

DEPARTMENT OF INSURANCE
Statutory Authority: 18 Delaware Code,
Sections 311 and 2304
(18 Del.C. §§311 and 2304))

PROPOSED

PUBLIC NOTICE

INSURANCE COMMISSIONER DONNA LEE H. WILLIAMS hereby gives notice that a PUBLIC HEARING will be held on Tuesday, August 3, 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 606, PROOF OF AUTOMOBILE INSURANCE.

The purpose for amending Regulation 606 is to provide additional consumer protection by updating the requirements for motor vehicle insurance identification cards and to provide electronically accessible database(s) to establish proof of current automobile insurance to law enforcement officials and motorists at the scene of any accident or violation. Additionally, the amendments seek to update the format required for insurance identification cards that are required to be in each vehicle registered under Delaware law. 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.

606 Proof of Automobile Insurance [Formerly Regulation 31]

1.0 Authority and Background

1.1 This regulation is adopted under the authority of 18 Del.C. §§~~314~~311 and 2304; 21 Del.C. §2118 as amended by S. B. 212, and adopted in cooperation with the Department of Transportation, Division of Motor Vehicles ("DMV"). This regulation is promulgated under the provisions of the Administrative Procedures Act, 29 Del.C., Ch.101. In support of the Delaware Motorist Protection Act (No-Fault Law) the Department of Insurance, in coordination with the DMV, has been authorized to adopt regulations to remove uninsured drivers from Delaware roads. This regulation is promulgated to carry out that directive.

2.0 Background

~~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.~~

~~3.2.0~~Purpose

~~3.21~~ The purpose of this regulation is to define for insurers which write writing 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~~DMV 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~~DMV for administrative efficiency.

~~4.3.0~~Insurance Identification Card

~~4.3.1~~ All companies licensed to write automobile insurance in the State of Delaware must furnish Insurance Identification Cards for and to each insured vehicle registered in the State of Delaware. At least one card must be issued for each vehicle for which liability insurance is in effect. 21 Del.C. §2118 ~~(n)(o)~~.

~~4.3.2~~ Insurers may use uniform ACORD format or may prepare the ACORD format as described below. The format for the Delaware Insurance Identification Cards shall be as follows:

~~4.3.2.1~~ The size, weight, and color of the card shall be as below:

~~4.3.2.1.1~~ Size: Not smaller than 3-1/2" x 2-1/4" or larger than 3.75" x 5.5"

~~4.3.2.1.2~~ Weight: Optional

4-3.2.1.3 Color: ~~White~~Optional

4-3.2.1.4 ~~After September 1, 1993, e~~Each card shall be printed on ~~paper stock~~ plastic which contains a clearly visible watermark, screened color, reflective ink, or laser-lock or hologram, printed graphics with protective over laminate coating, (gloss or satin finish), 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.

4-3.2.2 The insurance card shall contain the following information:

4-3.2.2.1 The statement "~~The~~This 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~~ shall appear on the back of the card.

4-3.2.2.2 ~~The~~ Card shall be identified as "Insurance Identification Card."

4-3.2.2.3 ~~The insurer's~~ Company Name. ~~The insurer's name shall be shown~~ displayed. A ~~G~~group name may be shown ~~instead if provided~~ the card will identify clearly identifies the specific company involved actual name of the issuing insurer.

4-3.2.2.4 Insurer's five-digit National Association of Insurance Commissioners ("NAIC") company identification number.

4-3.2.2.5 ~~The N~~named Insured. ~~This which~~ name must be the ~~named insured~~ same as carried in the insurer's records.

4-3.2.2.6 ~~The Insured's A~~address is ~~Optional.~~

4-3.2.2.7 Policy Number.

4-3.2.2.8 Effective Date.

4-3.2.2.9 Expiration Date. The expiration date for ID cards shall be no more than six months from the effective date, except that 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. Notwithstanding the above, any insured owning five or more vehicles as part of a fleet or under a fleet policy 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 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.

4-3.2.2.10 Vehicle(s) Insured. Information shall be completed by indicating any of the following, depending on the type of policy or vehicle involved:

4-3.2.2.10.1 Year, Make, Model and Vehicle Identification Number ("VIN") of the vehicle(s) insured. Model of the vehicle may not be shown as the Make. The Year, and Make of the vehicle may be abbreviated, but the complete VIN must be shown.

4-3.2.2.10.2 "All Owned Vehicles" (five vehicles or more); or

4-3.2.2.10.3 "Fleet" (five vehicles or more).

4-3.2.2.11 ~~Items which are not obvious as to meaning shall be appropriately captioned. Two~~ Dimensional Bar Code in compliance with PDF417 specifications reference in AAMVA (American Association of Motor Vehicle Administrators) DL/ID-2000 document, as modified by the Delaware Department of Motor Vehicles, which contains self-check digit and encryption, locks, and available to every insurer licensed to provide P&C insurance in the State of Delaware. The insurer may, at its option, add the "InsureNet Unique Code" on the card.

4-3.2.2.12 ~~Items, which are not obvious as to meaning, shall be appropriately captioned.~~

4-3.2.3 The order of the information to be contained on the ID card may be rearranged at the option of the company; provided that all of the information required by section 3.2 is contained thereon ~~there is no drastic change~~ and the rearrangement is necessary to accommodate a fixed printout system already established by a company.

4-3.2.4 At least one ID card shall be issued for each vehicle insured under the policy for which liability insurance is in effect.

4-3.2.5 If a vehicle is specifically described on ~~the an~~ ID card, a new ID card shall be issued ~~the company must issue a new card~~ upon ~~either~~ a change of vehicle, ~~or~~ the acquisition of any additional ~~one vehicle, or the assigning of.~~ If a different policy number is assigned upon a policy renewal, a new ID Card must also be issued. The expiration date requirement of section 3.2.2.9 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 I.D. card to the insured for the additional or replacement vehicle.

4-3.2.6 A letter or notification should accompany every ID card advising the insured that the card is required to register the vehicle, obtain new ~~tags-registration plates~~, have his vehicle inspected, and 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. Delaware law requires the ID card to be in the vehicle when it is being operated.

4-3.2.7 The ~~Division of Motor Vehicles~~DMV 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.

4-3.2.8 Insurance ID cards shall be issued in conformance with ~~section 4.2.2~~ Section 4 of this Regulation ~~above~~. The Insurance Commissioner may exercise his/ her 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:

4-3.2.8.1 For each ~~occasion~~ instance where the Insurance Commissioner determines that an ID card was not issued ~~inadvertently in non-compliance with section 4.2.2.9 above in compliance with Section 4.2.2.9, the insurer shall be subject to a penalty of \$100, the insurer shall be fined \$100.~~ No fine, however, penalty shall be imposed if the ID card was validly issued.

4-3.2.8.2 For each ~~occasion~~ instance where the Insurance Commissioner determines that an ID card was intentionally issued ~~with disregard of the requirements of Section 4 B.2(i) (4.2.2.9) above in violation of Section 4.2.2.9, but with no pattern of conscious disregard,~~ the insurer shall be subject to a penalty of 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.

4-3.2.9 "Date of issuance" of an insurance card shall be the effective date of that card.

Amended Section 4 became effective May 12, 1993.

5-4.0 Notice of Cancellation or Termination

5-4.1 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 written Notice of Cancellation with the ~~Division of Motor Vehicles~~DMV within 30 days following the effective date on which cancellation becomes final. "Final" means the date after which coverage cannot be reinstated without lapse.

5-4.2 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. In lieu of written as required by section 4.1, the notice can be filed electronically with the DMV using the Delaware Insurance Information System software system, this to be accomplished within 24 hours except on weekends, holidays, during periods of computer failure or during times of emergency.

5-4.3 The written 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~~ DMV. (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 ~~Division of Motor Vehicles~~DMV can use the same window envelope for mailing notices from all companies. The ~~Division of Motor Vehicles~~DMV will use the same notice for forwarding mailing notices to the terminated policyholder. If the notice is submitted electronically through the Delaware Insurance Information System in lieu of a written notice, the company will not be required to provide a mailing envelope or two-part form to the DMV.

6-5.0 Compliance Date--Use of Old and New Forms

6-5.1 Upon the next renewal date 90 days after the effective date of this regulation, insurers shall issue the new insurance card as described in Section 3 to their Delaware policyholders for renewals, replacement vehicles, re-in statements, and new vehicles.

6-5.1.1 Companies may exhaust their present supply of ID cards by adding the ~~NAIC Code Number~~" InsureNet Unique Code", and a Two Dimensional Bar Code containing the information detailed in Sections 4.2.2.3 through 4.2.2.10.1. This temporary alternative may take the form of a stamped or pasted label affixed to the current supply of ID cards. 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.

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

7-6.0 Furnishing Motor Vehicle Liability Insurance Information to the ~~Division of Motor Vehicles~~DMV

7-6.1 ~~An~~ All insurer shall furnish within 30 days of a request by the ~~Division of Motor Vehicles~~DMV 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.

7-6.1.1 In lieu of compliance with section 7.1, an insurer may furnish, within 24 hours, except on weekends, holidays, during periods of computer failure or during times of emergency, through the Delaware Insurance Information System, the prescribed information on each motor vehicle insured in the State of Delaware. The information shall be provided electronically via x.12, x25, FTP, or other method to be the choice of the insurer, except that information shall be sent using the automatic interface of the Delaware Insurance Information System software provided, so as to ensure security of data and compliance with this Regulation.

7-6.1.2 The following data fields will be required for new policies issued by the Insurance Company: Vehicle Identification Number, Vehicle Make, Vehicle Model, Vehicle Year, Policy Number, State Code, NAIC Code, Policy Issued Date and Time, Policy Effective Date and Time, Expiration Date, Assigned Risk Code if applicable, InsureNet Unique Code, Insured's Last Name, Insured's First Name and Insured's Address. The following fields are optional, Agent Code, Agent Telephone Number and Customer Service Representative Code.

7-6.1.4 The following data fields will be required for all reinstatements issued by the Insurance Company: InsureNet Unique Code, Vehicle Identification Number, policy number, a value to recognize that it is a reinstatement, reinstatement issue date and time and the effective date and time and Expiration Date.

7-6.1.3 The following data fields will be required for all cancellations or terminations issued by the Insurance Company: InsureNet Unique Code, Vehicle Identification Number, policy number, a value to recognize that it is a termination/ cancellation, Cancellation Issue Date and Time, and the Effective Date and Time.

7-6.2 Those insurers unable to provide the prescribed information by computer tape must obtain written approval from the ~~Division of Motor Vehicles~~ DMV to provide the information in a prescribed paper listing. This approval must be obtained ~~by January 1, 1991~~ within 90 days of the effective date of this Regulation or within 90 days of an insurer entering the Delaware market. (See Attachment C.)

8-7.0 Random Selection/Verification

8-7.1 Pursuant to ~~State Statute, 21 Del.C. §2118~~ the ~~Division of Motor Vehicles~~ DMV shall, ~~periodically randomly select~~ on an annual basis randomly select 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 electronically~~ 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~~ DMV 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~~ uninsured.

8-7.2 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~~ uninsured.

8-7.3 All responses from the insurers shall be delivered to the ~~Delaware Division of Motor Vehicles~~ DMV within 30 days of the mailing or transmission date of the verification request. All responses shall include a completed prescribed transmittal letter to indicate the completion of the specified verification project.

8-7.4 The random selection/verification process shall be done no more than twelve times and no less than four times annually.

9-8.0 Notification of Uninsured Drivers

9-8.1 Each insurer licensed to write automobile liability insurance in Delaware shall notify the ~~Division of Motor Vehicles~~ DMV on a form approved by the ~~Division of Motor Vehicles~~ DMV (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.

~~10-9.0~~ Additional Required Proofs of Insurance

~~10-9.1~~ Each insurer licensed to write automobile liability insurance in this State shall, at the request of the DMV, furnish to their insureds verification of the insurance in force at the request of the Division of Motor Vehicles to their policyholders. The forms provided by the insurers to their agents or to the policyholders directly shall conform with to the format of Form FR-19 (Attachment G). Each insurer is responsible for safeguarding the issuance of these forms to qualified insured drivers only. 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.

~~11-10.0~~ Enforcement

~~11-10.1~~ Failure of an insurer to provide an Insurance Identification Card, or to provide notice of cancellation or termination as provided in Section 4.0, shall be deemed a violation under the applicable provisions of Titles 18 and/or 21 of the Delaware Code of the Commissioner's lawful order and may be found in violation of The Motor Vehicle Code, Title 21. Upon a finding that a violation has occurred, an insurer will be subject to such penalties as allowed in such instances the insurer shall, after hearing, be subjected to the penalties as prescribed in 18 Del.C. §334 ~~§329~~ or its successor.

~~12-11.0~~ Severability Separability

~~12-11.1~~ 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.

~~13-12.0~~ Effective Date

~~13-12.1~~ Except for the conditions specified under Section 6.0 this regulation* shall become effective on January 1, ~~1991~~ 2005.

~~13-12.2~~ Delaware Insurance Department Bulletins 71-21, 71-22 and 74-8 are superseded and are rescinded effective January 1, 1991.

*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.

Attachments A to G accompanying Regulation No. ~~31-606~~ follow:

ASSIGNED RISK
INSURANCE CERTIFICATION REQUEST
INITIAL TAP PROCESSING
LETTER OF TRANSMITTAL
RANDOM SELECTION TAPE PROCESSING
DELAWARE UNINSURED VEHICLE REPORT
RANDOM SELECTION MANUAL PROCESSING
DELAWARE INSURANCE CERTIFICATION

8 DE Reg. 55 (7/1/04)