

DEPARTMENT OF INSURANCE
Statutory Authority: 18 Delaware Code,
Section 311 (18 Del.C. §311)

PROPOSED

NOTICE OF PUBLIC HEARING

INSURANCE COMMISSIONER DONNA LEE H. WILLIAMS hereby gives notice that a PUBLIC HEARING will be held on Wednesday, August 4, 2004, at 10:00 a.m. in the Consumer Services Conference Room of the Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, Delaware. The hearing is to consider amending Regulation 607 relating to Defensive Driving Course Discount Automobiles and Motorcycles.

The purpose for amending Regulation 607 is to update the regulation and to provide for online as well as classroom courses and instruction. As a result there will be some definitional changes to the regulation as well as other changes reflective of recent technological developments.

The hearing will be conducted in accordance with 19 **Del.C.** §311 and the Delaware Administrative Procedures Act, 29 **Del.C.** Chapter 101. Comments are being solicited from any interested party. Comments may be in writing or may be presented orally at the Hearing. Written comments, testimony or other written materials concerning the proposed change to the regulation must be received by the Department of Insurance no later than 4:30 p.m., Monday August 2, 2004, and should be addressed to Deputy Attorney General Michael J. Rich, c/o Delaware Department of Insurance, 841 Silver Lake Boulevard, Dover, DE 19904, telephone 302.739.4251.

607 Defensive Driving Course Discount (Automobiles and Motorcycles) [Formerly Regulation 37]

1.0 Purpose and Authority

The purpose of this Regulation is to provide a discount applicable to total premiums for persons who voluntarily attend and complete a Defensive Driving Course and to provide criteria for Defensive Driving Courses, Sponsors and Instructors. This Regulation is adopted pursuant to 18 **Del.C.** §314, and 18 **Del.C.** §2503 and promulgated in accordance with the procedures specified in the Administrative Procedures Act, 29 **Del.C.** Ch. 101.

2 DE Reg 989 (12/1/98)

2.0 Authority

~~This Regulation is adopted pursuant to 18 **Del.C.** §314, and 18 **Del.C.** §2503 and promulgated in accordance with the procedures specified in the Administrative Procedures Act, 29 **Del.C.** Ch. 101.~~

2 DE Reg 989 (12/1/98)

2.0 Definitions

2.1 "Classroom courses"— for the purpose of this regulation means a defensive driving program conducted with students and instructors in a location common to all. These courses may include the use of audio or visual aides or materials.

2.2 "Committee"— for the purpose of this regulation means the Defensive Driving Credentials Committee.

2.3 "Department"— means the Delaware Insurance Department.

2.4 "On-line courses"— for the purpose of this regulation means instruction provided through the use of a computer including the use of CD roms or websites.

2.5 "Providers"— Corporate sponsor for any course as well as the individual who signs the application for the course.

3.0 Minimum Requirements

A Defensive Driving Course Discount shall be applied to the total premiums for bodily injury liability coverage, property damage liability coverage, and personal injury protection coverage provided:

3.1 The automobile or motorcycle is individually owned or jointly owned by husband and wife or by members of the same household and is classified and rated as a private passenger automobile or motorcycle; and

3.2 The driver who customarily operates the automobile or motorcycle has a certificate certifying voluntary attendance and successful completion within the last 36 months from the date of application of a motor vehicle accident prevention course or motorcycle rider course, as appropriate, which is approved by the Insurance

Commissioner.

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4.0 Application

4.1 A 10% discount shall be applied with respect to the applicable premium(s) for each automobile or motorcycle insured under a policy if all operators named on the policy as insureds complete the course. If fewer than all the operators covered as principal or occasional drivers complete the course, then the discount shall be a fraction of 10%. The fraction shall be the number of operators completing the course, divided by the total number operators. The discount shall begin at the inception date of the policy or the first renewal date following application by the insured and shall terminate at the policy expiration date subsequent to the expiration of three years since completion of the course.

4.2 An insured who has received a defensive driving discount as outlined in section 4.1 above may take a refresher defensive driving course within the ninety days prior to the three year expiration date thereof or within two years thereof to receive a 15% discount for an additional three year period as outlined in section 4.1 above. Discounts shall not overlap. The discount may be applied as a multiplier or on an additive basis compatible with the rating system in use by the company.

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5.0 Implementation

5.1 In the effective date of the Act, the discount shall be first applied to policies written to be effective on or after July 14, 1982 (automobile), or July 19, 1990 (motorcycle), or with renewal dates on or after July 14, 1982 (automobile), or July 19, 1990 (motorcycle), if applied for by the insured, and shall remain in effect for a 3-year period from the effective date of such policies.

5.2 The discount may be applied as a multiplier or on an additive basis compatible with the rating system in use by the company.

6.0 Defensive Driving Course Credential Committee

6.1 The Commissioner hereby forms an entity known as the Defensive Driving Course Credential Committee ("Committee"). In appointing Committee members, the Commissioner shall consider the following characteristics:

- 6.1.1 knowledge of principles of teaching and learning;
- 6.1.2 knowledge of safe driving principles;
- 6.1.3 knowledge of Delaware Motor Vehicle laws; and
- 6.1.4 To recommend approval of a course or applicant, the Committee shall require the course contains

the following: any other relevant characteristics or experience.

6.2 The Committee shall be composed of five citizens of this State who are not employed by or have any financial interest in any course sponsor and who meet the standards set forth in sections 10.1.1 through 10.1.4.

6.3 Duties. The Committee shall:

6.3.1 ~~Choose~~ Elect its ~~Chairman~~ Chairperson and shall make recommendations to the Commissioner concerning the duties set forth herein;

6.3.2 Review and examine defensive driving course sponsors, instructors and prospective sponsors and instructors to its satisfaction.. Recommend certification, denial of certification or de-certification of a course sponsor or prospective sponsors and applicants.

6.3.3 Review and examine defensive driving courses and shall further monitor courses to ensure each course continues to meet the Committee's minimum requirements, as outlined in this Regulation. The Committee may from time to time recommend amendments to course requirements.

6.3.4 Certify approved course sponsors and individual instructors for a two year period so long as the course sponsor/instructor continues to meet the requirements of this Regulation; and

6.3.5 Conduct any other such activity reasonably related to the furtherance of its duties.

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7.0 Certification Criteria for Defensive Driving Programs and Sponsors

Each course sponsor shall:

7.1 Submit for approval written course description for any defensive driving course to be offered that minimally includes the following elements:

7.1.1 The definition of defensive driving and the collision prevention formula serving as the basis for the course;

7.1.2 Vehicle safety devices, including the use of seat belts, child restraint devices and their proper use and relationship to a child's age and size, including the correct placement of a child in a vehicle. Vehicle air bag systems shall be explained in detail with special attention to proper passenger seating and proper use of anti-lock braking systems and how they compare to standard braking systems;

7.1.3 A discussion of driving situations as they relate to the condition of the driver, driver characteristics, use of alcohol and legal/illegal drugs, including a discussion of Delaware law on drinking and driving and the use of drugs;

7.1.4 A discussion of the five factors affecting driving, ~~being: the condition of the driver, the vehicle, the road, weather and lighting~~ as and how they pertain to driving defensively; including, but not limited to:

7.1.4.1 The condition of the driver, the vehicle, the road, sun glare, weather and lighting;

7.1.4.2 Distractions such as use of cellular telephones while driving, adjusting radios, audio and video tapes and compact discs, talking with a passenger, reading and eating;

7.1.5 A discussion of specific driving situations, including stopping distances, proper following distances, proper intersection driving, stopping at railroad crossings, right-of-way and traffic devices as well as situations involving passing and being passed and how to protect against head-on collisions; and

7.1.6 Consideration of the hazards and techniques of city, highway, expressway and rural driving, including but not limited to proper use of exit and entrance ramps, driving in parking lots and a discussion of Delaware law concerning school buses.

7.2 Require its instructors to present courses in a manner consistent with the approved curriculum and otherwise in accordance with the standards set forth herein.

7.3 Require that each student receives a minimum of six hours of class time for the initial course and three hours of class time for the refresher advanced (renewal) course. Each hour shall consist of not less than 50 minutes of instructional time devoted to the presentation of course curriculum.

7.4 Require its instructors to be in the classroom with the students during any and all periods of instructional time.

7.5 Require instructors to maintain an atmosphere appropriate for class-work.

7.6 Supply students who complete a defensive driving course with a certification of completion that includes, at a minimum, the name of the student, the date of the class, the name of the defensive driving course and the course sponsor's authorized signature.

7.7 Require that each of its instructors request his or her students complete a standardized Course/Instructor Evaluation Form for not less than one-third of the courses provided by each instructor and retain completed evaluation forms until the expiration of the certification period during which they are completed. The Course/Instructor Evaluation Form shall be in the manner and form prescribed by the Committee.

7.8 Notify the Division of Motor Vehicles of each student's successful completion of the course in the manner and form required by the Division.

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8.0 De-certification, Suspension And Probationary Status

8.1 Course sponsors and instructors may be de-certified, placed on probation for not more than 90 calendar days, or have certification suspended indefinitely upon a finding of the Committee that the course presented does not meet the criteria set forth in this Regulation. Investigations relating to issues of compliance shall be directed by the Committee.

8.2 Prior to de-certification, placement on probation or suspension of certification, the course sponsor/instructor shall be notified, in writing, by the Committee. The course sponsor/instructor shall be given a reasonable opportunity to submit evidence of compliance in his or her defense.

8.3 A course sponsor/instructor who is placed on probationary status and does not show proof of compliance with the standards set forth herein within 90 calendar days shall be subject to de-certification at the end of the probationary period.

8.4 A course sponsor/instructor may be de-certified, suspended or placed on probation for the following:

8.4.1 Falsification of information on, or accompanying, the Application for Certification/Re-certification;

8.4.2 Falsification of, or failure to keep and provide adequate student records and information as required herein;

8.4.3 Falsification of, or failure to keep and provide adequate financial records and documents as required; and

8.4.4 Failure to comply with any other standard set forth in this Regulation.
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9.0 Appeal Procedures

9.1 Within 10 business days after the date of written notification of certification denial, suspension, probation or de-certification, the course sponsor/instructor may file an appeal requesting review of the action taken.

9.2 The appeal shall be addressed to the Committee, citing the reasons for the request, and accompanied by any other relevant substantiating information.

9.3 The Committee shall conduct all hearings pursuant to 29 Del.C., Ch.101 of the Delaware Code Annotated.
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10.0 Certification Process for Defensive Driving Instructors

10.1 Basic Requirements. Each instructor shall:

10.1.1 Be at least 18 years of age;

10.1.2 Be a high school graduate or have a G.E.D.;

10.1.3 Hold a valid driver's license with no more than four (4) points, no suspensions or revocations in the past two years; and

10.1.4 Have no felony convictions during the past four years and no criminal convictions evidencing moral turpitude. The Committee reserves the right to require a criminal history background check of all applicants for an instructor's certification.

10.2 The Committee may recommend that Basic Requirements sections 10.1.2 through 10.1.4 hereof be waived upon a finding that an instructor is qualified and fit to act as an instructor.

10.3 Re-certification. Every two years each instructor shall:

10.3.1 Submit evidence that he or she has taught the certified course a minimum of 12 hours the previous calendar year;

10.3.2 Submit evidence that he or she attended an in-service update training seminar, or other training session, as provided by, or specified by, a certified defensive driving course sponsor; and

10.3.3 Submit a form as prescribed by the Committee certifying that he or she continues to meet the requirements of an instructor as outlined in this Regulation.

10.3.4 The above-described submissions shall be filed not later than January 31st of the year in which re-certification is desired. The Committee shall accept requests for re-certification not earlier than November 15th of the preceding year and make reasonable efforts to act on such requests within 30 days of receipt thereof.

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11.0 Effective date.

11.1 This act shall become effective on January 1of 1999.

2 DE Reg 989 (12/1/98)

8 DE Reg. 59 (7/1/04)