

211 CMR: DIVISION OF INSURANCE

211 CMR 92.00: SAFE DRIVER INSURANCE PLAN

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92.01: Authority

211 CMR 92.00 is promulgated in accordance with the authority granted to the Commissioner of Insurance under M.G.L. c. 175, § 113B as amended by St. 1983, c. 241, § 596.

92.02: Definitions

As used in 211 CMR 92.00, the following words shall mean:

At Fault Accident: an accident involving a vehicle subject to the Safe Driver Insurance Plan wherein the Involved Operator was more than 50% at fault, as determined by the application of the Standards of Fault of the Board of Appeal.

Board of Appeal: the board of appeal on motor vehicle liability policies and bonds established pursuant to M.G.L. c. 26, § 8.

Collision Coverage: the insurance coverage designated as such in a Massachusetts automobile insurance policy.

Comprehensive Coverage: the insurance coverage designated as such in a Massachusetts automobile insurance policy.

Commissioner: the Commissioner of Insurance appointed pursuant to M.G.L. c. 26, § 6.

Coverage Selections Page: the coverage selections page of a Massachusetts automobile insurance policy, or a replacement coverage selections page.

Designated Statistical Agent: the rating organization or other agency designated by the Commissioner as the statistical agent for the Division of Insurance pursuant to M.G.L. c. 175A, § 15(a).

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Experience Period: the five year period immediately preceding the effective date of the policy.

Insurer: any corporation, association, partnership, group or individual engaged as principals authorized to write motor vehicle insurance in the Commonwealth.

Involved Operator: any person determined to have been operating a vehicle subject to the Safe Driver Insurance Plan at the time of, and involved in, an accident subject to the Safe Driver Insurance Plan, or any person having a Traffic Law Violation subject to the Safe Driver Insurance Plan, as specified by 211 CMR 92.04.

Limited Collision Coverage: the insurance coverage designated as such in a Massachusetts automobile insurance policy.

Listed Operator: the Policyholder and any person listed on the new or renewal application for the Policy covering one or more vehicles subject to the Safe Driver Insurance Plan.

Manual of Administrative Procedures: the Manual of Administrative Procedures prepared by the Merit Rating Board in accordance with the procedures established in 211 CMR 92.19.

Merit Rating Board: the Motor Vehicle Insurance Merit Rating Board established pursuant to M.G.L. c. 6, § 183.

Operator Information: the driver's license number, license state, name and date of birth as they appear on the driver's license of the Policyholder and of all Listed Operators on a Massachusetts automobile insurance policy.

Policy: any motor vehicle liability policy as defined in M.G.L. c. 90, § 34A; including any Massachusetts automobile insurance policy or any Massachusetts motor vehicle policy written in accordance with the Massachusetts Private Passenger Automobile Insurance Manual.

Policy Number: a unique number, up to 16 characters long, that does not change throughout the life of the policy.

Policyholder: the principal named insured(s) on a Policy.

Private Passenger Vehicle: any vehicle rated by an Insurer in accordance with the Massachusetts Private Passenger Automobile Insurance Manual except motorized vehicles not normally driven on public ways.

Property Damage Liability Coverage: the insurance coverage designated as such in a Massachusetts automobile insurance policy.

Safe Driver Insurance Plan: the adjustment of insurance rates and premiums for vehicles subject to the Safe Driver Insurance Plan on the basis of At Fault Accidents, Comprehensive Claims and Traffic Law Violations pursuant to the provisions of M.G.L. c. 175, § 113B.

Statistical Plan: the Massachusetts automobile statistical plan promulgated annually by the Commissioner pursuant to the authority granted under M.G.L. c. 175A, § 15(a).

Surchargeable Incident: an At Fault Accident, Traffic Law Violation, or Comprehensive Claim, as defined in 211 CMR 92.00, which may result in an increase in the policyholder's premium.

Surcharge Date: the date of notice entered by an Insurer on the Surcharge Notice form required by 211 CMR 92.05, the date of payment on the Comprehensive Claim Notice form required by 211 CMR 92.06 or the disposition date entered by a court on the court abstract for a Traffic Law Violation.

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Surcharge Information: information provided to an Insurer by the Merit Rating Board which is the basis on which premium adjustments are made under the Safe Driver Insurance Plan, including but not necessarily limited to Surchargeable Incidents and the Unsafe Driver Points applicable thereto, and Driver's License status.

All other terms in 211 CMR 92.00 shall be construed as defined in M.G.L. c. 90, §§ 34A and 34O, M.G.L. chs. 175 and 175A, or, if not defined in these chapters, in accordance with common usage.

92.03: Purpose and Scope

211 CMR 92.00, hereinafter referred to as the Safe Driver Insurance Plan, is promulgated to implement the Safe Driver Insurance Plan pursuant to M.G.L. c. 175, § 113B. The Safe Driver Insurance Plan shall be used by all Insurers.

92.04: Vehicles, Policies, Accidents, and Traffic Law Violations Subject to the Safe Driver Insurance Plan

(1) Vehicles Subject to the Plan. Any Private Passenger Vehicle registered in Massachusetts shall be a vehicle subject to the Safe Driver Insurance Plan.

(2) Policies Subject to the Plan. Any Policy meeting the definition given in 211 CMR 92.02 that provides Property Damage Liability Coverage for one or more vehicles subject to the Safe Driver Insurance Plan shall be a Policy subject to the Safe Driver Insurance Plan.

(3) Accidents Subject to the Plan. Any accident occurring prior to January 1, 1984, shall be an accident subject to the Safe Driver Insurance Plan if it results in a Collision, Limited Collision, or Property Damage Liability claim payment of more than \$50 in excess of any applicable deductible for damage to or caused by a vehicle subject to the Safe Driver Insurance Plan.

Any accident occurring on or after January 1, 1984, shall be an accident subject to the Safe Driver Insurance Plan if it results in a Collision, Limited Collision or Property Damage Liability claim payment of more than \$200 in excess of any applicable deductible for damage to or caused by a vehicle subject to the Safe Driver Insurance Plan.

(4) Traffic Law Violations Subject to the Plan. Any conviction of an operator, including payments made pursuant to M.G.L. c. 90C, or any assignment of an operator to a driver alcohol education program, for a Traffic Law Violation as listed in 211 CMR 92.00: *Appendix A*, shall be subject to the Safe Driver Insurance Plan. The plan shall also take into consideration convictions reported to the registry of motor vehicles as the result of any compact entered into by the Secretary of Public Safety for the exchange of information between states.

(5) Comprehensive Claims Subject to the Plan. Any claim made under Comprehensive Coverage on or after January 1, 1984 and for which payment is made on or after that date shall be a Comprehensive claim subject to the Safe Driver Insurance Plan.

92.05: Notification of At Fault Accidents

(1) Claims Under Property Damage Liability Coverage - Single Vehicle Accidents. Within 20 working days of the payment of any Property Damage Liability claim in excess of the amounts specified in 211 CMR 92.04(3) that resulted from an accident involving only one vehicle, where that vehicle was a vehicle subject to the Safe Driver Insurance Plan, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of said report. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.

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(2) Claims Under Collision Coverage - Single Vehicle Accidents. Within 20 working days of the payment of any Collision claim in excess of the amounts specified in 211 CMR 92.04(3) that resulted from an accident involving only one vehicle, where that vehicle was a vehicle subject to the Safe Driver Insurance Plan, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of said report unless the claim resulted from damage to the vehicle caused by flying gravel, missiles or falling objects. If the Policyholder is a person other than the Involved Operator, the Insurer shall send the Policyholder a copy of the notice.

(3) Claims Under Property Damage Liability Coverage - Multiple Vehicle Accidents. Within 20 working days of the payment of any Property Damage Liability claim in excess of the amounts specified in 211 CMR 92.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to the Safe Driver Insurance Plan, the Insurer shall report an At Fault Accident to the Merit Rating Board and shall notify the Involved Operator of said report. No such notification shall be sent by the Insurer if the sole reason for filing the claim is that a vehicle owned by the person filing the claim was being driven by some other person at the time that it was involved in the accident. If the Policyholder is a person other than the Involved Operator, the Insurer shall send to the Policyholder a copy of the notice.

(4) Claims Under Collision Coverage - Multiple Vehicle Accidents. Within 20 working days of the filing of any Collision claim in excess of the amounts specified in 211 CMR 92.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to the Safe Driver Insurance Plan, there shall be a conference of the Insurer with whom the claim has been filed and all Insurers of operators who were involved in the accident and who might be alleged to have been at fault, unless the Insurer with whom the claim has been filed has denied the claim or has determined that the operator of its insured vehicle is more than 50% at fault. For the purposes of 211 CMR 92.05(4) and 92.05(5), a telephone conversation among the Insurers shall satisfy the requirement that a conference be held. If no conference is held, the Insurer shall report the at fault accident to the Merit Rating Board in accordance with 211 CMR 92.05(2). Within 45 working days of any conference, the Insurers shall determine which operator, if any, was at fault in excess of 50%. If any Involved Operator is determined to have been at fault in excess of 50%, the Insurer of that Involved Operator shall report an At Fault accident to the Merit Rating Board, and shall notify the Involved Operator of said report unless this Insurer has denied each Property Damage Liability or Collision claim resulting from the accident or closed each such claim resulting from the accident with a payment of less than the amounts specified in 211 CMR 92.04(3). If the Policyholder is a person other than the Involved Operator, the Insurer shall send to the Policyholder a copy of the notice within 60 working days of the date the claim was filed.

(5) Claims Under Limited Collision Coverage - Multiple Vehicle Accidents. Within 20 working days of the payment of any Limited Collision claim in excess of the amount specified in 211 CMR 92.04(3) that resulted from an accident involving more than one vehicle, where at least one vehicle is a vehicle subject to the Safe Driver Insurance Plan, there shall be a conference of the Insurer with whom the claim has been filed and all Insurers of operators who were involved in the accident and who might be alleged to have been at fault. Within 45 working days of any conference, the Insurers shall determine which operator, if any, was at fault in excess of 50%. If any Involved Operator is determined to have been at fault in excess of 50%, the Insurer of that Involved Operator shall report an At Fault accident to the Merit Rating Board and shall notify the Involved Operator of said report unless this Insurer has denied each Property Damage Liability or Collision claim resulting from the accident or closed each such claim with a payment of less than the amounts pursuant to 211 CMR 92.04(3). If the Policyholder is a person other than the Involved Operator, the Insurer shall send to the Policyholder a copy of the notice.

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(6) Disputed Claims. An Insurer with whom a Collision claim in excess of \$200 has been filed that resulted from an accident involving more than one vehicle, where at least one vehicle was a vehicle subject to the Safe Driver Insurance Plan, may defer issuance of the notice required by 211 CMR 92.05(4) beyond the time indicated in 211 CMR 92.05(4) if:

- (a) the Insurer has determined after any conference required by that section that the Involved Operator was not at fault in excess of 50%; and
- (b) an intercompany arbitration petition has been filed or a civil action has been initiated following denial of a Property Damage Liability claim. No such deferral shall continue beyond 12 months following the date of the accident.

(7) Form of Surcharge Notice. Any notice of an At Fault Accident to the Merit Rating Board under this article shall be made using the Surcharge Notice form approved by the Commissioner. The notice shall include an Appeal Form which may be used by the Policyholder or the Involved Operator to appeal the At Fault Accident to the Board of Appeals pursuant to M.G.L. c. 175, § 113P. The notice shall be completed by the Insurer in the manner prescribed in the Manual of Administrative Procedures.

(8) Failure to Submit. Failure to accurately complete and submit, within the specified time, the Surcharge Notice forms required by 211 CMR 92.05(1) through (5) to the Merit Rating Board may subject the Insurer to the penalty set forth in 211 CMR 92.20.

(9) Correction of Surcharge Notices. Failure to correct and return a Surcharge Notice found to be in error in the manner specified in the Manual of Administrative Procedures may subject the Insurer to the penalty set forth in 211 CMR 92.20.

92.06: Notification of a Claim Under Comprehensive Coverage

(1) Claims Under Comprehensive Coverage. Within 30 working days of the payment of any Comprehensive claim under Comprehensive Coverage for a vehicle subject to the Safe Driver Insurance Plan, the Insurer shall notify the Merit Rating Board in the manner specified in the Manual of Administrative Procedures.

(2) Form of Notice to the Merit Rating Board. The Merit Rating Board shall specify in the Manual of Administrative Procedures the form of the Comprehensive Claim Notice, the manner of completing said notice and the timing of the submission of said notice.

(3) Notification. When an insurer, agent, or insurer's representative is contacted, either verbally or in writing, by a policyholder who indicates that he/she intends to file a comprehensive claim, the insurer, agent or insurer's representative must inform the policyholder that the filing and paying of the comprehensive claim will be reported to the Merit Rating Board. The policyholder must also be informed that if he/she has four or more claims within three years whose collective total is \$2000 or more, he/she will be subject to a premium adjustment for comprehensive coverage under the provisions of the Safe Driver Insurance Plan. Any proof of loss form or comprehensive claim form must contain language, as specified in the Manual of Administrative Procedures, so informing the policyholder. In those instances in which payment of the Comprehensive Claim will not be made directly to the Policyholder, the Insurer must provide notice to the Policyholder regarding the Comprehensive Claim in the manner specified in the Manual of Administrative Procedures.

(4) Failure to Submit. Failure to accurately complete and submit, within the specified time, the Comprehensive Claim Notice required by 211 CMR 92.06(2) to the Merit Rating Board may subject the insurer to the penalty set forth in 211 CMR 92.20.

(5) Correction of Claim Notices. Failure to correct and return a Comprehensive Claim Notice found to be in error in the manner specified in the Manual of Administrative Procedures may subject the Insurer to the penalty set forth in 211 CMR 92.20.

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92.07: Notice Following Traffic Law Violations

- (1) No Notice by Insurer or Merit Rating Board. Citation for any Traffic Law Violation subject to the Safe Driver Insurance Plan shall serve as sufficient notice to the Involved Operator that premium adjustments may be applied. There shall be no right of appeal to the Board of Appeal pursuant to M.G.L. c. 175, § 113P.
- (2) Notice on Citation. The Merit Rating Board shall take reasonable steps to ensure that each citation or supplemental citation issued for a Traffic Law Violation informs the Involved Operator that election of any of the three alternatives afforded by M.G.L. c. 90C may result in an adjustment of premium.

92.08: Operator Information

- (1) Collection of Operator Information. Prior to the issuance of any new or renewal Policy subject to the Safe Driver Insurance Plan, an Insurer shall obtain, from the Policyholder, Operator Information for the Policyholder and for any Listed Operator covered by the Policy. Requests for Operator Information shall be in a manner and on a form prescribed by the Commissioner. Each Insurer shall require its Policyholders to indicate whether a Listed Operator is also the Policyholder of or listed as an operator on any other Policy subject to the Safe Driver Insurance Plan.
- (2) Correction of Operator Information. Following the rejection by the Merit Rating Board of a request for Surcharge Information because of incorrect Operator Information, the Insurer must correct the Operator Information in the manner specified in the Manual of Administrative Procedures.
- (3) Penalties. Failure to collect or correct operator information in accordance with 211 CMR 92.08(1) and (2) and applicable portions of the Manual of Administrative Procedures may subject the Insurer to the penalty set forth in 211 CMR 92.20.

92.09: Acquisition of Surcharge Information

- (1) Initial Inquiries.
 - (a) New Policies. Insurers shall obtain Surcharge Information for a new Policy subject to the Safe Driver Insurance Plan from the Merit Rating Board no earlier than 45 days before the first day of the month of the effective date of the Policy and no later than 15 days after the date the Policy is issued. The inquiry shall be made in the manner prescribed in the Manual of Administrative Procedures.
 - (b) Renewal Policies. Insurers shall obtain Surcharge Information for a renewal Policy subject to the Safe Driver Insurance Plan from the Merit Rating Board no earlier than 75 days before the first day of the month of the effective date of the Policy and prior to issuing the Policy. The inquiry shall be made in the manner prescribed in the Manual of Administrative Procedures.
- (2) Inquiries for New Operators. In the event a Policy subject to the Safe Driver Insurance Plan is endorsed to add an operator as a Listed Operator during the first 245 days of the policy term, the Insurer shall obtain Surcharge Information for the operator that is being added from the Merit Rating Board in the manner prescribed in the Manual of Administrative Procedures.
- (3) Reinquiries. Following the receipt of a Notice to Reinquire from the Merit Rating Board, an Insurer must submit a request for Surcharge Information to the Merit Rating Board for the Policyholder and for each Listed Operator in the manner prescribed in the Manual of Administrative Procedures.

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(4) Policy Numbers. Insurers must assign policy numbers unique to each policy being issued within a particular policy year. This number must be consistently reported and/or used on the Coverage Selections Page, inquiries to the Merit Rating Board, Surcharge Notices, Comprehensive Claim Notices, Premium and Loss Statistical Records and any other document calling for identification utilizing a policy number. Upon written request by an Insurer, the Commissioner may grant a one year waiver of the requirements of 211 CMR 92.09(4) if the Insurer demonstrates that complying with 211 CMR 92.09(4) would result in undue hardship.

92.10: Posting of Incidents, Computation and Reporting of Unsafe Driver Points

(1) Responsibilities of the Merit Rating Board. The Merit Rating Board is the only authorized source of and shall bear sole responsibility for the reporting of Surcharge Information in response to requests for Surcharge Information.

(2) Posting of At Fault Accidents. On receipt of a Surcharge Notice sent by an Insurer in accordance with 211 CMR 92.05 the Merit Rating Board shall post a Surchargeable Incident for the At Fault Accident to the account of the Involved Operator.

(3) Posting of Traffic Law Violations. On receipt of a court abstract for a Traffic Law Violation which is listed on the schedule of violations specified in 211 CMR 92.00: *Appendix A*, and for which the court has either found the Involved Operator guilty or responsible or has assigned the Operator to an alcohol education program, the Merit Rating Board shall post a Surchargeable Incident for the Traffic Law Violation to the account of the Involved Operator unless the violation was deemed to be an owner violation by the court, in which case the Merit Rating Board shall post the Surchargeable Incident to the account of the owner of the vehicle.

(4) Determination of the Surchargeable Incident Type. When posting a Surchargeable Incident to the account of an Involved Operator or a Policyholder, the Merit Rating Board shall assign it a type. There shall be five types as defined below:

(a) Major Accident - An At Fault Accident, as further defined in 211 CMR 92.04 and 92.05, occurring on or after January 1, 1984, wherein the claim payment, exclusive of any deductible, exceeds \$1,500 under either Property Damage Liability Coverage, Collision Coverage or Limited Collision Coverage.

(b) Minor Accident - An At Fault Accident, as further defined in 211 CMR 92.04 and 92.05, occurring on or after January 1, 1984, wherein the claim payment, exclusive of any deductible, exceeds \$200 but is not more than \$1,500 under either Property Damage Liability Coverage, Collision Coverage, or Limited Collision Coverage. An At Fault Accident occurring prior to January 1, 1984, for which the Involved Operator received a Surcharge Notice under the Standard Merit Rating Plan, 211 CMR 79.00, shall also be considered a minor accident.

(c) Major Traffic Law Violation - Those Traffic Law Violations so specified by the Commissioner for use in the Safe Driver Insurance Plan and so noted in 211 CMR 92.00: *Appendix A*.

(d) Minor Traffic Law Violation - Those Traffic Law Violations so specified by the Commissioner for use in the Safe Driver Insurance Plan and so noted in 211 CMR 92.00: *Appendix A*.

(e) Comprehensive Claims - Any claim payment made under Comprehensive Coverage.

(5) Posting of Comprehensive Claims. On receipt of a Comprehensive Claim Notice from an Insurer in accordance with 211 CMR 92.06, the Merit Rating Board shall post a Surchargeable Incident for the Comprehensive claim to the account of the Policyholder. In the case where two individuals are listed as the policyholders and joint owners of the insured vehicle(s), the first person listed on the policy shall be considered to be the policyholder for the purpose of 211 CMR 92.10(5).

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(6) Computation of Points. In response to a request from an Insurer for Surcharge Information for a Policy subject to the Safe Driver Insurance Plan, the Merit Rating Board shall compute and report to the Insurer the number of Unsafe Driver Points. Only Surchargeable Incidents that are within the Experience Period of the Policy shall be used in calculating Unsafe Driver Points. The Merit Rating Board shall use the Surcharge Date to determine which Surchargeable Incidents are within the Experience Period of the Policy. These points will be reported by Surchargeable Incident, by operator and shall be the only points from which the Insurer shall adjust the premium billed to the Policyholder.

(7) Multiple Surcharged Incidents. If an Involved Operator or Policyholder has two or more Surchargeable Incidents on file at the Board, all of which arose from the same incident, the Merit Rating Board shall report to an Insurer the Surchargeable Incident with the greatest number of Unsafe Driver Points as specified in 211 CMR 92.15 and 92.16.

92.11: Application of Safe Driver Insurance Plan Premium Adjustments

(1) Policy Issuance. No Policy subject to the Safe Driver Insurance Plan shall be issued without Surcharge Information except as approved by the Commissioner and as specified in the Manual of Administrative Procedures.

(2) Coverage Selections Page. Each Insurer shall assure that the first Coverage Selections Page sent to a Policyholder whose policy is being billed for one or more Surchargeable Incidents or is eligible for one or more Safe Driver Credits, shows the total premium, correctly adjusted for the Unsafe Driver Point(s) or the Safe Driver Credit(s), unless an explicit provision of the Manual of Administrative Procedures allows, or the Insurer has requested, and has received from the Commissioner, in writing, a waiver that allows the Insurer to display the total premium adjustment amount for the Policy either on a replacement Coverage Selections Page or on an invoice for the Policy, in lieu of displaying it on the initial Coverage Selections Page, as required by 211 CMR 92.11(2).

(3) Statement of Unsafe Driver Points. Each Insurer shall assure that each Policyholder of a policy insuring a vehicle not eligible for an Excellent Driver Award or five-year credit receives an itemization on a form approved by the Commissioner of the Surchargeable Incidents and Unsafe Driver Points. The Statement and the method of mailing shall conform to the requirements specified in the Manual of Administrative Procedures.

(4) Point Values. At the same time automobile insurance rates are established pursuant to M.G.L. c. 175, § 113B, the Commissioner will assign dollar values to Unsafe Driver Points which may vary according to the number of points irrespective of the class and territory of the policy.

(5) Policy Application. Unsafe Driver Points will be applied on a per vehicle basis. Operators will be assigned to vehicles using the ratio that one operator-year of exposure equals one vehicle-year of exposure.

(a) Single Vehicle Policies. The premium adjustment shall be computed by using the number of Unsafe Driver Points of the listed operator with the highest number of Unsafe Driver Points and shall not reflect the points of any other listed operator.

(b) Multi-Vehicle Policies. The premium adjustment for the first vehicle on the Policy shall be computed by using the number of Unsafe Driver Points of the listed operator with the highest number of Unsafe Driver Points. For each subsequent vehicle, the premium adjustment shall be computed by using the number of Unsafe Driver Points of the remaining listed operator with the highest number of Unsafe Driver Points until all vehicles are exhausted. If the number of vehicles exceeds the number of listed operators, Unsafe Driver Points will not be applied to the excess vehicles. Refer to 211 CMR 92.13 to determine whether any excess vehicle is credit eligible.

(c) Multiple Billings. An individual's Unsafe Driver Points resulting from a particular Surchargeable Incident may not be billed on more than one policy in effect at the same time by either the same or different insurers.

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(6) Refunds. Insurers shall prorate policies when Surchargeable Incidents have been reported and billed under the Safe Driver Insurance Plan that are subsequently reversed by the Superior Court or the Board of Appeal.

(7) Affirmative Duty. It shall be the affirmative duty of all Insurers and/or their agents to correctly bill Unsafe Driver Points or Safe Driver Credits in accordance with the Safe Driver Insurance Plan.

(8) Penalties. Failure to correctly bill Unsafe Driver Points or Safe Driver Credits in accordance with this Article may subject the Insurer to the penalty set forth in 211 CMR 92.20.

92.12: Earned Premium Not Paid

(1) Policies Canceled, Earned Amounts. In the event of the cancellation of a Policy subject to the Safe Driver Insurance Plan for which the insurer has billed but failed to collect monies from the policyholder equal to the earned premium, the insurer may report the earned but unpaid premium amount to the Merit Rating Board as provided in the Manual of Administrative Procedures within 120 days of cancellation. The Merit Rating Board may reject any submission later than 120 days from the cancellation date.

(2) Posting of Unpaid Premium. Upon notification of unpaid earned premium from an Insurer in accordance with 211 CMR 92.12(1), the Merit Rating Board shall post a record so indicating to the account of the Policyholder.

(3) Reporting of Unpaid Premium. In response to a request from an Insurer for Surcharge Information for a Policy subject to the Safe Driver Insurance Plan, the Merit Rating Board shall report to the Insurer any unpaid earned premium, as listed on the Merit Rating Board's records at time of inquiry, for any Listed Operator.

(4) Policy Application. When an insurer receives a response record from the Merit Rating Board indicating the one or more of the Policy's Listed Operators has unpaid earned premium due a previous insurer within the previous year, the current insurer may take such action, including the refusal to insure, as allowed by law. If the current insurer does not take any action, the Merit Rating Board shall refuse to accept any unpaid earned premium record for the current Policy.

(5) Offsetting Records. Each insurer that has submitted an unpaid premium record to the Merit Rating Board, as provided in 211 CMR 92.12(1), and subsequently collects that unpaid earned premium, must, within 30 days of said collection, submit an offsetting record as prescribed in the *Manual of Administrative Procedures*.

(6) Reporting. Annually, the Merit Rating Board shall issue a report to the Commissioner summarizing the following:

(a) The total dollar value of all unpaid earned premium records reported to the Board in the preceding year that have not been offset as provided in 211 CMR 92.12(5).

(b) The total dollar value of all cases wherein unpaid earned premium due a previous insurer was reported to the current insurer and the current insurer did not take any steps to promote the collection of this premium.

92.13: Credits

(1) Credit Eligibility. Credit eligibility shall be determined on a per-vehicle basis. Operators shall be assigned to vehicles using the ratio of one operator-year of exposure equals one vehicle-year of exposure. For purposes of 211 CMR 92.13, a listed operator who has a surchargeable incident within the experience period of the policy shall be considered to have a higher number of Unsafe Driver Points than a listed operator who does not have a surchargeable incident within the experience period. There shall be three credit categories: The Excellent Driver Award or five-year credit, which applies to any driver with no surchargeable incidents within the five-year period immediately preceding the policy effective date; the four-year credit, which applies to any driver with no surchargeable incidents within the four-year period immediately preceding the policy effective date; and the three-year credit, which applies to any driver with no surchargeable incidents within the three-year period immediately preceding the policy effective date.

(a) Single Vehicle Policies. Credit eligibility shall be determined by using the surcharge information of the listed operator with the highest number of Unsafe Driver Points.

(b) Multi-Vehicle Policies. Except as provided below, credit eligibility for the first vehicle on the Policy shall be determined by using the surcharge information of the listed operator with the highest number of Unsafe Driver Points. For each subsequent vehicle, credit eligibility shall be determined by using the surcharge information of the remaining listed operator with the highest number of Unsafe Driver Points until all vehicles are exhausted. If the number of vehicles exceeds the number of listed operators, the credit eligibility of each additional vehicle shall be determined by using the surcharge information of the listed operator with the lowest number of Unsafe Driver Points.

If a policyholder has filed an operator exclusion form regarding a listed operator, then the excluded operator's surcharge information shall not be used to determine the credit eligibility of the vehicle(s) he or she has been excluded from operating.

(c) Multiple Credit Denial. An individual's surcharge information may not be used to deny a credit to more than one vehicle, whether insured by the same or different insurers, unless the individual is the listed operator with the lowest number of Unsafe Driver Points.

A vehicle insured by a policy subject to the Safe Driver Insurance Plan shall be entitled to a three-year, four-year, or five-year credit if and only if the following conditions are met:

1. The merit Rating Board has informed the Insurer in response to a request for surcharge information pursuant to 211 CMR 92.09 that the operator whose surcharge information is to be used to determine the credit eligibility of the vehicle does not have a surchargeable incident of the types outlined in 211 CMR 92.10(4)(a) through (d) within the three, four or five years immediately preceding the policy effective date;
2. The vehicle is not rated as principally operated by an inexperienced operator(s) as defined as having less than three years of driving experience. (Specifically, any vehicle rated as class 20 and 25 is ineligible for a credit); and
3. The operator whose surcharge information is to be used to determine the credit eligibility of the vehicle has a valid Massachusetts driver's license.

(2) Credit Factors. Credit Factors, expressed as a percentages of premium, will be established by the Commissioner at the same time automobile insurance rates are established pursuant to M.G.L. c. 175, § 113B.

(3) Application. The Credit Amount for each vehicle covered by a policy shall be computed by multiplying the appropriate Credit Factor times the final Property Damage Liability premium for the class and territory of the policy.

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92.14: Reporting of Information

Insurers shall submit to the Commissioner, to the Merit Rating Board or to the Designated Statistical Agent, such records, statistics, or other compilations of data pertaining to the Safe Driver Insurance Plan as the Commissioner or the Merit Rating Board may require. The Commissioner shall prescribe the form of such submissions. The Designated Statistical Agent shall send to the Merit Rating Board copies of statistical records noted above and copies of any statistical records forwarded to the Massachusetts Auto Rating Bureau for all policies subject to the Safe Driver Insurance Plan as directed by the Commissioner.

92.15: Schedule of Unsafe Driver Points

For policy year 1989, any surchargeable incident that is within the Experience Period but is three years or more before the policy effective date will be assigned zero Unsafe Driver Points.

(1) Major Accident. Three Unsafe Driver Points shall be assigned to each Major Accident, as defined in 211 CMR 92.10(4)(a), that is within the Experience Period of the Policy. One point shall be subtracted for each complete year between the Surcharge Date for the Major Accident and the Policy Effective Date during which no other Surchargeable Incident, as determined by its Surcharge Date, has occurred. For the purpose of this calculation, only the Surchargeable Incident types outlined in 211 CMR 92.10(4)(a) through (d) shall be utilized and point totals shall not be reduced below zero.

(2) Minor Accident. Two Unsafe Driver Points shall be assigned to each Minor Accident, as defined in 211 CMR 92.10(4)(b), that is within the Experience Period of the Policy. One point shall be subtracted for each complete year between the Surcharge Date for the Minor At Fault Accident and the Policy Effective Date during which no other Surchargeable Incident, as determined by its Surcharge Date, has occurred. For the purpose of this calculation, only the Surchargeable Incident types outlined in 211 CMR 92.10(4)(a) through (d) shall be utilized and point totals shall not be reduced below zero. Two points shall be subtracted from the points otherwise applicable to a Minor Accident if the following conditions are met:

- (a) the accident occurred prior to January 1, 1984;
- (b) the accident is the only Minor or Major accident within the Experience Period; and
- (c) at least one complete year has elapsed between the Surcharge Date for the accident and the Policy Effective Date.

Point totals shall not be reduced below zero.

(3) Major Traffic Law Violation. Four Unsafe Driver Points shall be assigned to each Major Traffic Law Violation, as defined in 211 CMR 92.10(4)(c), that is within the Experience Period of the Policy.

(4) Minor Traffic Law Violation. One Unsafe Driver Point shall be assigned to each Minor Traffic Law Violation, as defined in 211 CMR 92.10(4)(d), that is within the Experience Period of the Policy. One point shall be subtracted for each complete year between the Surcharge Date for the Minor Traffic Law Violation and the Policy Effective Date during which no other Surchargeable Incident, as determined by the Surcharge Date, has occurred. For the purpose of this calculation, only the Surchargeable Incident types outlined in 211 CMR 92.10(4)(a) through (d) shall be utilized and point totals shall not be reduced below zero. No Unsafe Driver Points shall be assigned to a Minor Traffic Law Violation which is the first Traffic Law Violation, as determined by Surcharge Date, within the Experience Period if the disposition of the violation was non-criminal under M.G.L. c. 90C.

(5) Comprehensive Claims. No Unsafe Driver Points for Comprehensive Claims shall be assigned to Policies with effective dates prior to January 1, 1985. Unsafe Driver Points for Comprehensive Claims may be assigned to policies affording Comprehensive Coverage which become effective in calendar year 1985; however, no points may be assigned unless four or more comprehensive claims totaling \$2,000. or more have occurred since January 1, 1984.

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92.16: Adjustments of Unsafe Driver Points for Surchargeable Incidents Billed Under the Standard Merit Rating Plan

In computing the number of Unsafe Driver Points pursuant to 211 CMR 92.10(6), the Merit Rating Board shall make the following adjustments for Surchargeable Incidents billed under the Standard Merit Rating Plan. Individual Surchargeable Incidents occurring prior to January 1, 1984 that were subject to the Standard Merit Rating Plan, shall have their Unsafe Driver Points reduced based on the paid portion of the Maximum Surcharge utilizing the following three step formula:

1. $\frac{\text{Unpaid Surcharge}}{\text{Maximum Surcharge}} = \text{Unpaid Factor (rounded to one decimal)}$
2. $\text{Unpaid Factor} \times \text{Age Points} = \text{Unadjusted Points (rounded to one decimal)}$
3. $\text{Unadjusted Points} - .2 = \text{Final Points (rounded to the nearest whole number)}$

The formula will result in no adjustment to the Unsafe Driver Points for Surchargeable Incidents wherein no portion of the Maximum Surcharge is paid and a full adjustment of the Unsafe Driver Points to zero for a Surchargeable Incident wherein the Maximum Surcharge is fully paid.

92.17: Merit Rating Board Liaison

(1) Designation. Each Insurer with one or more Policies subject to the Safe Driver Insurance Plan shall designate an employee as its Massachusetts Merit Rating Liaison, and shall notify the Commissioner and the Merit Rating Board in writing of its designation in the manner prescribed in the Manual of Administrative Procedures. Within ten working days of the reassignment of a Massachusetts Merit Rating Liaison, an Insurer shall replace or redesignate its Massachusetts Merit Rating Liaison and notify the Merit Rating Board in writing of the replacement or redesignation.

(2) Information. Each Insurer shall be responsible for ensuring that its Massachusetts Merit Rating Liaison becomes and remains informed of the provisions of 211 CMR 92.00 and of the Manual of Administrative Procedures.

92.18: Industry Advisory Committee

The Commissioner shall establish an Industry Advisory Committee on the Safe Driver Insurance Plan which shall consist of at least 12 Merit Rating Board Liaisons and other interested parties appointed by the Commissioner. The Committee shall provide advice to the Commissioner or to the Merit Rating Board concerning 211 CMR 92.00 or any amendment thereto, and to the Merit Rating Board concerning the contents of the Manual of Administrative Procedures and any amendments or additions thereto.

92.19: Manual of Administrative Procedures

The Merit Rating Board shall prepare and distribute, with the assistance of the Industry Advisory Committee specified in 211 CMR 92.18, a Manual of Administrative Procedures which sets forth the administrative rules to be followed by all Insurers in implementing the Safe Driver Insurance Plan in accordance with the provisions of 211 CMR 92.00. A copy of the proposed Manual, or of any proposed amendment to the Manual, shall be sent to each Massachusetts Merit Rating Liaison and to any other interested party.

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92.20: Penalties

Any Insurer or person violating 211 CMR 92.00 shall be subject to a fine of not more than \$500 for each violation in accordance with M.G.L. c. 175, § 194.

REGULATORY AUTHORITY

211 CMR 92.00: M.G.L. c. 175, § 113B as amended by St. 1983; c. 241, and c. 596.

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APPENDIX A: TRAFFIC LAW VIOLATIONS

The following abbreviations are used in Appendix A:

"M.G.L. c. §, Chapter and Section of the Massachusetts General Laws

"CMR", Code of Massachusetts Regulations

MAJOR TRAFFIC VIOLATIONS

Driving to Endanger or Reckless Driving	M.G.L. c. 90, § 24
Liquor and Narcotics, operating under the influence of (including assignment to a driver alcohol education program under Ch. 90, § 24D)	M.G.L. c. 90, § 24
Operating after revocation of license	M.G.L. c. 90, § 23
Vehicular Homicide	M.G.L. c. 90, § 24G

MINOR TRAFFIC VIOLATIONS

Accident, hit and run	M.G.L. c. 90, § 24
Alleys and driveways, emerging from, must stop	720 CMR 9.06(20)
Allowing vehicle to stand unattended, motor running	M.G.L. c. 90, § 13
Anything on or in vehicle or on person interferes with operation	M.G.L. c. 90, § 13
Attempting a speed record	M.G.L. c. 90, § 13
Backing up for missed ramp	720 CMR 9.08(3)
Blind pedestrians, must stop for	M.G.L. c. 90, § 14A
Blow horn when necessary	720 CMR 9.06(15)
Brakes, operating without	M.G.L. c. 90, § 7
Bridges, speed law	M.G.L. c. 90, § 30
Channelizing island, no driving on	720 CMR 9.06 (22)
Crosswalk, motor vehicle not to enter if his car will block it	M.G.L. c. 89, § 11
Crosswalk, operator yield to pedestrian	M.G.L. c. 89, § 11
Cutting in after passing	720 CMR 9.06(3)
Directional signals, devices required	M.G.L. c. 90, § 7
Directional signals, hand or mechanical required for lane change	M.G.L. c. 90, § 14B
Driving in "breakdown lane"	M.G.L. c. 89, § 4B
Driving within 8 feet of street car stopped for passengers	M.G.L. c. 90, § 14
Emergency vehicles, right of way	M.G.L. c. 89, § 7
Failure to ascertain if it is safe to change lanes	M.G.L. c. 89, § 4A
Failure to keep to the right when turning right	M.G.L. c. 90, § 14
Failure to keep to the far left when turning on a one/two way street	M.G.L. c. 90, § 14
Failure to fasten a trailer to a tow vehicle with proper safety chains	M.G.L. c. 90, § 7
Failure to give proper stopping or turning	

signals

M.G.L. c. 90, § 14B

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Appendix A: continued

Failure to keep in right lane	M.G.L. c. 89, § 4B
Failure to keep to right when view is obstructed up to 400 feet	M.G.L. c. 89, § 4
Failure to see that movement can be made in safety before starting, stopping, turning or backing up	720 CMR 9.06(9)
Failure to stop at sign or signal at intersection	M.G.L. c. 89, § 9
Failure to use child restraint	M.G.L. c. 90, § 7AA
Fire apparatus, driving within 300 feet if going to a fire	M.G.L. c. 89, § 7A
Fire apparatus, failing to pull to right and stop	M.G.L. c. 89, § 7A
Fire Department, interfering with	M.G.L. c. 89, § 7A
Flashing red traffic signal, failure to stop	M.G.L. c. 89, § 9
Following too closely	720 CMR 9.06(7)
Hand signals, failure to give	M.G.L. c. 90, § 14B
Headlights, dimming from high beam	M.G.L. c. 90, § 31, 540 CMR 2.12
Headlights, one half hour after sunset	M.G.L. c. 90, § 7
Headphones, wearing while operating	M.G.L. c. 90, § 13
Height, operating vehicle when elevated or lowered	M.G.L. c. 90, § 7P
Hit and run, person injured	M.G.L. c. 90, § 24
Hit and run, property damage	M.G.L. c. 90, § 24
Horn, operating without	M.G.L. c. 90, § 7
Horn, sound when necessary	720 CMR 9.06(15)
Ignition key, remove from unattended vehicle	M.G.L. c. 90, § 13
Improper Passing	M.G.L. c. 89, S.1
Inspection sticker, operating without	M.G.L. c. 90, § 7A
Intersecting way, slow down when approaching	M.G.L. c. 90, § 14
Junior operator's license, operating in violation of	M.G.L. c. 90, § 8
Lane, marked, no straddling	720 CMR 9.06(1)
Learner's permit, motorcycle, violation of	M.G.L. c. 90, § 8B
Learner's permit, operating in violation of	M.G.L. c. 90, § 8B
Leaving scene of accident after injuring a person	M.G.L. c. 90 § 24
Leaving scene of accident after injuring property	M.G.L. c. 90 § 24
License, Class 1-2-3	M.G.L. c. 90 § 8A, 540 CMR 2.07
License, operating when not properly licensed	M.G.L. c. 90 § 10
License, violation of restriction	M.G.L. c. 90 § 8
Lights, operating motor vehicle with improper lights	M.G.L. c. 90, § 7 and 16
Liquor, motor vehicle minor	M.G.L. c. 138 § 34C
Making a turn from the wrong lane of traffic	M.G.L. c. 90, § 14

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Appendix A: continued

Making a right turn on a red light where prohibited	M.G.L. c. 89, § 8
Meeting other vehicles, exercise due care when	M.G.L. c. 89, s.1
Mirrors and reflectors, operating without proper	M.G.L. c. 90, s.7
Motorcycle, operating without proper equipment, lights and headgear	M.G.L. c. 90, § 7
Motorcycle, no more than 2 abreast	M.G.L. c. 89, § 4A
Motorcycle, no passenger unless machine so designed	M.G.L. c. 90, § 13
Motorcycle, single file when passing	M.G.L. c. 89, § 4A
Negligently operating	M.G.L. c. 90, § 24
Not reasonably to right for vehicle approaching from the opposite direction	M.G.L. c. 89, § 1
Noise, offensive, unreasonable (squealing tires)	M.G.L. c. 90, § 16
Not slowing down and keeping right of center on approaching intersection or corner where view is obstructed	M.G.L. c. 90, § 14
Not stopping for officer	M.G.L. c. 90, § 25
Not yielding to oncoming vehicles when making a left turn	M.G.L. c. 90, § 14
Obstructing emergency vehicle	M.G.L. c. 89, § 7
One way street regulations	M.G.L. c. 89, § 10
One way street, left turn from	M.G.L. c. 90, § 14
Operating after suspension of drivers license	M.G.L. c. 90, § 23
Operating after suspension or revocation of registration	M.G.L. c. 90, § 23
Operating, at crosswalk yield to pedestrian	720 CMR 9.06(27)
Operating, being overtaken, must not increase speed	720 CMR 9.06(5)
Operating on a bet or wager	M.G.L. c. 90, § 24
Operating car not properly registered	M.G.L. c. 90, § 9
Operating, disobeying sign, signal or marker	720 CMR 9.07(4)
Operating, don't enter intersection or crosswalk unless crossing can be completed	720 CMR 9.06(6)(b)
Operating, don't obstruct movement of traffic	720 CMR 9.06(6)(a)
Operating, don't pass unless safe	720 CMR 9.06(3)
Operating, funerals and processions	720 CMR 9.06(24)
Operating in violation of license restrictions	M.G.L. c. 90, § 8
Operating, men & equipment in highway	720 CMR 9.06(25)
Operating at speed greater than reasonable or proper	M.G.L. c. 90, § 17
Operating, marked lanes staying within	720 CMR 9.06 (01)
Operating, motorcycle without permanent seat	M.G.L. c. 90, § 13
Operating motor vehicle without liability policy	M.G.L. c. 90, § 34J
Operating, no driving on sidewalks	720 CMR 9.06(19)
Operating not far enough to right	M.G.L. c. 89, § 1
Operating, obey traffic signs, signals,	

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markings

720 CMR 9.06(10)

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Appendix A: continued

Operating on road surface closed to travel due to construction or repair	720 CMR 9.06 (18)
Operating, obey yield signs	720 CMR 9.06(14)
Operating on ways divided into lanes	M.G.L. c. 89, § 4A
Operating through peek hole in snow on windshield	M.G.L. c. 90, § 13
Operating truck or bus, using passing lane where signs prohibit	720 CMR 9.08(5)
Operating, turning where signs prohibit	720 CMR 9.06(21)
Operating, U turn contrary to sign	720 CMR 9.06(22)
Operating unregistered car	M.G.L. c. 90, § 9
Operating, use right lane	720 CMR 9.06(2)
Operator not to obstruct passing vehicle	M.G.L. c. 89, § 2
Parking lights	M.G.L. c. 90, § 7
Passing a vehicle stopped for a pedestrian in a crosswalk	M.G.L. c. 89, § 1
Passing bicycles, slow down	M.G.L. c. 90, § 14
Passing, commercial vehicles, excess 2 and one half tons (except busses)	
use right lane pass in adjacent lane	M.G.L. c. 89, § 4C
Passing, don't obstruct passer	M.G.L. c. 89, § 2
Passing horses, use care	M.G.L. c. 90, § 14
Passing on right, unless vehicle being passed is (A) making a left turn, (B) on one way street (C) on a divided highway	M.G.L. c. 89, § 2
Passing school bus when flashers are on	M.G.L. c. 90, § 14
Passing vehicle forbidden if view is obstructed for less than 400 feet	M.G.L. c. 89, § 4
Pedestrian, failing to exercise due care to avoid colliding with	720 CMR 9.06(28)
Pedestrian, must slow down for	M.G.L. c. 90, § 14
Permitting Operation by a person who has no legal right	M.G.L. c. 90, § 12
Procession, following vehicle ahead as closely as is practical and safe	720 CMR 9.06(24)
Racing	M.G.L. c. 90, § 24
Railroad crossing, failure to slow down	M.G.L. c. 90, § 15
Railroad crossing, failure to stop while lights are flashing or gate lowered	M.G.L. c. 90, § 15
Rear lights, must have	M.G.L. c. 85, § 15
Rear lights, operating without	M.G.L. c. 90, § 7
Red flag or light, rear of load	M.G.L. c. 90, § 7
Red flashing signal, stop	M.G.L. c. 89, § 9
Refusing to stop for officer	M.G.L. c. 90, § 25
Right of way, fire engines, patrol wagons, ambulances	M.G.L. c. 89, § 7
Right of way, failure to yield to an approaching vehicle	720 CMR 9.06(14)
Right of way, pedestrian in a crosswalk	M.G.L. c. 89, § 15
Safety glass, operating or permitting operation without	M.G.L. c. 90, § 9A
School bus, driver's responsibilities	M.G.L. c. 90, § 7B
School bus, railroad crossing, must stop and open door	M.G.L. c. 90, § 15
School bus, speed limited	M.G.L. c. 90, § 17
School zone, speed limit	M.G.L. c. 90, § 17
Siren law	M.G.L. c. 90, § 16

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Appendix A: continued

Slow down to pass pedestrian	M.G.L. c. 90, § 14
Slow moving vehicles, keep right on upgrade	M.G.L. c. 89, § 4
Slow moving vehicles, keep 200 feet apart	720 CMR 9.06(8)
Speed at railroad crossings	M.G.L. c. 90, § 15
Speed, bridges	M.G.L. c. 85, § 20
Speed, certain vehicles to operate	
5.m.p.h. below speed posted	M.G.L. c. 90, § 17
Speed, decrease for special hazards	
(pedestrians, traffic, weather)	M.G.L. c. 90, § 17
Speed, failure to regulate when men	
and equipment are on road	
Speed, faster than posted	M.G.L. c. 90, § 17
Speed, greater than reasonable and proper	M.G.L. c. 90, § 17
Speed limit 15 m.p.h. near vehicle peddling	
merchandise, when flashing lights	M.G.L. c. 90, § 17
Speed limits, thickly settled district,	
school zone	M.G.L. c. 90, § 17
Speed, rules and regulations	M.G.L. c. 90, § 18
Speed, school bus	M.G.L. c. 90, § 17
Stolen car, operating	M.G.L. c. 90, § 24
Stop before passing school bus	M.G.L. c. 90, § 14
Stop sign, failure to completely stop	720 CMR 9.06(13)
Stop signs	M.G.L. c. 89, § 9
Street car, care in passing	M.G.L. c. 90, § 14
Street car, 8 foot stopping law	M.G.L. c. 90, § 14
Tailgating	720 C MR 9.06(7)
Television in operator's view	M.G.L. c. 90, § 13
Throughways, right of way	M.G.L. c. 89, § 9
Tires too wide	M.G.L. c. 90, § 19
Traffic, refusing to comply with lawful order	
of police officer when directing	720 CMR 9.07(3)
Traffic control lights, failure to obey	720 CMR 9.06(10)
Traffic signals, flashing red is same as	
stop sign	M.G.L. c. 89, § 9
Tread depth, tires	M.G.L. c. 90, § 7Q
Turning where signs prohibit	720 CMR 9.06(23)
Turning improperly	M.G.L. c. 90, § 14
Unlawful speed on County Bridge	M.G.L. c. 89, § 20
Unattended vehicle, stop engine,	
set brakes, remove key from	
switch and from vehicle	M.G.L. c. 90, § 13
U turn where signs prohibit	720 CMR 9.06(26)
Vehicles excluded area, operating	
or permitting one's vehicle to	
be operated where posted	M.G.L. c. 90, § 16
Violation of DPW rule or regulation	
relative to signs, lights, signal	
systems, traffic devices markings	M.G.L. c. 89, § 2
Violation of left lane exclusion of	
heavy vehicles	M.G.L. c. 89, § 4C
Violation of right of way at intersecting	
ways	M.G.L. c. 89, § 8
Violation of gubernatorial by-laws on	
ways of the Commonwealth	M.G.L. c. 85, § 23

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"Yield sign", failure to surrender to