

AUTOMOBILE INSURANCE

KNOW YOUR RIGHTS WHEN NEGOTIATING MOTOR VEHICLE COLLISION REPAIRS

What You Should Know About

1. After-Market Parts (Non-OEM) v. Original Equipment Manufacturer Parts (OEM); and
2. Your Right To Choose A Repair Shop



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If you have been involved in an accident, you may find that fixing your automobile is not a simple process! There is information that you will need to know in order for you to make decisions that will affect the cost of repair of your automobile and the long term effect of the repair. One of these decisions will likely involve whether or not After-Market Parts will be part of the repair and/or what type of After-Market Parts are used.

What are After-Market Parts?

After-Market Parts (also called non-OEM parts, meaning non-original equipment manufacturer parts), are defined in New Hampshire Statute RSA 407-D:1 III. They are limited to certain parts manufactured by companies *other than* those that produced the original equipment. These would generally include sheet metal or plastic parts that form the exterior of a motor vehicle, including inner and outer panels.

Should I be concerned about the use of After-Market Parts on my car?

Automobile parts are no different than any other commodity. Many are good and result in true cost savings. Some are not so good.

Because they are generally less costly than original equipment parts, many insurance companies prefer their use as a means of controlling claim costs. Their position is, generally, that lower claims costs can result in lower premiums.

It is possible, however, that these parts may be made of material of lesser quality which may result in the development of one or more of the following problems:

1. The fit may be less precise than original equipment parts which may require additional labor time to fit the part in place. Ill-fitting parts may permit water to enter where it otherwise would not have.
2. The finish can be of lesser quality, and scratches may result in more rapid and serious rusting.
3. Moving parts such as doors, trunk lids or hoods may not fit as well.
4. Lighter gauge parts may dent more easily.

How Do I know if After-Market Parts are being used in the repair of my car?

In New Hampshire, the legislature has passed laws and the New Hampshire Insurance Department has established regulations and bulletins that govern insurance companies' use of After-Market Parts. New Hampshire Statute RSA 407-D:4, Insurance Department Rule Ins 1002.17 (e), and Insurance Department Bulletin 99-014-AB require written (10 point type minimum) disclosure statements by the insurer to the insured, or claimant that the parts used will be "at least equal in the kind and quality in terms of fit, quality, and performance to the original manufacturer parts they are replacing." If these disclosures are not made, the insurance company may not require the use of After-Market Parts.

What is being done to protect consumers from having to use those particular After-Market Parts of inferior quality or design?

The New Hampshire Insurance Department has issued Bulletin No. Ins. 99-014-AB which:

1. Reinforces existing statutes and regulations
2. Mandates that After-Market Parts may not be required by insurance companies in the repair of automobiles placed in service during the immediately preceding two (2) years, and which have 30,000 or fewer miles recorded on the odometer, and

3. Prohibits use of unfair trade practices in the settlement of claims.

What if you leased your automobile and the lease makes you responsible for any reduction in value at the termination of your lease if your automobile has been repaired with After-Market Parts?

That same Insurance Department bulletin also mandates that After-Market Parts may not be used on leased vehicles *if the lease specifically provides that such parts will cause a diminution, or reduction, in the residual value of that vehicle.*

What else is there to protect consumers?

The New Hampshire Insurance Department maintains a toll free consumer line (***1-800-852-3416***) and a Consumer Division to respond to consumer questions and to investigate charges of inappropriate behavior by insurance companies. The Department may also be contacted and/or the referenced materials reviewed through its web site: ***www.state.nh.us/insurance.***

What if your insurance company insists that repairs be made at a certain garage. Can an insurer do that?

NH Statute RSA 417:4 XX and Insurance Department Rule Ins 1002.17 (h) prohibit insurance companies from 'coercion' or 'steering'. They may make recommendations, but not pressure policyholders or claimants to have repairs made in a particular shop or by a particular concern. This applies whether

- you are making a claim under *your own* policy for damage to *your car*, or
- you are making a claim against another person for damages to *your car for which that person is responsible.*

However, insurers may limit payment for repair work based on the fair and reasonable price charged by repair shops in your area.

What if your insurance company insists that you agree in writing to accept an amount less than the cost of the repair or the value of your car before they will pay anything?

Insurance companies **may not withhold undisputed sums** that are part of a greater claim in which other elements are disputed. The partial payment must be made and is made without prejudice to either party, as provided in Insurance Department Rule Ins. 1002.07.

Make sure that you are aware of your rights! You can help yourself by reading your insurance policy carefully, talking with your agent or insurer for answers to questions about your policy, and visiting the New Hampshire Insurance Department's web-site to review New Hampshire's Insurance Statutes and the Insurance Department's Rules and Bulletins.

If you are not comfortable with how your claim is being handled, you can call the New Hampshire Insurance Department's toll free consumer assistance line if you have questions or problems. The telephone number is *1-800-852-3416.*

REFERENCE LIST

RSA 407-D:1 III– After-Market Parts Definition

RSA 417:4 XX – Coercion In Requiring Certain Automobile Or Glass Repair

RSA 417:4 XV and **Rule Ins 1002.05** – Unfair Claim Settlement Practices By Insurers

Rule Ins 1002.17 (e) – Insurer must ensure like kind and quality and consider modification expenses and delay

Rule Ins 1002.17 (h) – Insurer may *recommend*, but not *require* where and with whom repairs be made.

Rule Ins 1002.07 – References payment of claims when parts of the claim are under dispute.

Bulletin Ins No. 99-014-AB – Use of After-Market Parts, Coercion, or Steering - Claim Settlement

There are additional statutes and regulations that apply to settlement of Automobile Claims. These may be found on the New Hampshire Insurance Department's web-site: www.state.nh.us/insurance.