

# Alabama Law Re: Property Damage from a Motor Vehicle Collision ©

Written by: Knox Boteler and Mark Wolfe, Attorneys at Law. The following information is provided as general advice and without charge. Questions about specific issues or situations should be directed to an experienced motor vehicle accident attorney. NOTE: The following material is protected by all applicable State and Federal Copyright laws. Published May, 2005, 2011

In Alabama, the measure of damages for personal property is the difference in value of the property before the accident and after the accident. Generally this means that if a vehicle can be repaired it



must be returned to its pre-accident condition. If the repairs can not return the vehicle to its pre-accident condition then there may be an additional claim for diminished value. Also included in a claim for damaged property are all damages or expenses that are reasonably related to the damaged property. This typically encompasses rental car expenses incurred while the vehicle is inoperable or being repaired.

**TOTAL LOSS:** Under Alabama law when the cost of repair for a vehicle is 75% or more of its fair retail value then the vehicle is deemed a total loss. [[Ala Code Sec. 32-8-87\(d\)](#)] In such a situation the insurance carrier buys the vehicle from the claimant for the [fair retail value](#) of the vehicle and then applies to the State for a Salvage Title. (See links below for sources for Fair Retail Value.)

**CONSUMER TIP:** If you think the adjuster's valuation of your vehicle is low, ask the adjuster to provide you with the valuation report. Most reputable insurance companies will allow their adjusters to provide a copy of this report to claimants. Review the valuation report to make sure information about your vehicle was correctly entered. Mistakes in details such as mileage, options, transmission type, and/or engine size can make a difference in the reported fair retail value of your vehicle.

In a total loss situation some claimants find themselves owing more on the car than the fair retail value of the vehicle. This means they may still owe money on a car that they no longer have or can use. **The insurance company for the at-fault driver is not responsible for money owed on a vehicle in excess of its fair retail value.** If you think you might be in this situation, then immediately check with the bank or finance company that provided the car loan to see if you purchased GAP Insurance when you financed the vehicle. GAP Insurance pays the difference between the fair retail value and the balance owed on the vehicle. The finance company can provide you with information and claim material for this type of claim. **CONSUMER TIP:** GAP Insurance should be purchased if there is little or no equity in the vehicle; however, check with the dealer and/or finance company to make sure you can drop the GAP coverage once the equity and fair retail value of the vehicle equals or exceeds the finance price. In other words once the "GAP" is gone there is no longer a need for GAP Insurance.

**NEW PARTS OR USED PARTS:** There is no requirement under Alabama law that an insurance company replace damaged parts on a vehicle with brand new parts. Used or after-market parts may be used for repairs as long as the parts to be used are comparable to the parts being replaced and return the vehicle to its pre-accident value.

## **THE FOLLOWING LINKS MAY PROVIDE MORE INFORMATION ABOUT PROPERTY DAMAGE ISSUES:**

FAQ's re auto-crash claims from the Ala Dept of Insurance

<http://www.aldoi.gov/Consumers/AutoFAQ.aspx>

Method Used for Determining Fair Retail Value- Alabama:

<http://www.ador.state.al.us/motorvehicle/mvrules/54105.html>

Fair Retail Value: These two sites can help you get information on the fair retail value of your vehicle.

Kelley Blue Book: <http://www.kbb.com/>

NADA: <http://www.nadaguides.com/>

Alabama Department of Revenue-Motor Vehicle Division: Everything you need to know about License Plates, Driver's Licenses, Vehicle Titles, etc.

<http://www.ador.state.al.us/motorvehicle/mvrules/mvnumindex.html>

General Summary of Auto-Property Damage Claim Process: Very good article by an attorney related to the property damage claim process.

<http://www.lawinformation.net/autoproperty.html>

Diminished Value: These web sites provide information and resources to help secure compensation for the diminished value of your repaired vehicle.

<http://www.usaautoappraisers.com/diminishedvalue.htm>

[http://auto-claims-help.com/diminished\\_value.html](http://auto-claims-help.com/diminished_value.html)

<http://www.insurancepr.com/e-library/410f012.htm>

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