

DEPARTMENT OF INSURANCE

Statutory Authority: 18 Delaware Code, Sections 314 and 2741 (18 Del.C. §§314 & 2741)
18 DE Admin. Code 606

ORDER

Docket No. 2007-526

606 Proof of Automobile Insurance [Formerly Regulation 31]

FINAL

Proposed amendments to Regulation 606 relating to standardization of insurance identification cards and notification to the Division of Motor Vehicles, of the termination of insurance coverage, were published in the Register of Regulations on October 1, 2007. The comment period remained open until November 5, 2007. There was no public hearing on proposed amendments to Regulation 606. Public notice of the proposed amended Regulation 606 in the Register of Regulations and two newspapers of general circulation was in conformity with Delaware law.

Summary of the Evidence and Information Submitted

Public comment was received from numerous sources. Delaware Defensive Driving, Inc. expressed support for the proposed changes. Insurance Services, Inc. suggested replacing the term "personal lines" with the term "private passenger auto". American Insurance Association suggested changes relative to Delaware residents serving out of state in the military. State Farm Mutual Automobile Insurance Company suggested substitute language defining "Final" in determining when cancellation of insurance was to be reported. Property Casualty Insurers Association of America disputed the cutoff of "5 vehicles" in certain policies. Some of the aforementioned organizations and companies as well as Progressive and Allstate Insurance Companies questioned the requirement that identification cards for new policies in effect for six months or less be issued on a monthly basis. The comment redefining "Final" has been accepted and is included in the Final Regulation. The other comments were given careful consideration but are found to run counter to the intent of the proposed Regulation.

Findings of Fact

Based on Delaware law and the record in this docket, I make the following findings of fact:

1. It is in the public interest that the Division of Motor Vehicles be promptly informed of motor vehicle insurance policies that have been cancelled.
2. It is in the public interest that policyholders with newly issued policies be issued identification cards reflecting the period for which payment of insurance premiums have been made.
3. It is in the public interest that insurance identification cards continue to be uniform throughout the industry and that they carry a watermark or generic company-specific logo in order to prevent fraud.

Decision and Effective Date

Based on the provisions of 18 Del. C. §§ 311(a) and the record in this docket, I hereby adopt amended Regulation 606 and as may more fully and at large appear in the version attached hereto to be effective on January 1, 2008.

IT IS SO ORDERED this 14th day of November 2007.

Matthew Denn
Insurance Commissioner

606 Proof of Automobile Insurance [Formerly Regulation 31]

1.0 Authority

1.1 This regulation is adopted under the authority of 18 Del.C. §§314 and ~~2304~~ 2741; 21 Del.C. §2118 as amended by S. B. 212, and adopted in cooperation with the Division of Motor Vehicles. This regulation is promulgated under the provisions of the Administrative Procedures Act, 29 Del.C., Ch.101.

2.0 **Background Purpose**

2.1 In support of the Delaware Motorist Protection Act (No-Fault Law) the Department of Insurance, in coordination with the Division of Motor Vehicles, has been authorized to adopt regulations to remove uninsured drivers from Delaware roads. This regulation is promulgated to carry out the Legislature's direction.

2.1 The purpose of this regulation is to

2.1.1 establish requirements to govern the form of the standardized insurance identification (ID) card for each insured vehicle pursuant to Delaware law;

2.1.2 establish the procedure by which automobile insurers shall notify the Division of Motor Vehicles when automobile insurance coverage is terminated or when insurers pay claims for uninsured motorists; and

2.1.3 provide procedures for the submission of insurance company data to the Division of Motor Vehicles for administrative efficiency.

3.0 **Purpose [Reserved Definitions**

"Commercial auto coverage", "commercial vehicle coverage" or "commercial lines policy" is any coverage provided to an insured, regardless of the number of vehicles or entities covered, under a commercial auto, garage, or truckers coverage form and/or rated from either a commercial manual or rating rule as filed and approved by the Delaware Department of Insurance. Vehicle type and ownership are not necessarily the primary factors in either underwriting the coverage or rating the coverage. The rating may be subject to individual risk characteristics including but not limited to experience rating, schedule rating, loss rating or deductible rating.

"Fleet" shall mean five or more vehicles under single ownership or lease used for commercial purposes.

"Personal lines auto coverage," "personal lines vehicle coverage" or "personal lines policy" shall apply to any insured or insurance policy that does not fall within commercial lines.

To the extent necessary, the definitions contained in 21 Del.C. § 101 shall apply to all terms not otherwise defined herein.]

3.1 The purpose of this regulation is to define for insurers which write auto insurance policies in Delaware the requirements to issue a standardized insurance identification (ID) card for each insured vehicle, to establish the requirement for notification to the Division of Motor Vehicles under certain prescribed conditions when auto insurance coverage is terminated or when insurers pay claims for uninsured motorists and to provide for the submission of computer data to the Division of Motor Vehicles for administrative efficiency.

4.0 **Insurance Identification Card**

4.1 All companies licensed to write automobile insurance in the State of Delaware must furnish Insurance Identification Cards. At least one card must be issued for each vehicle for which liability insurance is in effect. ~~21 Del.C. §2118 (n)~~ Delaware policyholders who are members of the military and are stationed outside of Delaware may be issued a card of that state provided their coverage meets Delaware requirements.

4.2 Insurers may use uniform ACORD format or may prepare the ACORD format as described below:

4.2.1 The size, weight, and color of the card shall be as below:

4.2.1.1 Size: Not smaller than 3-1/2" x 2-1/4" or larger than 3" x 5"

4.2.1.2 Weight: Optional

4.2.1.3 Color: White

4.2.1.4 ~~After September 1, 1993,~~ Each card shall be printed on paper stock which

contains a clearly visible watermark, screened color, reflective ink, or laser-lock which prevents unauthorized or fraudulent reproduction. The watermark must be a company logo, ~~Delaware State Seal,~~ or a generic insurance-specific logo which clearly identifies the watermark as issued by an insurance company. The ACORD "ghost script" anti-fraud paper with the ACORD watermark shall satisfy the watermark requirement.

4.2.2 The insurance card shall contain the following information:

4.2.2.1 The statement "The ID card must be carried in the vehicle at all times" shall be shown on the face of the card if space is available; otherwise this statement may appear on the back of the card.

4.2.2.2 Card shall be identified as "Identification Card."

4.2.2.3 ~~Company Name.~~ The insurer's insurance company name shall be shown printed on the face of the card. ~~Group name may be shown instead if the card will identify the specific company involved. If the insurer is part of a group, the group name may be printed on the card so long as the card clearly identifies the name of the insurer issuing the insurance.~~

4.2.2.4 Insurer's five digit National Association of Insurance Commissioners ("NAIC") company identification number.

4.2.2.5 Named Insured. This name must be the named insured as carried in the insurer's records.

4.2.2.6 ~~Address. Optional.~~ The insurer may, at its option, include the address of the insured.

4.2.2.7 Policy Number.

4.2.2.8 Effective date **[of the time period the policy shall be in effect.]**

4.2.2.9 Expiration Date. The insurance identification card shall be valid for no more than the term stated in the policy but not to exceed 6 months. The expiration date for ID cards shall be no more than six months from the effective date, except that Notwithstanding the foregoing limitation, an insurance identification card may be issued for a period of 12 months if the premium has been written on an annual basis and the premium is being paid in installments of no more than for a 12 month period. ~~Any insured who has not been continuously insured by a licensed insurance company or a qualified self-insured during the six months preceding the effective date of an ID card under this regulation shall be issued an ID card with an expiration date no longer than the date for which premium has been paid or for six months whichever is shorter; provided, however, that any insured owning five or more vehicles may be issued an ID card which is effective for a six month period. The expiration date shall be stated by day, month and year or month, day and year, as long as in such manner that the exact date of expiration can be clearly identified. For purposes of this section, a policy renewed in the same company with a lapse in coverage of 30 days or less shall be considered to have been continuously insured by a licensed insurance company during the preceding six months.~~

4.2.2.10 Vehicle(s) Insured. Information shall be completed by indicating any of the following, depending on the type of policy or vehicle involved:

4.2.2.10.1 Year, Make, and Vehicle Identification Number ("VIN") of the vehicle(s) insured. Model of the vehicle may be shown as the Make. The Year, and Make of the vehicle may be abbreviated, but the complete VIN must be shown.

4.2.2.10.2 ~~"All Owned Vehicles" (five vehicles or more); or~~

4.2.2.10.3 ~~"Fleet" (five vehicles or more).~~

4.2.2.11 Items which are not obvious as to meaning shall be appropriately captioned.

4.2.3 The order of the information to be contained on the ID card may be rearranged at the option of the company, provided there is no drastic change and the rearrangement is necessary to accommodate a fixed printout system already established by a company.

4.2.4 At least one ID card shall be issued for each vehicle insured under the policy for which liability insurance is in effect.

4.2.5 If a vehicle is specifically described on the ID card, the company must issue a new card upon either a change of vehicle or the acquisition of any additional one. If a different policy number is assigned upon renewal, a new ID Card must also be issued. The expiration date requirement of section 4.2.2.9 above shall apply to an insured's replacement or additional insured vehicle in a manner similar to the previously owned or insured vehicle. The owner of the vehicle shall so inform the insurer of the additional or replacement vehicle. Only after the insurer is so informed, shall the insurer be obligated to issue an ~~insurance~~ ID card to the insured for the additional or replacement vehicle.

4.2.6 A letter or notification should accompany every ID card advising the insured that the card is required to register the vehicle, to obtain new tags, have his vehicle inspected, and to serve as evidence of insurance for the law enforcement authorities, e.g., in cases involving accidents, moving traffic violations or road

spot checks. This notification may be printed on the back of the ID CARD card. Delaware law requires the ID card to be in the vehicle when it is being operated.

4.2.7 The Division of Motor Vehicles will accept for registration purposes a copy of the application for insurance or the assignment notice or binder pending issuance of insurance or the assignment notice pending issuance of the ID card. However, such evidence of insurance will be accepted for registration purposes only if it has been dated prior to the date and no later than the day preceding the date of application for registration. For Assigned Risk coverage, insurers shall instruct their agents to place an insurer identification code of "99999" on applications to indicate placement with the Assigned Risk Plan.

4.2.8 Insurance ID cards shall be issued in conformance with section 4.2.2 above. The Insurance Commissioner may exercise his statutory authority to investigate and examine the compliance of insurance carriers with this regulation. The Insurance Commissioner may, after notice and hearing, impose and enter an order as follows:

4.2.8.1 For each occasion where the Insurance Commissioner determines that an ID card was issued inadvertently in non-compliance with section 4.2.2.9 above, the insurer shall be fined \$100. No fine, however, shall be imposed if the ID card was validly issued.

4.2.8.2 For each occasion where the Insurance Commissioner determines an ID card was issued with disregard of the requirements of Section 4-B-2(i) 4.2.2.9 above, but with no pattern of conscious disregard, the insurer shall be fined \$1,000.

4.2.8.3 For each occasion where the Insurance Commissioner determines an ID card was issued as part of a pattern of conscious disregard of the requirements of section 4.2.2.9 above, the insurer shall be fined \$2,000.

4.2.9 "Date of issuance" of an insurance card shall be the effective date of that card.
Amended Section 4 became effective May 12, 1993.

5.0 Violations and Penalties

5.1 If an insurer shall violate the provisions of this regulation, the Commissioner shall give written notice to the insurer of the violation and said notice shall inform the insurer of the right to request a hearing pursuant to 18 Del.C. §323.

5.2 If an insurer shall be determined to be in violation by consent or after a hearing, the Commissioner may impose such penalties as permitted pursuant to the Insurance Code.

56.0 Notice of Cancellation or Termination

56.1 Whenever an assigned risk insurance policy is cancelled or terminated for any reason within two years of the original date of issuance, the company must file a Notice of Cancellation with the Division of Motor Vehicles. When a personal lines insurance policy is cancelled or terminated and that cancellation or termination is final under 18 Del.C. §3904 (a) (1) within 6 months of the original date of issuance, the insurer must file a Notice of Cancellation with the Division of Motor Vehicles.

56.2 The notice shall be filed with the Division of Motor Vehicles within 30 days following the effective date on which cancellation has become final. "Final" means the date after which coverage cannot be reinstated without lapse [or except by] the issuance of a new policy.

56.3 The notice shall be a two part form with the size, content, and format consistent with the attached forms and specifications as approved by the Division of Motor Vehicles (See Attachment A Specifications for Delaware Notice of Termination, Form FR-4.) The location of the window area for the insured's name and address is prescribed so the Division of Motor Vehicles can use the same window envelope for mailing notices from all companies. The Division of Motor Vehicles will use the same notice for forwarding mailing notices to the terminated policyholder. The notice shall be a form with the size, content, and format consistent with the attached forms or as otherwise approved by the Division of Motor Vehicles.

6.0 Compliance Date—Use of Old and New Forms

6.1 Companies may exhaust their present supply of ID cards by adding the NAIC Code Number. However, the new ID card which complies with the regulation shall be mailed to all Delaware policyholders by no later than October 1, 1990, regardless of whether a prior ID card indicating a later date of expiration has been issued and at least every six months thereafter. (New ID cards shall be issued for replacement vehicles.) In addition, use of the notice of cancellation shall begin no later than October 1, 1990.

6.2 Companies are responsible for providing all forms required under this Regulation. Amended Section 6 became effective January 1, 1991.

7.0 Furnishing Motor Vehicle Liability Insurance Information to the Division of Motor Vehicles

7.1 An insurer shall furnish within 30 days of a request by the Division of Motor Vehicles prescribed information on each motor vehicle insured in the State of Delaware. The information shall be provided ~~on computer tape(s) as prescribed in Attachment B~~ in the form and manner approved by the Division of Motor Vehicles.

7.2 ~~Those insurers unable to provide the prescribed information by computer tape must obtain written approval from the Division of Motor Vehicles to provide the information in a prescribed paper listing. This approval must be obtained by January 1, 1991. (See Attachment C.)~~

8.0 Random Selection/Verification

8.1 Pursuant to ~~State Statute, 21 Del.C. §2118~~ the Division of Motor vehicles shall periodically randomly select on an annual basis at least 10 percent of the vehicle registrations and send them to the insurers of record for verification of liability insurance. ~~at intervals specified in section 8.4 below. This process shall be accomplished by computer tapes except where approved under section 7.2 of this regulation. The prescribed information and format of the data being furnished by the Division of Motor Vehicles to the insurers shall be as prescribed in Attachment D. Responses from the insurers shall be required only for those vehicles determined by the insurers to be not insured.~~

8.2 ~~The prescribed information and format of data furnished to those nonautomated insurers as approved in section 7.2. shall be prescribed in Attachment E. Responses from the insurers who are non-automated shall be required only for those vehicles as determined by the insurer to be not insured.~~

8.3 All responses from the insurers shall be delivered to the Delaware Division of Motor Vehicles within 30 days of the mailing date of the verification request. ~~All responses shall include a completed prescribed transmittal letter to indicate the completion of the specified verification project.~~

8.4 ~~3~~ The random selection/verification process shall be done no more than twelve times and no less than four times annually.

9.0 Notification of Uninsured Drivers

9.1 Each insurer licensed to write automobile liability insurance in Delaware shall notify the Division of Motor Vehicles on a form approved by the Division of Motor Vehicles ~~(Attachment F)~~ the name of any person or persons involved in an accident or filing a claim who is alleged to have been operating a Delaware registered motor vehicle without the insurance required under Delaware law. The insurer shall provide the name, address, and description of the vehicle alleged to be uninsured.

10.0 Additional Required Proofs of Insurance

10.1 Each insurer licensed to write automobile liability insurance in this State shall furnish to their insureds verification of the insurance in force at the request of the Division of Motor Vehicles by use of a form approved by the Division of Motor Vehicles. ~~The forms provided by the insurers to their agents or directly shall conform with the format of Form FR 19 (Attachment G). Forms shall be controlled, and numbered sequentially, by the insurer or its agents. To prevent copying, the sequential numbers must be in red ink and a minimum of seven digits. The words "Delaware Insurance Certificate" must be in dark blue ink. Each insurer is to utilize such measures as may be necessary to assure delivery of these forms to qualified insured drivers only.~~

11.0 Enforcement

11.1 ~~Failure of an insurer to provide an Insurance Identification Card, or to provide notice of cancellation or termination as provided in section 5.0, shall be deemed a violation of the Commissioner's lawful order and may be found in violation of The Motor Vehicle Code, Title 21. In such instances the insurer shall, after hearing, be subjected to the penalties as prescribed in 18 Del.C. §334.~~

1211.0 Severability

1211.1 If any provision of this regulation or the application thereof to any person or situation is held invalid, such invalidity shall not affect any other provision or application of the regulation which can be given effect

without the invalid provision or application and to this end the provisions of this regulation are declared to be severable.

4312.0 Effective Date

~~13.1 Except for the conditions specified under section 6.0 this regulation* shall become effective January 1, 1991.~~

~~13.2 Delaware Insurance Department Bulletins 71-21, 71-22 and 74-8 are superseded and are rescinded effective January 1, 1991.~~

12.1 This Regulation shall become effective January 1, 2008.

*Regulation No. 31 was entitled "Insurance Identification Card" under an effective date of July 1, 1979; amended July 1, 1982; amended effective January 1, 1991 and again on May 12, 1993 under present title except for the conditions specified under § 6 and § 4 of the regulation and April 12, 1993.

Attachments A to G accompanying Regulation No. 31 follow:

ASSIGNED RISK

INSURANCE CERTIFICATION REQUEST

INITIAL TAP PROCESSING

LETTER OF TRANSMITTAL

RANDOM SELECTION TAPE PROCESSING

RANDOM SELECTION MANUAL PROCESSING

DELAWARE UNINSURED VEHICLE REPORT

DELAWARE INSURANCE CERTIFICATION

11 DE Reg. 800 (12/01/07) (Final)