

# Learn about the New Rules for Towing and Vehicle Storage Providers



Get informed. Be prepared.

## What is happening?

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New rules under the Consumer Protection Act (CPA), Highway Traffic Act (HTA) and the Repair and Storage Liens Act (RSLA) take effect on January 1, 2017. This fact sheet highlights key changes to help those impacted become more aware and prepared.

## What changes will take place on January 1, 2017?

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The CPA changes will require towing and storage providers to:

- Get permission from a consumer or someone acting on behalf of the consumer (e.g., in the event a consumer has been removed from the scene of an accident) before providing or charging for towing and storage services.
- Record the name and contact information of the consumer or the person giving the authorization, along with the date and time of authorization.
- Disclose certain information, in writing, such as the provider's business name, contact information, and address where the vehicle will be towed.
- Make a current statement of rates available at all business premises, on a website (if one is maintained) in a form that can be reproduced, and give a copy to any person upon request.
- Provide an itemized invoice, listing services provided, the cost for each service and the total cost before demanding or receiving payment.
- Accept credit card payments from consumers (and not insist on cash only).
- Provide a consumer (or someone acting on their behalf) with access to the towed vehicle, at no charge, so that they may remove personal property between 8 a.m. and 5 p.m. on business days.
- Not provide recommendations for repair and storage facilities, legal service providers or health care service providers, unless a consumer or a person acting on their behalf specifically asks, or the provider offers to make a recommendation and that person agrees.
- Disclose to a consumer whether the provider is getting a financial reward or incentive for towing a vehicle to a particular storage or repair shop.
- Establish minimum insurance coverage including general liability insurance of \$2 million, customer vehicle insurance of \$100,000 and \$50,000 cargo insurance.
- Maintain authorization and disclosure records, invoices, copies of insurance policy, and statements of rates for three years.

Some exemptions will be made for certain tow and storage providers. For example, certain disclosures, authorization, invoices, and related record-keeping requirements will not be required if services are provided under a prepaid agreement or membership in an association, such as the Canadian Automobile Association (CAA) where the consumer is not being directly charged for the specific service being provided. These exemptions will also apply when the tow and storage services are provided when a vehicle is purchased or leased and the consumer is not directly charged for the specific service being provided.

In addition, when a vehicle is towed and stored for law enforcement purposes or detained or impounded under other statutes, regulations or municipal by-laws, or as a result of a lawful power of seizure, a limited number of the new rules will apply. While these tows are not initiated by a consumer, the consumer is generally responsible for charges. The new regulation will protect the consumer, for example, by requiring the provider to make available publicly a current statement of rates, post identifiers and other information, and provide the consumer with the option to pay by credit card.

## RSLA

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Additional new RSLA rules that relate to new requirements under the CPA also come into effect on January 1, 2017 and apply to an individual or company that repairs or stores a motor vehicle (and who claims a lien as a “repairer” or “storer”).

The maximum amount of a lien for tow and storage services may be subject to restrictions under the CPA.

No lien would arise for tow and storage services that are subject to Part VI.1 of the CPA, unless the provisions regarding disclosure, authorization, invoice, insurance and disclosure of interest have been complied with. For example, if an authorization is required and not obtained, no lien would arise for that unauthorized tow service.

The maximum amount of a lien for tow and storage services that are subject to Part VI.1 of the CPA is correlated to three restrictions under the CPA. First, a tow and storage provider shall not charge an amount that is greater than the amount usually charged by that provider just because the cost is to be paid by an insurer or another third party.

Second, where an authorization includes an estimate, the amount charged may not exceed the estimate by more than 10 percent unless the consumer or a person acting on the consumer’s behalf agreed to amend the estimate, if the consumer or person requires additional or different services.

Third, a tow and storage provider shall not charge an amount that is greater than the amount usually charged merely because the services are provided for law enforcement purposes. This does not apply if there is an agreement in place that contains terms of payment.

## Highway Traffic Act changes

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All tow operators must hold a valid CVOR (Commercial Vehicle Operators Registration) certificate by January 1, 2017. For CVOR, the operator is the person or legal entity (person/company operating the business) responsible for all drivers, vehicles and loads in their operation). You can find the CVOR certificate application form online at [CVOR certificate](#) or contact 1-416-246-7166 ext. 6300 or 1-800-387-7736 ext.6300 (within Ontario) or [visit the MTO’s website](#) for more information.

## Who is impacted by the new rules?

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The new requirements under the CPA apply to a **tow and storage provider**, defined as:

- **Tow and storage service operator**
  - For tow services, the operator is a supplier who is required to hold or carry a CVOR certificate, or is exempt from the CVOR requirement because the supplier meets an equivalent requirement in another Canadian jurisdiction. This captures suppliers who are required to be CVOR registrants (whether as owner, operator or driver of a commercial motor vehicle) and out-of-province suppliers that are providing a tow service in Ontario. In order to deliver tow services, the operator is required to hold or carry a valid CVOR certificate as of January 1, 2017.
  - For storage services, the operator is a supplier who provides storage services for vehicles towed or transported to the supplier's premises by or on behalf of a tow and storage services operator.
- **Tow truck broker** who is a supplier that arranges for the hiring of tow services provided by a tow truck that is not owned or operated by the broker.
- **Tow truck driver** who is an individual who drives or has the care and control of a tow truck for the purpose of providing tow services to a consumer.

A **tow truck** is:

- A motor vehicle commonly known as a tow truck;
- A commercial motor vehicle with a flatbed that can tilt to load and that is used exclusively to tow or transport other motor vehicles; and
- A motor vehicle that is designed, modified, configured or equipped so that it is capable of towing other motor vehicles, but it does not include an off-road vehicle, a personal use motor vehicle that is used infrequently to tow another personal use motor vehicle for no compensation, a personal use motor home that is towing another motor vehicle for the personal use of the driver of the motor home, or a commercial motor vehicle towing vehicles using a saddlemount configuration.

## New Rules Already in Effect

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New rules under the RSLA also took effect on July 1, 2016. These are in addition to the new requirements under the CPA (as described above) which take effect on January 1, 2017.

## What changed on July 1, 2016?

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The following new rules came into effect on July 1, 2016:

- If a vehicle being stored is subject to a lien and is received from someone other than its owner or a person having the owner's authority, then the storer must give notice to the owner and other interested parties of the lien in writing (e.g. secured parties who have registered their interest, such as lease and finance companies).
- For vehicles registered in Ontario, the **notice period** is reduced from **60 days to 15 days** after the day after the vehicle is received. If notice is not provided within **15 days**, a storer's lien is limited to the unpaid amount owing for that period. (The 60-day notice period remains unchanged for out-of-province vehicles.)

- Storers now have the option to give **written notice** by fax or electronic transmission (e.g., e-mail). Previously, notice had to be given personally, sent by certified or registered mail, or prepaid courier. These options continue to be available.
- If no amount has been agreed upon for repair and storage costs, **fair value** may be determined by a court. There is a new list of discretionary factors a judge will be required to consider (e.g., fixed costs, variable costs, direct costs, indirect costs, profit and any other relevant factors).

