

December 11, 1992

SUBJECT: INSURANCE

Circular Letter No. 11 (1992)

December 11, 1992

TO: ALL AUTHORIZED MOTOR VEHICLE INSURERS AND INSURANCE PRODUCER ORGANIZATIONS

RE: POLICY DECLARATIONS PAGE(S) REQUIREMENTS

This Circular Letter alerts the automobile insurance community about several 1991 and 1992 statutory changes -- already, or soon to become, effective -- that impact the declarations page(s) of motor vehicle insurance policies. These changes are intended to increase consumer protection and understanding.

A. No-Fault Coverages.

Chapter 320 of the Laws of 1991, as amended by Chapter 484 of the Laws of 1992, amended Article 51 of the Insurance Law to, among other things, provide for Optional Basic Economic Loss (OBEL) coverage. As background, pursuant to the statute, this new No-Fault insurance coverage must be offered at the first policy renewal or at the time of application, with respect to all motor vehicle liability insurance policies with effective dates on and after November 12, 1991. Of course, beyond this mandatory offer phase, insurers are encouraged to offer OBEL coverage to their policyholders in the future. The 22nd Amendment to Regulation No. 68 (11 NYCRR 65) implements the new law, prescribing new endorsements and procedures to be followed in connection with OBEL coverage.

In light of recent changes to No-Fault, the policy declarations page(s) should state: the basic economic loss limits (Mandatory Personal Injury Protection (PIP)) and, if purchased, OBEL; the maximum amount payable under Additional PIP, if purchased; and the aggregate amount of available PIP benefits. Thus, the No-Fault section of the declarations page should:

- (1) list all No-Fault coverages purchased, the limit of each such coverage, and the itemized premium cost of each;
- (2) total No-Fault coverage limits, showing the aggregate limit of No-Fault benefits available under the policy; and
- (3) indicate (or by reference thereon to a schedule attached thereto) the maximum monthly work loss, other necessary expense per diem benefit, and death benefit.

To illustrate, the following sample No-Fault section of the declarations page(s) would comply with governing requirements:

Personal Injury Protection (No-Fault):

	Coverage	
	Limit	Premium
Mandatory Basic Economic Loss	\$ 50,000	\$ 65
Optional Basic Economic Loss	25,000	8
Additional Personal Injury Protection	50,000	8
Aggregate No-Fault Benefits Available	\$ 125,000	\$ 81
Maximum Monthly Work Loss	\$ 3,000	
Other Necessary Expenses (per day)	\$ 50	
Death Benefit	\$ 2,000	

#### B. Premium Discounts and Surcharges.

Chapter 156 of the Laws of 1991 added Section 2345 of the Insurance Law, mandating disclosure of the dollar amount of all accident or violation surcharges on private passenger automobile insurance policies. Consequently, Regulation No. 100 (11 NYCRR 169) was amended to require disclosure of: (1) the aggregate dollar amount of all such surcharges (effective November 27, 1991); and (2) all accident and/or conviction dates related to those surcharges (effective July 1, 1992). These disclosures must be made on either: (1) the premium bill; (2) the declarations page; or (3) a notice accompanying one or the other.

Section 2345 was amended by Chapter 461 of the Laws of 1992. Effective for all non-commercial motor vehicle policies issued or renewed on or after January 1, 1993, this most recent amendment requires the identification and disclosure of all premium reductions, as well as surcharges, applied on any motor vehicle insurance policy subject to Section 3425 of the Insurance Law. It also requires that the insurer specify the dollar amount attributable to each reduction and all surcharges. Under the statute, these disclosures must be made at initial application of the surcharge or reduction and thereafter at each policy renewal. The Regulation 100 requirement for disclosure of specific accident and conviction dates for each surchargeable incident remains in force.

The Department interprets Section 2345 to only require these disclosures for discounts and surcharges mandated by statute or regulation. Examples include discounts for an accident prevention course, passive restraint device, anti-theft device(s), anti-lock braking system and surcharges for certain accidents and violations. In addition, it would be informative for the declarations page(s) to also disclose adjustments to the premium for other reductions or surcharges applied to the policy under the insurer's rating plan.

The purpose and impact of Section 2345 are simple: in a prominent place using a unified matrix, to inform the policyholder about both the "pluses" and "minuses" and thus, in material terms, emphasize the importance of driver as well as vehicle safety and security. Consumers can, therefore, focus on actions within their control that can determine the total premium they must pay. In addition, they will be in a better position to confirm the accuracy of the basis upon which the premium has been adjusted upward or downward. To illustrate, a standard Premium Discounts and Surcharges section of the declarations page(s), as shown below, would comply with governing requirements:

#### Sample Advisory Declarations Regarding Premium Discounts and Surcharges:

Yes/No	Discounts	Amount
	Passive Restraint	-\$ xx.xx
	Anti-Theft Device	-\$ xx.xx

Yes/No	Discounts	Amount
	Anti-Lock Brakes (ABS)	-\$ xx.xx
	Driver Training	-\$ xx.xx
	Accident Prevention Course	-\$ xx.xx
	Accident-Free/Careful Driver	-\$ xx.xx
	Multi-Car	-\$ xx.xx
	Package Discount	-\$ xx.xx
	Senior Citizen/Retired	-\$ xx.xx
	No-Fault Work Loss Reduction	-\$ xx.xx
	Other (Specify)	-\$ xx.xx
	<b>Surcharges*</b>	<b>Amount</b>
	Chargeable Accidents	+\$ xx.xx
	Violations	+\$ xx.xx
	Other (Specify)	+\$ xx.xx
	<b>TOTAL DOLLAR AMOUNT OF ALL SUR- CHARGES</b>	<b>\$ xx.xx</b>

\* Dollar amounts of surcharges may, but need not, be itemized. If not itemized, set forth an aggregate amount of all surcharges.

-Dates of Surchargeable Accident(s):

-Dates of Surchargeable Violation Conviction(s):

Where more than one vehicle is covered under the policy, each discount may be: (1) itemized separately for each vehicle; or (2) aggregated for all vehicles, if it is also noted to which vehicle(s) a particular discount is being applied. For example, the dollar amount of the anti-theft discount on the total policy premium may be stated, noting next to it, "Applies to vehicle # 2" (or "Applies to entire policy", as in the case of discounts such as a package discount).

Calculating the exact dollar amount of each discount may be unclear in situations where multiple discounts apply to the policy. For purposes of this disclosure, and to promote uniformity, the dollar amount that should be shown for each discount is the amount of reduction afforded by that specific discount, when compared to the cost of the policy when all other applicable discounts, except the one shown, are accounted for. For example, if a policy has an accident prevention course discount and a passive restraint discount, then the amount that should be shown for the passive restraint discount is the difference between the actual policy premium and the premium for the same policy calculated applying only the accident prevention course discount.

In the case of a policy with an accident prevention course discount, it would be informative for the declarations page (or attachment thereto) to specify when the current three-year discount-period will expire. Insurers are also encouraged to provide additional meaningful disclosures. For example, a clear presentation of the classification factors upon which the policy premium is based would be helpful to consumers. As an illustration, the declarations page (or attachment) could state "Vehicle # 1: Classification Code 887210 - Adult Married Female; age 22; owner or principal operator; driving to and from work less than 15 miles; licensed over 3 years; no accidents or violations; driving less than 10,000 miles annually".

Although this legislation does not require an insurer to make these disclosures on commercial motor vehicle insurance policies, it would be useful for similar disclosures (where applicable) to be made on the declarations page(s) of those policies as well.

Presented at the same time and in the same place, this type of information helps focus the insured's attention on the financial consequences of the negative behavior that results in surcharges and the positive actions that lead to discounts.

C. Motor Vehicle Law Enforcement Fee.

Chapter 55 of the Laws of 1992 added Section 9110 of the Insurance Law. This new section requires insurers writing motor vehicle liability insurance to charge and collect a \$ 1.00 Motor Vehicle Law Enforcement (MVLE) fee, as detailed in Circular Letter No. 5 (1992), on all such new and renewal policies issued or delivered on or after July 1, 1992 in this State, for every registered vehicle so insured.

This MVLE fee must be identified: on the declarations page; on the premium billing; or in a separate written communication to the policyholder.

It is important to note that a policy may not be cancelled solely for nonpayment of this MVLE fee, since it is not part of the premium, but a fee remitted to the Superintendent.

D. Supplementary Uninsured Motorists Coverage.

Regulation No. 35-D, promulgated on July 8, 1992, prescribes a standard endorsement for Supplementary Uninsured Motorists (SUM) coverage to be effective on October 1, 1992. This regulation prescribes a policy form and procedures for SUM coverage. As noted in Circular Letter No. 17 (1992), litigation has stayed Department enforcement of the regulation pending a decision by the Appellate Division, First Department, which is expected early next year. However, as discussed in Circular Letter No. 17 (1992), an insurer may voluntarily make a filing complying with the provisions of the regulation.

Regulation 35-D contains provisions dealing with declarations page disclosure. Prudent insurers will address SUM coverage (whenever purchased by a policyholder) in the declarations page(s), whether or not Regulation 35-D is yet enforceable.

Receipt of this Circular Letter must be acknowledged in writing, no later than January 15, 1993, to:

Mr. Alan Goren  
Senior Insurance Examiner  
New York State Insurance Department  
Property & Casualty Insurance Bureau  
New York, New York 10013

(212) 602-0341

As part of the policy, the declarations page(s) require the Department's prior approval in regard to their form, pursuant to Section 2307 of the Insurance Law.

Very truly yours,

[SIGNATURE]

SALVATORE R. CURIALE

SUPERINTENDENT OF INSURANCE