Notice of Rulemaking Hearing
Department of Commerce and Insurance
Insurance Division

There will be a hearing before the Insurance Division of the Department of Commerce and Insurance ("Division") to consider the promulgation of rules. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, Tennessee Code Annotated, Section 4-5-204 and will take place in Conference Room A of the Davy Crockett Tower located at 500 James Robertson Parkway, Nashville, Tennessee 37243 at 10:00 a.m. CST on the 22nd day of June, 2004.

Any individuals with disabilities who wish to participate in these proceedings should contact the Division to discuss any auxiliary aids of services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date, to allow time for the Division to determine how it may reasonably provide such aid or service. Initial contact may be made with the Division's ADA Coordinator, Don Coleman, at Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 and (615) 741-6500.

For a copy of this notice of rulemaking hearing contact: Barbara A. Doak, Staff Attorney, Office of Legal Counsel, Davy Crockett Tower, Fifth Floor, Nashville, Tennessee 37243, Department of Commerce and Insurance, and (615) 741-2199.

Substance of Proposed Rule

Chapter 0780-1-59
Aftermarket Crash Parts Regulation

Amendments

Chapter 0780-1-59 Aftermarket Crash Parts Regulation is amended by deleting the chapter in its entirety and substituting the following language so that, as amended, the chapter shall read:

Chapter 0780-1-59
Aftermarket Crash Parts Regulation

Table of Contents

0780-1-59-.01 Purpose

    The purpose of this Chapter is to regulate the use of aftermarket crash parts by requiring disclosure when any use is proposed of an aftermarket, non-original equipment manufacturer's crash part, and by requiring that the manufacturers of such aftermarket crash parts be identified.

Authority: Tenn. Code Ann. §§56-2-301, 56-8-104(8) and 56-8-113.

0780-1-59-.02 Definitions

    (1)   "Aftermarket crash part" means a replacement for any of the non-mechanical sheet metal or plastic parts which generally constitute the exterior of a motor vehicle, including inner and outer panels.

(2) "Insurer" includes an insurance company and any person authorized to represent the insurer with respect to a claim.

(3) "Non-OEM" means aftermarket crash parts not made for or by the manufacturer of the motor vehicle.

Authority: Tenn. Code Ann. §§ 56-2-301, 56-8-104(8) and 56-8-113.

0780-1-59-.03 Identification

Any aftermarket crash part specified by an insurer for use in the repair of an insured's or a third party claimant's motor vehicle, supplied by a non-original equipment manufacturer for use in this State after the effective date of this regulation 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.

Authority: Tenn. Code Ann. §§ 56-2-301, 56-8-104(8) and 56-8-113.

0780-1-59-.04 Disclosure

(1) No insurer shall specify directly or indirectly the use of non-OEM aftermarket crash parts in the repair of an insured's or third party claimant's motor vehicle without disclosing the intended use of such parts to the insured or third party claimant. In all instances where non-OEM aftermarket crash parts are intended for use by an insurer:

(a) the written estimate shall clearly identify each such part.

(b) a disclosure document containing the following information in no smaller print than 10 point type or larger type shall appear on or be attached to the insured's or third party claimant's copy of the estimate: "This estimate has been prepared based on the use of one or more crash parts supplied by a source other than the manufacturer of your motor vehicle. Warranties applicable to these replacement parts are provided by the parts manufacturer or distributor rather than by the manufacturer of your vehicle."

(2) Non-OEM after market crash parts shall not be used on current year model or immediate prior year model motor vehicles without the express written permission of the insured or third party claimant.

Authority: Tenn. Code Ann. §§ 56-2-301, 56-8-104(8) and 56-8-113.

0780-1-59-.05 Enforcement

Violations of this regulation shall be enforced through the Unfair Claim Settlement Practices Act, Tenn. Code Ann. § 56-8-104(8), as provided in Tenn. Code Ann. §§ 56-8-107 through 56-8-112.

Authority: Tenn. Code Ann. §§ 56-2-301, 56-8-104(8) and 56-8-113.

0780-1-59-.06 Severability

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

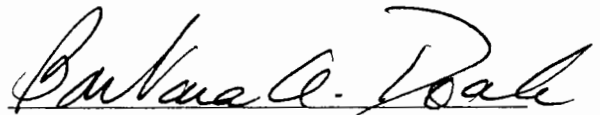Authority: Tenn. Code Ann. §§ 56-2-301, 56-8-104(8) and 56-8-113.

Legal Contact and/ or party who will approve final
copy for publication:
Barbara A. Doak, Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
Davy Crockett Tower, Fifth Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
615-741-2199
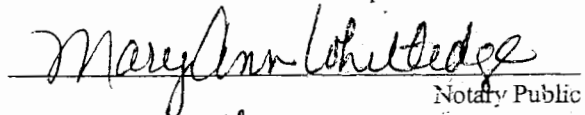
Contact for disk acquisition:
Barbara A. Doak, Staff Attorney
Office of Legal Counsel
Department of Commerce and Insurance
Davy Crockett Tower, Fifth Floor
500 James Robertson Parkway
Nashville, Tennessee 37243
615-741-2199

I certify that this is an accurate and complete representation of the intent and scope of rulemaking proposed
by the Commissioner of Commerce and Insurance.

_____

Barbara A. Doak
Staff Attorney

Subscribed and sworn to before me this the 26th day of March 2004.

_____
Notary Public

My commission expires on the 18th day of June, 2005

The notice of rulemaking set out herein was properly filed in the Department of State on the 27 day of
April, 2004.

_____
Riley C. Darnell
Secretary of State

By: _____

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