

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
DIVISION OF PUBLIC UTILITIES AND CARRIERS**

PETITION OF THE RHODE ISLAND PUBLIC  
TOWING ASSOCIATION, INC. FOR  
DECLARATORY JUDGMENT

DOCKET NO.: D-10-26

**LEGAL MEMORANDUM OF  
THE TOWN OF WEST WARWICK IN REPLY TO  
THE MEMORANDUM OF THE  
MOTOR CARRIER SECTION OF THE DIVISION OF  
PUBLIC UTILITES AND CARRIERS**

The Town of West Warwick joins in the Legal Memorandum of the Town of Smithfield as to the portions thereof that respond to the memorandum of the Motor Carrier Section of the Division of Public Utilities and Carriers.

The Town further states that the Division ignores other applicable state statutes. It argues that only the provisions of RIGL §§ 39-12 and 39-12.1 are controlling. The Division argues that nowhere in these sections is the specific power granted to police departments to place a “hold” hold on vehicles. As is stated in the Memorandum of the Town of Smithfield, the language of those sections was never intended to be all inclusive.

Of even more significance is that the position of the Division is to impose upon police departments an order that they ignore the duties and obligation placed upon the departments by other sections of the Rhode Island General Laws. As previously stated in the Town of West Warwick Memorandum in Support of the Petition for Declaratory Judgment RIGL §§ 31-3 and 31-8 require that any motor vehicle for which the registration has been cancelled, suspended or revoked or for which there is no registration, shall not be allowed on the public highways. RIGL §31-23-1 prohibits the operation of unsafe motor vehicles upon the public highways.

The Division’s position is that the police departments should ignore these provisions of the General Laws. The departments would be derelict in their duty to enforce the law to see to the removal of unregistered and unsafe motor vehicles from the public highways. The

departments must see to the removal and prevent the return to the public highways until the cause for the removal has been corrected.

Respectfully submitted  
Town of West Warwick  
By its legal counsel for Planning and Zoning

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CERTIFICATION

I hereby certify that on the 7th day of October, 2010 I sent by electronic mail the forgoing memorandum to all parties on the Service List.

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Albert A. DiFiore