

211 CMR: DIVISION OF INSURANCE

211 CMR 135.00: REQUIREMENTS REGARDING REFERRALS TO MOTOR VEHICLE GLASS REPAIR SHOPS

Section

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135.01: Authority

211 CMR 135.00 is issued under the authority of M.G.L. c. 175, § 113X and St. 2012, c. 208, § 23.

135.02: Purpose and Scope

The purpose of 211 CMR 135.00 is to establish parameters for the referral of insureds to registered motor vehicle glass repair shops.

135.03: Definitions

Commissioner means the Commissioner of Insurance.

Motor Vehicle Glass Repair means the business or act of repairing or replacing damaged or undamaged glass in motor vehicles for compensation.

Motor Vehicle Glass Repair Shop means a person or entity which, for compensation or with the intention or expectation of receiving the same, repairs or replaces or undertakes to repair or replace motor vehicle glass.

Person means an individual, association, partnership or corporation and the officers, directors and employees of a corporation.

Registered Motor Vehicle Glass Repair Shop means a motor vehicle glass repair shop which has a current valid certificate of registration for motor vehicle glass repair issued under M.G.L. c. 100A.

135.04: Prohibited Practices

(1) When a motor vehicle glass repair is to be performed within the commonwealth and is covered in whole or in part by motor vehicle liability insurance, the insurer, producer, adjuster or third party administrator or biller for the insurer shall not:

- (a) Require a person to use a particular registered motor vehicle glass repair shop for motor vehicle glass repair services;
- (b) Use or employ unfair or deceptive acts or practices to induce a person to use a particular registered motor vehicle glass repair shop to provide motor vehicle glass repair services. Unfair or deceptive acts shall include, but not be limited to:

- 1. Engaging in an act or practice designed to intimidate, threaten or coerce a person to use, or for having used, a particular registered motor vehicle glass repair shop; or
- 2. Knowingly contracting with, referring motor vehicle glass repair services to or otherwise negotiating with a motor vehicle glass repair shop to provide motor vehicle glass repair services if the repair shop is not a registered motor vehicle glass repair shop as provided in M.G.L. c. 100A.

135.04: continued

(2) Once an insured selects a registered motor vehicle glass repair shop to provide motor vehicle glass repair services, an appraiser or employee of an independent appraisal company, insurance company, its employees or representatives or third party biller or administrator shall not require the motor vehicle glass repair to be made at a different registered motor vehicle glass repair shop.

(3) Once a registered motor vehicle glass repair shop has been selected to provide motor vehicle glass repair services, an insurer or third party biller or administrator shall not assign or dispatch the repair work or forward a related policy or policyholder's contact or repair scheduling information to a different registered motor vehicle glass repair shop without the knowledge and consent of the insured.

135.05: Rights of Insured

An insured may at any point in time elect to change his or her choice of registered motor vehicle glass repair shop to provide motor vehicle glass repair services.

135.06: Rights of Insurer

An insurer may, either directly or through its producers, adjusters or third party administrator, provide directly or through other means, including electronic transmissions, information to assist the insured in selecting a motor vehicle glass repair shop or scheduling a motor vehicle glass repair shop to perform motor vehicle glass repair. Neither the insurer, producer, adjuster nor third party biller or administrator for the insurer, however, may use or employ unfair or deceptive acts or practices, as those terms are defined in 211 CMR 135.04(1)(b), M.G.L. c. 175, § 113X, and M.G.L. c. 176D, to attempt to induce a person to change his or her choice of registered motor vehicle glass repair shop.

135.07: Penalties

(1) A violation of 211 CMR 135.00 or M.G.L. c. 175, § 113X by an insurance company, producer, third party biller, adjuster or third party administrator for the insurer, shall be punishable by a fine of not less than \$1,000 nor more than \$5,000 for each violation by each person or entity.

(2) Any violation of 211 CMR 135.00 or M.G.L. c. 175, § 113X shall also constitute an unfair method of competition or an unfair or deceptive act or practice in the business of insurance under M.G.L. c. 176D.

(3) The Commissioner shall administer and enforce the provisions of 211 CMR 135.00 and M.G.L. c. 175, § 113X. If upon complaint, examination or other evidence exhibited to the Commissioner, the Commissioner is of the opinion that any provision of 211 CMR 135.00 or M.G.L. c. 175, § 113X has been violated, the Commissioner shall forthwith report the facts to the attorney general or to the proper district attorney.

135.08: Severability

If any section or portion of a section of 211 CMR 135.00 or the applicability thereof to any person, entity or circumstance is held invalid by any court, the remainder of 211 CMR 135.00 or the applicability of such provision to other persons, entities or circumstances shall not be affected thereby.

REGULATORY AUTHORITY

211 CMR 135.00: M.G.L. c. 175, § 113X and St. 2012, c. 208, § 23.