

Massachusetts's Statutes Affected

B. A

The General Laws of Massachusetts

Search the Laws

Go To:
[Next Section](#)
[Previous Section](#)
[Chapter Table of Contents](#)
[MGL Search Page](#)
[General Court Home](#)
[Mass.gov](#)

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XXII. CORPORATIONS

CHAPTER 175. INSURANCE

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE

Chapter 175: Section 113P. Appeals from application of safe driver insurance plan

Section 113P. Any insured aggrieved by any determination of an insurer as to the application of any provision of the safe driver insurance plan established by the commissioner pursuant to the provisions of section one hundred and thirteen B may, within thirty days thereafter, file a written complaint with the board of appeals on motor vehicle policies and bonds, hereinafter called the board. Such complaint shall be accompanied by a filing fee to be determined by the board. The board may deny such appeal without a hearing on the basis of the standards of fault to be promulgated by the board. In the notice of its decision to deny the complaint by the insured, the board shall notify the insured that he has a right to a hearing on the application of the safe driver insurance plan.

The board shall provide the insurer and the insured with at least ten days notice of any hearing held under this section. If, after a hearing, the board finds that the application of the safe driver insurance plan was in accordance with the standards promulgated by the board and the provisions of the safe driver insurance plan established by the commissioner, it shall deny the appeal. If the board finds that the insurer's application of the safe driver insurance plan was not in accordance with said standards and provisions, it shall order the insurer to make the appropriate premium adjustment. The board may designate a person to act as a hearing officer pursuant to this section. The hearing officer shall file a memorandum of his findings or order in the office of the board, and shall send a copy to the insurer and the insured.

Any person or company aggrieved by any finding or order of the board may appeal therefrom to the superior court department of the trial court, pursuant to the provisions of section fourteen of chapter thirty A. The appellant shall file with his appeal a duly certified copy of the complaint and of the finding and order thereon, and, if the appeal is taken from a finding and order of the board in respect to a cancellation, the clerk of such court shall forthwith, upon the filing of such an appeal, give written notice of the filing thereof to the registrar of motor vehicles and to the appellee. Said court shall, after such notice to the parties as it deems reasonable, give a summary hearing on such appeal and shall have such jurisdiction in equity to review all questions of fact and law, and to affirm or reverse such finding or order and may make any appropriate decree. Said court or justice may allow such appeal, finding or order to be amended. The decision of the court or justice shall be final. The clerk of such court shall, within two days after entry thereof, send an attested copy of the decree to each of the parties and the commissioner and to said registrar, or his office. Said court or justice may make such order as to costs as it or he deems equitable. Said court may make reasonable rules to secure prompt hearings on such appeals and a speedy disposition thereof.

BoA

The General Laws of Massachusetts

Search the Laws

Go To:
Next Section
Previous Section
Chapter Table of Contents
MGL Search Page
General Court Home
Mass.gov

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE XXII. CORPORATIONS

CHAPTER 175E. REGULATION OF RATES FOR MOTOR VEHICLE INSURANCE

Chapter 175E: Section 7. Manual of classifications, rules and rates; filing; copies

Section 7. Every insurer or rating organization authorized to file on behalf of such insurer shall file with the commissioner or his designated representative every manual of its classifications, rules and rates, rating plans and modifications of any of the foregoing not less than forty-five days before the effective date thereof. Every such filing shall state the effective date thereof, and such filing shall indicate the character and extent of the coverage contemplated. The commissioner may require such insurer or rating organization to furnish the information upon which it supports such filing.

The commissioner may specify the form to be used for any filing or submission pursuant to this chapter.

The commissioner may in his discretion, and shall on the motion of the attorney general, initiate a hearing on any such filing prior to its effective date after at least ten days' notice.

When a filing involving a rate adjustment depends upon a change in the relationship between the proposed rates and the anticipated production expense portion thereof from the relationship anticipated under any rates previously filed and currently in effect for the company or rating organization involved, the insurer or rating organization making such a filing shall simultaneously give written notice of such filing to every licensed agent of every insurer on whose behalf such filing is made. The commissioner shall call a hearing on any such filing prior to its effective date after at least ten days notice upon timely written request by any agent or broker of the company or companies to which such filing is applicable or any association representing insurance agents or brokers, if such request is in good faith and states reasonable grounds.

The commissioner shall disapprove any filing under this section to the extent that he determines that it does not comply with this chapter. The commissioner may suspend the operation of any such filing for not more than forty-five days after its effective date in order to complete the hearing and make a decision thereon.

If the commissioner suspends the operation of any such filing, he shall, by the close of the period of suspension, either approve the filing or issue an order disapproving the filing and specifying in what respects he finds that such filing fails to meet the requirements of this chapter.

Notwithstanding the provision of the foregoing paragraph, any insurer may put any filing which has been so suspended but not disapproved by the commissioner into effect on the effective date stated therein upon furnishing the commissioner with a written agreement secured by a sufficient bond satisfactory to the commissioner to adjust the premiums of all of its policies affected by the filing from their respective effective dates so as to comply with the final determination of the commissioner. Any such adjustment of premiums shall include interest at the rate of eight per cent per annum.

Every insurer or rating organization authorized to file on behalf of such insurer, shall make available to the public copies of such manual at a cost not to exceed thirty per cent above the actual costs of printing said manual.

B o A

Search the Laws

Go To:
[Next Section](#)
[Previous Section](#)
[Chapter Table of Contents](#)
[MGL Search Page](#)
[General Court Home](#)
[Mass.gov](#)

PART I. ADMINISTRATION OF THE GOVERNMENT

TITLE II. EXECUTIVE AND ADMINISTRATIVE OFFICERS OF THE COMMONWEALTH

CHAPTER 26. DEPARTMENT OF BANKING AND INSURANCE

DIVISION OF INSURANCE

Chapter 26: Section 8A. Board of appeal on motor vehicle liability policies and bonds

Section 8A. There shall be a board of appeal on motor vehicle liability policies and bonds serving in the division of insurance and consisting of the commissioner of insurance or his representative, the registrar of motor vehicles or a representative, and two assistant attorneys general to be designated from time to time by the attorney general. The commissioner of insurance may by a writing, in such form as he may prescribe, filed in his office, designate from time to time a representative to act in his place and the registrar of motor vehicles may in like manner designate from time to time a representative to act in his place. Any such designation may be revoked at any time and may run for such period as the designating officer may prescribe. The compensation of such a representative, if not an employee of the commonwealth, shall be fixed by the board, subject to the approval of the governor and council. The commissioner of insurance or his representative shall be the chairman of the board. With the approval of the governor and council, the board may appoint and remove a secretary and such clerical and other assistants as its work may require. The secretary so appointed shall be eligible to serve also as the representative of the commissioner of insurance, if designated as aforesaid. All expenditures incurred under this section shall be paid from the highway fund. The secretary shall keep a record of all proceedings before the board, and he and such clerical and other assistants shall perform such duties as the board may direct. Any member of the board shall have power to summon and compel the attendance and testimony of witnesses and the production of books, records and documents and may administer oaths. Sections nine and eleven of chapter two hundred and thirty-three shall apply to the board and witnesses summoned before it. The fees of witnesses before the board for attendance and travel shall be the same as for witnesses before a court in civil cases and need not be paid nor tendered to them prior to their attendance, and shall be paid by the commonwealth upon the certificate of the board or a member thereof filed with the comptroller. An office and a room for hearings shall be provided by the commonwealth, to be assigned by the governor and council. The board may hold hearings at any place within the commonwealth and the members and secretary thereof shall be allowed their necessary traveling and other expenses in holding hearings outside the city of Boston. The board, with the approval of the governor and council, may make and amend reasonable rules and regulations to expedite and regulate hearings and the procedure before it.

211 CMR: DIVISION OF INSURANCE

211 CMR 74.00: STANDARDS OF FAULT TO BE USED BY THE BOARD OF APPEAL ON MOTOR VEHICLE LIABILITY POLICIES AND BONDS AND INSURERS IN DETERMINING THE APPLICATION OF SURCHARGES IN ACCORDANCE WITH M.G.L. c. 175, § 113P

Section

- 74.01: Authority
- 74.02: Definitions
- 74.03: Purpose and Scope
- 74.04: Situations in Which Fault is Presumed to be More Than 50%

74.01: Authority

211 CMR 74.00 is promulgated in accordance with the authority granted the Board of Appeal on Motor Vehicle Liability Policies and Bonds by M.G.L. c. 26, § 8A, and M.G.L. c. 175, § 113P.

74.02: Definitions

Accident, an unexpected, unintended event that causes damage to the operator's vehicle, another vehicle, or other property, such damage arising out of the ownership, maintenance or use of a vehicle.

Board, Board of Appeal on Motor Vehicle Liability Policies and Bonds established pursuant to M.G.L. c. 26, § 8A.

Center line, pavement marking, imaginary, drawn, or otherwise designated, which separates traffic moving in opposite directions.

Collision, the accidental upset of a vehicle or any physical contact of a vehicle with an object or a person.

Operator, any person who operates a motor vehicle.

Safe Driver Insurance Plan, the adjustment of insurance rates and premiums on the basis of at-fault accidents, comprehensive claims and traffic law violations pursuant to M.G.L. c. 175, § 113B.

Vehicle subject to the Safe Driver Insurance Plan, any private passenger vehicle rated in accordance with the Massachusetts Private Passenger Automobile Insurance Manual.

74.03: Purpose and Scope

The standards established by 211 CMR 74.00 shall be used by insurers and the Board in determining whether an operator is more than 50% at fault for the purpose of applying the Safe Driver Insurance Plan. The presumptions raised as to an operator being more than 50% at fault, as described in 211 CMR 74.04, shall be considered determinative unless and until the operator overcomes the presumption by producing sufficient evidence at an initial review or hearing held in accordance with the rules of the Board.

74.04: Situations in Which Fault is Presumed to be More Than 50%

(01) Collision with a Lawfully or Unlawfully Parked Vehicle. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with a lawfully or unlawfully parked vehicle.

(03) Rear End Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with the rear section of another vehicle.

74.04: continued

(05) Out of Lane Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is partially or completely out of its proper lane and is in collision with another vehicle:

- (a) while being passed by the other vehicle, the passing vehicle being in its proper lane;
- (b) while passing the other vehicle, the other vehicle being in its proper lane; or
- (c) while changing or turning into or across the other vehicle's lane.

(07) Failure to Signal. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision while failing to signal as required by law before turning or changing lanes.

(08) Failure to Proceed with Due Caution from a Traffic Control Signal or Sign. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator fails to obey a traffic control signal or sign, or fails to proceed with due caution therefrom, and whose vehicle is thereafter in a collision with another vehicle.

(09) Collision on Wrong Side of Road. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with another vehicle which is moving in the opposite direction on the proper side of the roadway or center line.

(10) Operating in the Wrong Direction. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle in the wrong direction on a travel lane, one-way street, or highway, and whose vehicle is thereafter in a collision with another vehicle.

(11) Collision at an Uncontrolled Intersection. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in collision with another vehicle at an uncontrolled intersection:

- (a) if the operator's vehicle enters a main road from a secondary road,
- (b) if both vehicles enter the intersection at the same time, and such operator's vehicle entered the intersection from the left of the other vehicle, failing to allow the vehicle on the right to proceed, or
- (c) if the operator's vehicle enters the intersection at a point in time later than the other vehicle.

(14) Collision While in the Process of Backing Up. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is in the process of backing up and whose vehicle is thereafter in a collision with another vehicle.

(15) Collision While Making a Left Turn or U-Turn Across the Travel Path of a Vehicle Traveling in the Same or Opposite Direction. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle making a left turn or U-turn across the path of travel of another vehicle moving:

- (a) in the same direction, or
 - (b) in the opposite direction,
- and whose vehicle is in a collision with such vehicle.

(17) Leaving or Exiting from a Parked Position, Parking Lot, Alley or Driveway. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is leaving or exiting from a parked position, parking lot, alley or driveway, and whose vehicle is in a collision with another vehicle.

(18) Opened or Opening Vehicle Door(s). The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the vehicle's door or doors are opened or opening resulting in a collision with another vehicle.

74.04: continued

(19) Single Vehicle Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating the only vehicle involved in a collision.

(20) Failure to Obey the Rules and Regulations for Driving. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator violates any provision of M.G.L. Chs. 85, 89 or 90, or fails to obey the following regulations: The Metropolitan District Commission (350 CMR), Registry of Motor Vehicles (540 CMR), MA Department of Highways (720 CMR), MA Turnpike Authority (730 CMR), or MA Port Authority (740 CMR), and whose vehicle is in a collision with another vehicle.

(21) Unattended Vehicle Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the vehicle is left unattended and rolls resulting in a collision.

(26) Collision While Merging onto a Highway, or into a Rotary. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle merging onto a highway, or into a rotary, when the other vehicle is already on the highway, or in the rotary, resulting in a collision.

(27) Non-Contact Operator Causing Collision. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle which is not in a collision, but whose actions cause the collision of one or more other vehicles.

(29) Failure to Yield the Right of Way to Emergency Vehicles when Required by Law. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when the operator fails to yield the right of way to emergency vehicles (as required by M.G.L. c. 89, § 7) resulting in a collision.

(31) Collision at a "T" Intersection. The operator of a vehicle subject to the Safe Driver Insurance Plan shall be presumed to be more than 50% at fault when operating a vehicle coming from a roadway that terminates onto a throughway and whose vehicle is in a collision with another vehicle traveling on that intersecting throughway.

REGULATORY AUTHORITY

211 CMR 74.00: M.G.L. c. 26, § 8A; c. 175, § 113P.