



## **Minnesota Insurance Practices Fair Claims Practices Act**

*Prepared by Kevin Walli and Mark Britton, Fryberger, Buchanan, Smith & Frederick which represents AASP - Minnesota on legislative and regulatory matters.*

Minnesota laws very carefully regulate insurance companies and auto body repair shops to protect consumers. AASP-MN members must be aware that the laws are drawn to benefit consumers, and do not in and of themselves provide specific protections for shops in their relationship with insurers. The following is a guide to Minnesota's insurance practices laws.

It should be noted that the Department of Commerce does not have jurisdiction over repair shops with respect to *Fair Claims Practices Act* by virtue of the work performed by the repair shop on the claim. The state does not regulate proper repair procedures; however, insurers are required to assume costs for the reasonable repair of the motor vehicle or offer cash settlement to pay for the satisfactory repair of the vehicle.

### **Unfair Claims Practices**

An Insurer May Not:

- misrepresent pertinent facts or insurance policy provisions relating to coverage;
- fail to acknowledge and act reasonably promptly upon communications with respect to claims;
- fail to adopt and implement reasonable standards for the prompt investigation of claims;
- refuse to pay claims without conducting a reasonable investigation based upon all available information. (Minn. Stat. 72A.20, Subd.12)
- after receiving notification of a claim, fail to acknowledge receiving the claim within ten business days, and fail to provide all necessary claim forms and instructions to process the claim, unless the claim is settled within ten business days;
- require an insured to give written notice of loss or proof of loss within a specified time, and thereafter seeking to relieve the insurer of its obligations if the time limit is not complied with;
- demand information which would not affect the settlement of the claim;

- fail to inform an insured or claimant that the insurer will pay for an estimate of the repair if the insurer requested the estimate and the insured or claimant has previously submitted two estimates of repair;
- make any partial or final payment, settlement, or offer of settlement, which does not include an explanation of what the payment, settlement, or offer of settlement is for;
- fail to issue payment for any amount finally agreed upon;
- settle or offer to settle a claim or part of a claim with an insured under replacement value provisions for less than the sum necessary to replace the damaged item with one of like kind and quality, including all applicable taxes, license, and transfer fees;
- reduce or attempt to reduce any settlement or any offer of settlement unless the resale value of the item has increased over the pre-loss value by the repair of the damage. (Minn. Stat. 72A.201, Subds.4-5)

## Improper Shop Practices

A Shop May Not:

- coerce or intimidate motor vehicle owners to boycott an insurer's "drive-in" claims center;
- attempt to secure, except in an emergency, the vehicle owner's signature authorizing the party securing the signature to act on behalf of the owner in selection of a repair shop. (Minn. Stat. 72B.092)

### Customer's Choice of Shops

An insurer may not limit the freedom of an insured or claimant to choose a shop. Insurers may not require that the insured or claimant present the claim or the automobile for loss adjustment or inspection at a "drive-in" claim center or any other similar facility solely under the control of the insurer.

An insurer may not require as a condition of a claim, that repairs to any damaged vehicle must be made by a particular contractor or repair shop. (Minn. Stat. § 72A.201, Subd. 6).

### Repair Parts and Use of After-Market or Used Parts

An insurer may not require that parts, other than window glass, be replaced with parts other than the original equipment parts.

Insurers are required to restore vehicles to their pre-loss condition using parts of like kind and quality (OE parts of comparable age and condition.) In the case of newer vehicles where used OE parts are not available, insurers would be required to pay for new OE parts.

An insurer **must disclose** to the vehicle owner in any appraisal any parts to be used (other than window glass) that are not original equipment or are not covered by the manufacturer's warranty on such parts. (Minn. Stat. § 72A.201, Subd. 6).

## Betterment

An insurer may not reduce or attempt to reduce any settlement or offer of settlement unless **the resale value of the vehicle has increased** over the pre-loss value by the repair of the damage. The insurer may be able to reduce the settlement by the difference in price between a used part appropriate for the age and condition of the vehicle and the new part. (Minn. Stat. 72A.201, Subd. 5, Clause 10)

## Depreciation

An insurer may take into consideration the limited "life expectancy" of certain parts of an insured's vehicle. A reduction in an insured's settlement based on depreciation may be based on the age or amount of use of a part that is to be replaced, **provided the part is subject to wear, use or obsolescence.** (Minn. Stat. 72A.201, Subd. 5, Clause 9)

## Appraisals and Inspections

An insurer may not require unreasonable travel of a claimant or insured to inspect a replacement automobile, to obtain an estimate, to allow an insured to inspect an estimate, to allow an insurer to inspect repairs, or to have the automobile repaired.

An insurer **must disclose** to the vehicle owner in any appraisal any parts to be used (other than window glass) that are not original equipment parts or are not covered by the manufacturer's warranty on such parts.

Insurers may not require that the insured or claimant present the claim or the automobile for loss adjustment or inspection at a "drive-in" claim center or any other similar facility solely under the control of the insurer. (Minn. Stat. 72A.201, Subd. 6, Clause 3)

## "Capping" of Repair Materials or Repair Time

Insurers are required to assume all costs for the "reasonable" repair of the motor vehicle or offer a cash settlement sufficient to pay for the "satisfactory" repair of the vehicle. (Minn. Stat. 72A.201, Subd. 6, Clause 2)

*According to the Department of Commerce's interpretation of the law, the insurer may pay the lowest estimate as long as the repair(s) provide for the satisfactory repair of the vehicle.*

## Insurance Industry's Standardized Labor Rate

Questions about whether agreed-upon prices between insurers and designated shops, and the establishment of a "standardized labor rate" by the insurance industry, **do not fall within the purview of insurance practices laws**. Any questions in this area would be matters of antitrust, and would be dealt with by the Attorney General's Office Antitrust Division.