

AFTER MARKET PARTS MODEL REGULATION

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Section 1. Authority

This regulation is adopted pursuant to Section [insert reference to the state Unfair Trade Practices Act].

Section 2. Purpose

The purpose of the proposed regulation is to set forth standards for the prompt, fair and equitable settlements applicable to automobile insurance with regard to the use of after market parts. It is intended to regulate the use of after market parts in automobile damage repairs which insurers pay for on their insured's vehicle. The regulation requires disclosure when any use is proposed of a non-original manufacturer part. It also requires that all after market parts, as defined in the regulation, be identified and be of the same quality as the original part.

Section 3. Definitions

- A. "Insurer" includes a person authorized to represent the insurer with respect to a claim who is acting within the scope of the person's authority.
- B. "Non-original manufacturer" means a manufacturer other than the original manufacturer of the part.
- C. "After market part" for purposes of this regulation, means sheet metal or plastic parts that generally constitute the exterior of a motor vehicle, including inner and outer panels.

Section 4. Identification

An after market part that is subject to this regulation and manufactured after the effective date of this regulation shall carry sufficient permanent identification to identify its manufacturer. The identification shall be accessible to the extent possible after installation.

Section 5. Like Kind and Quality

An insurer shall not require the use of after market parts in the repair of an automobile unless the after market part is at least equal in kind and quality to the original part in terms of fit, quality and performance. Insurers specifying the use of after market parts shall consider the cost of any modifications that may become necessary when making the repair.

Section 6. Disclosure

The insurer must disclose to the claimant in writing, either on the estimate or on a separate document attached to the estimate, the following information in no smaller print than 10 point type:

THIS ESTIMATE HAS BEEN PREPARED BASED ON THE USE OF AUTOMOBILE PARTS NOT MADE BY THE ORIGINAL MANUFACTURER. PARTS USED IN THE REPAIR OF YOUR VEHICLE BY OTHER THAN THE ORIGINAL MANUFACTURER ARE REQUIRED TO BE AT LEAST EQUAL IN KIND AND QUALITY IN TERMS OF FIT, QUALITY AND PERFORMANCE TO THE ORIGINAL MANUFACTURER PARTS THEY ARE REPLACING.

All after market parts installed on the vehicle shall be clearly identified on the estimate of the repair.

Section 7. Enforcement

A violation of this regulation shall be enforced through the state's Unfair Trade Practices Act by the penalties provided for in that Act.

Drafting Note: A state may wish to consider incorporating the text of this regulation directly into its existing unfair trade practices act.

Section 8. Severability

If any section or portion of a section of this regulation, or its applicability to any person or circumstance is held invalid by a court, the remainder of this regulation, or the applicability of the provision to a person shall not be affected thereby.

Section 9. Effective Date

This regulation shall become effective on [insert date].

Drafting Note: It is recommended that states allow appropriate lead time to comply with this regulation. No regulation should take effect prior to January 1, 1988, at which time it is expected that most parts manufacturers will have had sufficient notice and time to mark their parts for identification.

Chronological Summary of Actions (all references are to the Proceedings of the NAIC).

1987 Proc. II 15, 21-22, 90, 125-127, 145-146 (adopted).