

VEHICLE LOSS PREVENTION PROGRAM

DRIVER INSURABILITY

Classification of Collisions

Risk Management Division shall classify all collisions into one of two categories. Collisions shall include any unintended or undesired motor vehicle activity whether or not an actual collision occurred.

1. Preventable
 - (a) Collisions shall be classified as preventable when the operator did not do everything reasonably possible to prevent the occurrence. In situations where the operator is not “primarily responsible”, the collision shall be classified as preventable if the operator did not take all reasonable steps to prevent the occurrence. Preventable does not mean blame. Prevention takes aim at improving effectiveness. Blaming (or excusing) rarely improves effectiveness. To deem an occurrence preventable is to say that some reasonable change can be made to reduce the chance of a repeat occurrence - to get the job done without the same harmful result. Ultimately, it is the operator of a vehicle who must assume responsibility for the occurrence. The operator must drive defensively at all times with care and always be prepared for the unexpected. Emergency situations demand extreme care and superb driving skills and will not be routinely overlooked just because they are emergencies.
 - (b) A collision resulting from an intentional act on the part of the operator of an emergency vehicle shall be classified as preventable when the intentional act does not comply with departmental policy or there is cause to believe that under the set of circumstances given, other actions would have been in the better interest of safety and/or law enforcement.
2. Non-preventable

If a collision is not classified as preventable, then it shall be classified as non-preventable.

Corrective Actions

If a collision is classified as preventable, Risk Management Division may recommend corrective actions be taken. Such recommendations may include but are not limited to additional driver training, defensive driver training, emergency vehicle operation training, physical or written examinations to identify problem areas, restricting use of State vehicles, and progressive discipline.

Notification to Operator

If a collision is classified as preventable and Risk Management Division recommends any type of corrective action as a result, the operator and his/her supervisor shall be notified in writing within thirty (30) calendar days of the determination. Such notification shall include:

1. The classification; and
2. The recommended corrective action; and
3. The right to appeal should the operator disagree with the classification and/or recommended corrective action; and
4. The appeal procedures.

Appeal Procedures

Any operator who disagrees with the original classification and /or the recommended corrective action shall have the right to appeal the classification to the Risk Management Division Fleet Safety Board created in this program. Notice of appeal must be directed to Risk Management Division in writing within fourteen (14) calendar days of the notification to operator. The appeal should include a brief statement of the grounds for appeal.

Risk Management Division reserves the right to change its classification and/or recommendation based on any additional information the operator might present prior to any board hearing.

The Board shall hear all appeals in accordance with the guidelines established in the program. If after the appeal is heard, the operator still disagrees with the decision, he/she may appeal to the Commissioner of Administrative and Financial Services within fourteen (14) calendar days. This appeal must be in writing and must include a brief statement of the grounds for appeal.

The Commissioner's decision is final.

Risk Management Division Fleet Safety Board (FSB)

Purpose

For those departments not having a Fleet Safety Board approved by Risk Management Division, the Risk Management Division Fleet Safety Board is established. It is established to receive and hear appeals relating to collisions. The basis for an appeal can be the classification, the recommended corrective action, or both.

Members

The Board will consist of three voting members who can impartially review the facts, evidence and witness testimony and who can submit a fair, unbiased decision:

1. A designee from Risk Management Division who will serve as Chairperson; and
2. A member of the operator's own department/agency or designee to be selected by the Chairperson. This member shall not be an operator's direct supervisor nor involved in presenting evidence at the appeal; and
3. A third member (not from the Department of Administrative and Financial Services) to be selected by the Chairperson. This member shall have investigation expertise and experience.

All Members will serve until replaced.

Member Responsibilities

Chairperson

1. The Chairperson shall be responsible for scheduling FSB hearings and notification of all persons concerned.
2. The Chairperson may require the operator or request any State employee having knowledge of the collision to testify.
3. The Chairperson shall direct all activities of the FSB and be responsible for preparation, presentation, and maintenance of all records, reports and findings.
4. The Chairperson will forward to the operator and his/her supervisor the Board's decision and recommendation as to corrective action.

Members

1. Each Member must impartially review the facts, evidence and witness testimony.
2. Each Member must issue a vote.

General Procedures

1. The Board shall meet according to need at a time and place designated by the Chairperson.
2. No meeting shall be convened unless all Members are present.
3. The Board will afford the operator the opportunity to fully explain the circumstances surrounding the collision, including anything they may feel contributed to the cause. The operator shall have the opportunity to present evidence or witnesses who can offer pertinent information relating to the collision.
4. The Board shall make decisions based in the definitions of preventable and non-preventable presented elsewhere in this section. All decision shall be made without prejudice or bias and shall be based solely on facts presented through reports submitted or testimony given. Decisions shall be based on general guidelines of the defensive driving concept.
5. If the Board finds a collision preventable, it shall recommend corrective action to the Director of Risk Management Division. Such recommendations may include, but are not limited to, the corrective actions presented earlier in this section.
6. In order to be valid, a decision must be by majority vote.
7. The Board shall notify the operator and his/her supervisor in writing of the Board's decision within seven (7) calendar days. This notification should advise the operator of the right to appeal to the Commissioner of Administrative and Financial Services.

Reports shall be clearly labeled with the decision and kept on file at Risk Management Division for a period of three years.

*Risk Management Division, 85 State House Station, Augusta, ME 04333-0085
Phone: 287-3351, Toll Free: 1-800-525-1252, Fax: 287-4008*