each written estimate shall be signed by the person preparing such estimate.

(d) Each written estimate shall contain the following information:

1. The customer's name;
2. The date of the estimate;
3. A list of parts necessary for each repair, together with the costs for those parts, indicating any parts which are not new parts;
4. The labor charge for each repair, together with the total labor charge; or the total number of hours estimated to perform all the requested repairs, together with the hourly labor rate charged by the auto body repair facility;
5. A description of the vehicle;
6. An approximate or estimated date of delivery, if any such date is given;
7. The terms and limit of any guarantee for the repair work performed; and
8. The odometer reading at the time of the requested repair.

(e) Each written estimate shall include a statement or statements informing the customer of his right to receive replaced parts, and stating that the customer's signature or initials on the following line shall mean that the customer waives his right to receive such replaced parts and that no signature on this line shall mean that the customer exercises his right to receive these replaced parts. A signature line shall be provided immediately below this statement.

1. The customer's signature or initials on this line shall mean that the customer waives his right to receive such replaced parts. No signature or initials on this line shall be deemed to mean that the customer exercises the right to receive such replaced parts.

2. The auto body repair facility may charge a reasonable storage and removal fee to any customer who requests the replaced parts and subsequently fails to take these replaced parts, after paying for the repair work or picks up his repaired automobile, whichever occurs first.

3. If a storage and removal fee is charged by the auto body repair facility, then such fee must be disclosed, in writing, to the customer at the time the customer exercises his right to receive the replaced parts.

4. The auto body repair facility shall not be liable to the customer in those cases where the customer fails to take the replaced parts after paying for the repair work or picks up his repaired automobile.

(f) Each written estimate shall include a statement informing the customer or insurer of their right to inspect the repaired automobile before paying for the repair work.

(g) Any estimate and/or repair work prepared or performed by a subcontractor shall be deemed to be work performed under the direction of the licensee. The licensee shall be accountable to the Director for all such work subcontracted to others.

(h) An auto body repair facility may charge a reasonable fee for making a written estimate. If a fee is charged for making a written estimate, then the auto body repair facility must disclose, in writing, the amount of the fee to the customer before the written estimate is prepared.

(i) An auto body repair facility may charge a hazardous waste disposal fee. If such a fee is charged, then the auto body repair facility must disclose such fee on the estimate.

13:21-21.11 Authorization for repairs

(a) No auto body repair facility shall commence any repair work, including the ordering of parts, on a customer's automobile unless the facility has obtained:

1. Specific written authorization from the customer to proceed with the requested repair services; or
2. If the customer's automobile is presented to the auto body repair facility during other than normal business hours or by one other than the customer, oral authorization from the customer to proceed with the requested repair services. In the case of an oral authorization, the estimate shall contain a notation of the date, time, telephone number, if any, and name of the customer granting such authorization. A copy of the estimate which contains these notations shall be given to the customer.

(b) No auto body repair facility shall commence any additional repair work, including the ordering of additional parts, on a customer's automobile which exceeds any estimate given, including the price, list of parts and labor charge, unless the facility obtains the authorization of the customer to proceed with the additional repair services.

(c) In the case of an oral authorization, the original estimate or any additional estimate prepared shall contain a notation of the date, time, telephone number, if any, and name of the customer granting such authorization. A copy of the estimate which contains these notations shall be given to the customer.

(d) Customers or insurers may test drive the repaired automobile before paying for the repair work, provided that the repairs made by the auto body repair facility are directly related to the operation of the automobile and further provided that such repaired automobile may be safely operated on the highways of this State.

13:21-21.12 Notice and recordkeeping requirements

(a) Each licensee shall display an outdoor sign which shall read: "Registered: State of New Jersey—Licensed Auto Body Repair Facility" and display the license number of the auto body repair facility. The sign must contain letters at least two inches high with a stroke of approximately one-half inch and visible from the road and located in a conspicuous location for the general public to see. In the event zoning ordinances prohibit the posting of this sign or such posting is otherwise impractical, the licensee shall place such sign on the exterior of the auto body repair facility.

(b) Every license document issued in accordance with this subchapter shall be prominently displayed in the office, waiting area or other conspicuous location at the auto body repair facility which is accessible to the public.

(c) Every licensed auto body repair facility shall post in a conspicuous location accessible to the public a "Notice to Consumers" concerning violations of the Auto Body Repair Facility Act and the fact that customers or insurers have a right to inspect the repaired automobile before paying for the repair work. The Notice shall be prescribed and furnished by the Division.

(d) Every licensed auto body repair facility shall maintain copies of all estimates, work orders, invoices, parts purchase orders, appraisals and/or other documents prepared by that facility on repair work performed by that facility or by subcontractors.

1. Such copies shall be kept for two years and shall be available for inspection by the Director, or any person designated by him, during normal business hours.

2. Failure to permit such inspection shall subject the licensee to administrative action pursuant to this subchapter.

(e) Every auto body repair facility shall, upon request of the Director or any person designated by him, provide the Director or his designee with a list of its employees in such form and detail as may be required by the Director or his designee. Failure to provide such list when requested shall

subject the licensee to administrative action pursuant to this subchapter.

(f) The licensee shall notify the Director, in writing, within 10 days of any change in address of the auto body repair facility or of any change in address of persons or entities required to be listed on the application by N.J.A.C. 13:21-21.4.

(g) The licensee shall notify the Director, in writing, within 10 days whenever any person or entity required to be listed on the application by N.J.A.C. 13:21-21.4 is no longer associated with the auto body repair facility.

(h) All written notifications required by this subchapter shall be made by either personal delivery or sent by certified mail to the Auto Body Repair Facility Licensing Unit of the Division at the address specified in N.J.A.C. 13:21-21.4(a).

(i) An amended application shall be filed by the licensee with the Director when there is a substitution and/or addition of persons or entities required to be listed on the application by N.J.A.C. 13:21-21.4, and shall meet the requirements of N.J.A.C. 13:21-21.6(a) and N.J.A.C. 13:21-21.4(d).

(j) Any process issued to a licensee pursuant to the statutory authority of the Director, including but not limited to subpoenas, orders, and orders to show cause, may be served upon a licensee or counsel of record, by sending said process by certified mail, or ordinary mail, to the business address of the auto body repair facility or to counsel's address on record with the Division.

Amended by R.1996 d.27, effective January 16, 1996.
See: 27 N.J.R. 4153(a), 28 N.J.R. 275(a).

13:21-21.13 Advertising

(a) Any advertising used by the auto body repair facility in any printed or published material shall contain and prominently display the license number of the facility.

(b) Any advertising used by the auto body repair facility in any radio broadcast shall disclose that the facility is licensed by the State of New Jersey.

(c) Any advertising used by the auto body repair facility in any television broadcast shall disclose and prominently display the license number of the facility at the end of such broadcast.

13:21-21.14 Storage rates

Every auto body repair facility which charges a fee to store a motor vehicle on its premise shall disclose in writing, as soon as practicable, the amount of such storage charge to the customer on a per diem basis.

13:21-21.15 Additional violations

(a) In addition to any violation of N.J.S.A. 39:13-1 et seq., the Director may impose a civil penalty, refuse to issue a license or a renewal thereof, or suspend or revoke the existing license of any auto body repair facility if he determines that the applicant or licensee:

1. Has made a false statement or concealed a fact in connection with the application for a license or a renewal thereof;
2. Is not the owner of, or possessor of a controlling interest in, the auto body repair facility;
3. Has been found to have violated or conducted fraudulent or deceptive practices concerning the repair of motor vehicles in violation of N.J.S.A. 56:8-1 et seq. or N.J.A.C. 13:45A-7.1 et seq.;
4. Has a criminal record which is disqualifying. A disqualifying criminal record shall include, but is not limited to, bond forfeitures, pleas of nolo contendere or convictions of crimes, disorderly persons or petty disorderly persons offenses as defined in the "New Jersey Code of Criminal Justice" and any other offenses as defined by the laws of New Jersey, such as:
 - i. Any crime or offense involving the manufacture, transportation, possession, sale or use of a controlled dangerous substance as defined in the "New Jersey Controlled Substance Act", N.J.S.A. 24:21-1 et seq.;
 - ii. Any crime or offense involving the use of force or the threat of force to or upon a person or property, such as armed robbery, assault, battery or arson;
 - iii. Any crime or offense involving the taking or misappropriation of property of another person, such as theft, burglary, fraud, larceny or embezzlement;
 - iv. Any crime or offense indicative of bad moral character or not being a proper person for the purposes of being licensed in accordance with this subchapter; or
 - v. Any crime or offense which, in the discretion of the director, would relate adversely to the operation of the business of an auto body repair facility.
5. Demonstrates a pattern of conduct whereby repairs made by the auto body repair facility were not made in a workmanship like manner;
6. Issues a check in payment of any fees required by this subchapter which is subsequently dishonored;
7. Has failed to comply with any of the provisions of this subchapter; or
8. Fails to maintain an approved place of business in accordance with N.J.A.C. 13:21-21.4(c)1;
9. Fails to pay any fee required by law or regulation; or
10. For other good cause.

Amended by R.1991 d.21, effective January 22, 1991.

See: 22 N.J.R. 3311(a), 23 N.J.R. 207(c).

Specified as a ground for license suspension or revocation an auto body repair facility's failure to pay any fee required by law or regulation.

13:21-21.16 Additional penalties

(a) Where, pursuant to N.J.S.A. 39:13-1 et seq., or any regulation adopted thereunder, the Director has the authority to suspend, revoke or refuse to grant or renew the license of an auto body repair facility, the Director shall also have the authority to impose, as an alternative or in addition to such suspension, revocation or refusal to grant or renew, an official warning and/or a civil penalty of not more than \$2,000 for the first offense and not more than \$5,000 for each subsequent offense.

(b) A civil penalty in the amount of \$5,000 per day shall be imposed on any person or auto body repair facility who continues to operate as an auto body repair facility after its license has been suspended or revoked or whose application for an auto body repair facility license has been refused by the Director pursuant to N.J.S.A. 39:13-1 et seq. or any regulation adopted thereunder.

13:21-21.17 Investigations

(a) The Director shall, on his own initiative or in response to complaints, investigate on a continuous basis and gather evidence of violations of N.J.S.A. 39:13-1 et seq., or of any regulation adopted thereunder, by an auto body repair facility.

(b) The Director, or any person designated by him, shall have the power to conduct investigations, administer oaths, interrogate licensees, issue subpoenas, summonses and/or complaints and compel witnesses to appear at any hearing.

(c) Except as set forth in N.J.A.C. 13:21-21.12(j), subpoenas shall be served in the same manner, and the witnesses shall be entitled to the same fees, as in the case of subpoenas issued out of the Superior Court of New Jersey.

(d) In case of a failure of any person to comply with any subpoena issued under these rules or to testify with respect to any matter concerning which he may be lawfully interrogated, the Superior Court, on application of the Director, may issue an order requiring the attendance of such person and the giving of testimony or production of evidence. Any person failing to obey the order of the court may be punished by the court for contempt.

Case Notes

Operator of auto-body repair facility has reduced expectation of privacy. *State v. Bromell*, 251 N.J.Super. 85, 596 A.2d 1105 (L.1991).

Regulatory searches of auto-body repair facilities may be conducted on basis of tips and information. *State v. Bromell*, 251 N.J.Super. 85, 596 A.2d 1105 (L.1991).