



LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON
COMMISSIONER

DIRECTIVE 186 (REVISED & REISSUED)

TO: NOTICE TO ALL PROPERTY AND CASUALTY INSURERS LICENSED TO WRITE VEHICLE INSURANCE POLICIES IN LOUISIANA

FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE

RE: PROPER USE OF COST OF AIRBAG IN DETERMINING "TOTAL LOSS" OF VEHICLE

DATE: JULY 28, 2020

Acts 2008, No. 415, § 1, effective January 1, 2009, redesignated the provisions of Title 22, formerly comprised of La. R.S. 22:1 to 22:3311, into a new format and numbering scheme comprised of La. R.S. 22:1 to 22:2371, without changing the substance of the provisions. Directive 186, originally issued on May 10, 2007, is being amended to update the cited statutory provisions.

Pursuant to La. R.S. 22:1293 property and casualty insurers writing vehicle insurance policies "...may use the cost to repair or replace airbags used or damaged in a vehicle accident to determine if the vehicle is a total loss under the total loss provisions of the insurance policy if the policyholder agrees in writing." This law became effective August 15, 2005 by Acts 2005, No. 262 of the Regular Session of the Louisiana Legislature.

The purpose of Directive 186 is to provide clarification on this statutory requirement to protect the rights of the insureds and to ensure that property and casualty insurers can properly comply with both the spirit and intent of La. R.S. 22:1293.

Charged with the duty of administering the provisions of the Louisiana Insurance Code, I hereby direct every property and casualty insurer that La. R.S. 22:1293 will be interpreted by the LDI as follows:

1. Insurers generally consider a motor vehicle to be a total loss when the estimated cost of repair (including any supplements) plus the probable salvage value equals or exceeds the actual cash value of the vehicle. La. R.S. 32:702 requires all vehicles sustaining damages equivalent to 75% or more of the market value as determined by the most current

National Automobile Dealers Association Handbook (NADA) to be declared a total loss subject to salvage titling requirements.

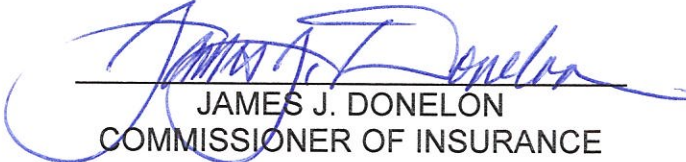
2. The intent of La. R.S. 22:1293 is to allow an insurer to consider whether a vehicle would be a total loss if the cost to repair or replace the airbag system is excluded from the total loss determination. Therefore, it is possible for an insurer, if the insured agrees, to pay more than 75% of the NADA book value to repair a vehicle without declaring it a total loss, subject to salvage titling, as long as the cost to repair or replace the airbag system makes the total damage exceed 75% of the NADA market value.
3. The terminology "...cost to repair or replace airbags used or damaged in an automobile accident..." as used in the statute is meant to include not only the cost of the actual airbag, but also the cost of all parts necessary to return the damaged or used airbag to a proper functioning safety device. As such, the term "airbags" includes not only the cost of the airbag but also any component parts, modules, sensors, etc., as well as the labor cost involved to return the airbag to a proper functioning safety device.
4. An insurer should initially estimate the total cost to repair a damaged vehicle, including all costs associated with the repair or replacement of the damaged or used airbags. If this initial estimate, with the airbag costs included, yields a total repair cost that is equal to or more than 75% of the vehicle's NADA book value, the insurer should make the initial determination that the vehicle is a total loss. The insurer must then separately calculate the cost to repair or replace the airbags and deduct this from the initial determination. If this revised cost of repairs, without the airbag cost, is less than 75% of the NADA book value, then the insurer is required to ask the owner/insured whether the owner/insured wishes to exclude the cost of repairing or replacing the airbags from the total loss calculation.
5. Nothing in Directive 186 is intended to discharge the insurer's obligation to pay for the cost to repair or replace the airbag in regard to the overall settlement of a claim if the owner/insured chooses to exclude the cost of repairing or replacing the airbag from the total loss calculation. However, under no circumstances shall an insurer be required to pay more to repair a vehicle, including the cost to repair or replace the airbags, than its actual cash value less the salvage value.

You are hereby directed to comply with the purpose and intent of La. R.S. 22:1293. Accordingly, any property and casualty insurer not operating in compliance with the foregoing statutory requirements may be the subject of an administrative action for violation(s) of La. R.S. 22:1293 and/or unfair trade practices under La. R.S. 22:1964. In addition to the penalties set forth above, violation(s) of La. R.S. 22:1293 may also be found to be a violation of La. R.S. 22:1964 and may subject the violator to the penalties set forth in La. R.S. 22:1969.

If there are any questions regarding this Directive, please contact the Deputy Commissioner for the Office of Property and Casualty, electronically at public@ldi.la.gov.

Please be governed accordingly.

Baton Rouge, Louisiana this 28th day of July, 2020.



JAMES J. DONELON
COMMISSIONER OF INSURANCE