

State of Idaho
DEPARTMENT OF INSURANCE

C.L. "BUTCH" OTTER
Governor

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DEAN L. CAMERON
Director

June 25, 2018

Aaron Schulenburg
Society of Collision Repair Specialists
P. O. Box 909
Prosser, WA 99350

Sent via email: aaron@scrs.com

Dear Mr. Schulenburg:

Thank you for reaching out to the Idaho Department of Insurance (the "Department") concerning information on claims settlement practice regulations in Idaho. Please see the Department's responses to your questions below:

1. Is your department charged with consumer protection and the entity who serves as the regulatory agency to govern and supervise the business of insurance in your state?

Yes. The Department enforces the Idaho Insurance Code and regulates most insurance products in the state of Idaho.

2. Are claims settlement practices a part of that regulatory oversight?

Yes. The Department has authority to enforce any portion of the Idaho Insurance Code related to claims settlement practices. See Idaho Code β 41-1329. Unfair claim settlement practices.

3. In many cases, vehicle manufacturers provide specific instructions and documented procedures on how repair and replacement operations are to be performed to produce a safe and proper repair. As evidenced in the SEEBACHAN v. JOHN EAGLE COLLISION CTR case in TX, failure of the facility performing the repair to follow these procedures can result in catastrophic loss, and incur avoidable liability that negatively impacts garage insurers. Many state laws relevant to insurer claims settlement rely on subjective terms such as "reasonable" as a means of satisfying their obligations.

This appears to be a statement and not a question.

4. Is there anything that holds insurers and insurance policies sold in your state accountable to recognize manufacturer documented procedures as a basis for settling claims and loss indemnification?

The Idaho Insurance Code does not include such a requirement.

5. Would your department consider it a "reasonable" expectation that if an OEM repair procedure or instruction existed, that the claim should cover the associated costs?

The Department does not regulate the method or standard of repair nor does the Department set standards for determining a "reasonable" cost of automobile repair. The Idaho Insurance Code

does not address these issues other than to allow for non-OEM parts to be used in the repair of vehicles upon proper disclosure. See Idaho Code §§ 41-1328 through 41-1329.

6. Would your department expect consumers to be clearly notified through exclusions in the policy where costs associated with documented OEM procedures would not be covered; otherwise, allowing a consumer to reasonably assume they would be?

The Idaho Insurance Code does not include a requirement on how a vehicle must be repaired, but does allow for non-OEM parts to be used. Idaho Insurance Code statutes below that are applicable to OEM and non-OEM equipment:

41-1328A. REPAIR OF MOTOR VEHICLES. The purpose of sections 41-1328A through 41-1328D, Idaho Code, is to regulate the use of aftermarket crash parts by requiring disclosure by the repair facility when any use is proposed of an aftermarket, nonoriginal equipment manufacturer's crash part, and by requiring that the manufacturers of such aftermarket crash parts identify their products.

41-1328C. IDENTIFICATION OF PARTS. Any aftermarket crash part supplied by a nonoriginal equipment manufacturer for use in this state shall have affixed thereto or inscribed thereon the logo or name of its manufacturer. Such manufacturer's logo or name shall be visible after installation whenever practicable.

41-1328D. USE OF PARTS - DISCLOSURE. It shall be an unfair claim settlement practice for an insurer to specify the use of nonoriginal equipment manufacturer aftermarket crash parts in the repair of an insured's motor vehicle, or for a repair facility or installer to use non-OEM aftermarket crash parts to repair a vehicle, if the consumer has not been advised in writing. In all instances where non-OEM aftermarket crash parts are intended for use by an insurer:

(1) The written estimate shall clearly identify each such part intended for use, and

(2) A disclosure document containing the following information in ten (10) point or larger type shall appear on or be attached to the insured's copy of the estimate:

"This estimate has been prepared based on the use of crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the manufacturer or distributor of these parts rather than the manufacturer of your vehicle.

7. If there is a dispute between a consumer and their insurance carrier over the cost to restore their vehicle to preloss condition in accordance with manufacturer documented procedures, is your department the correct one to address those issues and provide consumer protection?

a. If yes, please explain?

If a consumer is unhappy about the handling of their Idaho insurance claim, they are welcome to file a consumer complaint with the Department. We would investigate to determine if there are any violations of the Idaho Insurance Code or the insurance policy.

The Department would welcome a copy of the final report when completed. If we can be of further service, please do not hesitate to call.

Sincerely,

A handwritten signature in blue ink that reads "Elaine Mellon". The signature is written in a cursive style with a large initial 'E'.

Elaine Mellon
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