

Last week the Florida Department of Insurance issued an Informational Memorandum stating that the use of "non-original" manufactured parts has not consistently proven to return repaired vehicles to their pre-accident condition. According to the Memorandum, systematic adjustment practices that contemplate the use of "non-original" manufactured parts may constitute an unfair trade practice. The Department will investigate complaints wherein the repair of vehicles does not comply with the contractual commitment to use replacement parts of "like kind and quality."

On October 31, Tom Gallagher, the Insurance Commissioner for the Florida Department of Insurance issued the Memorandum to all property and casualty insurers authorized to write automobile insurance in Florida. The Memorandum is not a regulation and does not have the force and effect of law. It is meant as a "signal" to insurers by the Department and may be a factor in future market conduct studies.

The Memorandum states that under Florida Statutes, insurers who adjust claims, where the repair to vehicles do not restore the vehicles to pre-accident condition, may be investigated by the Department for unfair and inequitable settlement of claims. Private passenger automobile policies typically commit insurers to restore damaged vehicles using parts of "like kind and quality," so that the vehicle is returned to the pre-accident condition.

According to the Memorandum, the use of "non-original" manufactured parts has not consistently proven to meet the contractual commitment. Systematic adjustment practices that contemplate the use of "non-original" manufactured parts may constitute an unfair trade practice.

The Department will investigate complaints wherein the repair of vehicles does not comply with the contractual commitment to use replacement parts of "like kind and quality." Insurers are encouraged to be diligent in their authorization for the repair of vehicles to assure that repair clearly meet the contractual language found in their insurance policies.

On October 10, 2001, the Florida Department of Agriculture and Consumer Services mailed out a notice to 20,000 Florida motor vehicle repair shops. The Department's notice, issued as a part of a settlement to a lawsuit filed by the Alliance of American Insurers in July, stresses that the use of aftermarket crash parts in the repair of motor vehicles is legal in the State of Florida.

The lawsuit was prompted by an earlier letter mailed from the department to shops warning that they must maintain documentation showing that any non-OEM parts they use on a

repair are of 'like kind and quality.' The difficulty of adhering to this stipulation led many shops to discontinue the use of aftermarket parts altogether.