

OFFICIAL COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW
YORK
TITLE 11. INSURANCE DEPARTMENT
CHAPTER III. POLICY AND CERTIFICATE PROVISIONS
SUBCHAPTER B. PROPERTY AND CASUALTY INSURANCE
PART 60. MINIMUM PROVISIONS FOR AUTOMOBILE LIABILITY INSURANCE POLICIES AND
SUPPLEMENTARY UNINSURED MOTORISTS INSURANCE
SUBPART 60-1. MINIMUM PROVISIONS FOR AUTOMOBILE LIABILITY INSURANCE POLICIES

Section 60-1.1 Mandatory provisions.

An "owner's policy of liability insurance", as defined in Section 311 of the Vehicle and Traffic Law, shall contain in substance the following minimum provisions or provisions which are equally or more favorable to the insured and judgement creditors, so far as such provisions relate to judgement creditors:

(a) Insurance against loss from the liability imposed by law upon the insured for damages, including damages for care and loss of services, because of bodily injury, sickness, disease or death sustained by any person and because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance, use or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or Canada, subject to limits, exclusive of interest and costs, with respect to each such motor vehicle of \$25,000 because of bodily injury, sickness or disease of any one person who does not die as a result of any one accident and \$50,000 because of bodily injury, sickness or disease of any one person who dies as the result of any one accident; and, subject to said limits for any one person, to limits of \$50,000 because of bodily injury, sickness or disease of two or more persons who do not die as the result of any one accident and \$100,000 because of bodily injury, sickness or disease of two or more persons who die as the result of any one accident; and to a total limit of \$10,000 because of injury to or destruction of property of one or more persons or organizations as the result of any one accident; provided that a motor vehicle and a trailer or trailers attached thereto shall be held to be one motor vehicle as respects such limits of liability.

(b) With respect to such insurance as is afforded, the insurer, subject to the policy terms shall: defend any suit, with the right to make such investigation, negotiation and settlement as it deems expedient; pay all premiums on attachment bonds and appeal bonds; pay all expenses incurred by the company, all costs taxed against the insured in any such suit, and all interest accruing after entry of judgement until the insurer has paid or tendered or deposited in court such part of such judgement as does not exceed the applicable policy limits; pay expenses incurred by the insured for first aid to others at the time of accident; and reimburse the insured for reasonable expenses other than loss of earnings, incurred at the company's request. The amounts incurred under this subdivision (b), except settlement of claims and suits, shall be payable by the company in addition to the applicable policy limits.

(c) A provision insuring as "insured":

(1) the named insured and, if an individual, his or her spouse if a resident of the same household with respect to the motor vehicle or vehicles;

(2) any other person using the motor vehicle with the permission of the named insured or such spouse provided his or her actual operation or (if he or she is not operating) his or her other actual use thereof is within the scope of such permission; and

(3) any other person or organization but only with respect to his, her or its liability because of acts or omissions of an insured within paragraph (1) or (2) of this subdivision. As respects any person or organization other than the named insured or such spouse the policy need not apply:

(i) to any person or organization, or to any agent or employee thereof, employed or otherwise engaged in operating an automobile sales agency, repair shop, service station, storage garage or public parking place, with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith;

(ii) to any employee with respect to injury, sickness, disease or death of a fellow employee injured in the course of his or her employment in an accident arising out of the maintenance or use of the motor vehicle in the business of their common employer; or

(iii) to any person or organization, or to any agent or employee thereof, with respect to bodily injury, sickness, disease or death, or injury to or destruction of property arising out of the loading or unloading of the motor vehicle. The insurance shall apply separately to each insured against whom claim is made or suit is brought, provided the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(d)(1) A provision that, if the named insured is an individual or husband or wife and the policy affords insurance with respect to a private passenger automobile owned by either, such policy shall afford bodily injury and property damage liability insurance for:

(i) any other private passenger automobile of which the named insured acquires ownership provided it replaces the automobile described in the policy or the company insures all automobiles owned by the named insured or his spouse on the delivery date; or

(ii) any automobile, used with the permission of the owner, and not owned by the named insured or his spouse or any resident of the same household, which is temporarily substituted for the said automobile while withdrawn from service because of breakdown, servicing, repair, loss or destruction; or

(iii) the incidental use in other than a business or occupation of such insured or his spouse of automobiles not owned by such named insured or a member of his household, nor furnished or available for their regular use, provided the actual operation or other actual

use thereof is with the permission of the owner and is within the scope of such permission.

(2) Such a provision need not apply:

(i) to any accident arising out of the maintenance or use of an automobile by a person employed or otherwise engaged in the business of an automobile sales agency, repair shop, service station, storage garage or public parking place; or

(ii) with respect to a newly acquired automobile, to any loss against which the named insured or his spouse has other valid and collectable insurance.

(e) A provision that when a motor vehicle is used or operated in any other state or Canadian province a policy currently in effect or hereafter issued shall provide at least the minimum amount and kind of coverage which is required in such cases under the laws of such jurisdiction. Any policy not containing such provision shall nevertheless be deemed to provide such coverage. This provision is not intended to create a duplication of coverage or benefits to the extent that a New York insured carries additional coverages under any automobile or motor vehicle insurance policy or is covered under an automobile or motor vehicle policy of a resident of the jurisdiction wherein an injury occurs.

(f) A provision that assault and battery shall be deemed an accident unless committed by or at the direction of the insured. (Not required if policy is written on an occurrence basis in which event the policy shall be subject to an exclusion pertaining to bodily injury or property damage caused intentionally by or at the direction of the insured.)

(g) Either of the following provisions:

(1) The insurer shall not be liable for a greater proportion of the loss than the applicable limit of liability of the policy bears to the total applicable limit of liability of all other valid and collectable insurance covering the insured against such loss; provided, however, with respect to an automobile, other than a newly acquired automobile, for which insurance is provided under subdivision (d) of this section, the insurance shall be excess insurance over any other valid and collectable insurance.

(2) The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the insured has other business which is stated to be applicable to the loss on an excess or contingent basis, the amount of the company's liability under this policy shall not be reduced by the existence of such other insurance. When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, the company shall not be liable under this policy for a greater proportion of the loss than that stated in the applicable contribution provision below:

(i) Contribution by equal shares. If all such other valid and collectable insurance provides for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than would be payable if each insurer contributes an equal share until the share of each insurer equals the lowest applicable limit of liability under any one policy or the full amount of the loss is paid, and with respect to any amount of loss not paid the remaining insurers then continue to contribute equal shares of the remaining amount of the loss until each such insurer has paid its limit in full or the full amount of the loss is paid.

(ii) Contribution by limits. If any of such other insurance does not provide for contribution by equal shares, the company shall not be liable for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectable insurance against such loss.

With respect to the maintenance or use of hired automobiles and nonowned automobiles, this insurance shall apply only as excess insurance over any other valid and collectable insurance available to the insured.

(h) A provision that if the insurer cancels the policy, at least 20 days prior written notice must be mailed or delivered to the named insured, except where the cancellation is for nonpayment of premium in which case 15 days notice of cancellation by the insurer shall be sufficient.

Section 60-1.2 Exclusions.

Such an "owner's policy of liability insurance" may contain in substance the following exclusions:

(a) while the motor vehicle is used as a public or livery conveyance;

(b) liability assumed by the insured under contract or agreement; and

(c) while the motor vehicle is used for the towing of any trailer or semitrailer owned or hired by the insured and not covered by like insurance with the insurer; or while any trailer or semitrailer covered by the policy is used with any motor vehicle owned or hired by the insured and not covered by like insurance with the insurer.

(d) Bodily injury to or sickness, disease or death of any employee of the insured arising out of and in the course of:

(1) domestic employment by the insured, if benefits therefor are in whole or in part payable or required to be provided under any workers' compensation law; or

(2) other employment by the insured.

(e) Any obligation for which the insured or any carrier as his insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits law, or any similar law.

(f) Injury to or destruction of property owned or transported by the insured or property rented to or in charge of the insured or property as to which the insured is for any purpose exercising physical control.

(g) Bodily injury, sickness, disease or death, or injury to or destruction of property due to war, whether or not declared civil war, insurrection, rebellion or revolution, or any act or condition incident to any of the foregoing.

(h) To the extent the Federal Tort Claims Act provides coverage and protection when the insured vehicle is being operated in the course of employment by an agent, servant and/or employee of the United States government, its territories, possessions, political subdivisions, agencies or other independent governmental corporations.

Section 60-1.3 Discretionary provisions.

Such an "owner's policy of liability insurance" may also contain in substance the following provisions:

(a) that written notice of accident, claim or suit is required;

(b) that the insurer is subrogated to any rights of recovery of the insured;

(c) that the terms of the policy may not be waived or changed except as stated in the policy;

(d) that the insurer's consent is necessary to any assignment of interest under the policy;

(e) that the insured will co-operate with the insurer;

(f) that no action shall lie against the insurer unless the insured shall have complied with all the terms of the policy, nor until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the insurer;

(g) that the insurer issues the policy upon the reliance of the insured's declarations and that the policy contains all agreements between the insured and the insurer and any of its agents relating to the insurance;

(h) a provision relating to the insurer's own method of doing business; and

(i) that notice to the insurer of delivery of a newly acquired additional motor vehicle or an election to insure it under a specific policy is required.

Section 60-1.4 Payments to insured.

Such an "owner's policy of liability insurance" shall be subject to the applicable provisions of section 3420 of the Insurance Law, as amended. For the purpose of complying with the provisions of subsection (f)(1) of section 3420, no policy subject to this Part shall be issued by any authorized insurer unless it contains coverage providing for payments to the insured, as defined in such coverage, by the New York Motor Vehicle Accident Indemnification Corporation, pursuant to the provisions of article 52 of the Insurance Law applicable to such payments.

Section 60-1.5 Rental vehicle coverage.

Subject to the provisions of this section and notwithstanding other provisions of this Part, every motor vehicle liability insurance policy insuring at time of issuance or renewal less than five (5) private passenger motor vehicles registered in this state shall provide, in the form prescribed by subdivision (h) of this section, separate "rental vehicle coverage" for the insured's obligation for actual damage to, or loss of, a rental vehicle, including loss of use, rented by the insured in the United States, its territories or possessions, and Canada under a rental agreement with a term of thirty (30) continuous days or less, regardless of where such rental vehicle may be registered, rented or operated.

(a) Rental vehicle coverage shall be added by prescribed endorsement to all such policies issued or renewed in this state on and after April 1, 1989.

(b) All such policyholders shall be sent the notice prescribed by subdivision (i) herein and shall be informed that, in the event of a premium or a premium increase charged for rental vehicle coverage, the policyholder shall then have an option to reject such coverage within ten calendar days following receipt of notice that such premium or premium increase will be charged.

(c) The option to reject rental vehicle coverage provided by subdivision (b) herein shall apply only at new policy issuance and upon initial policy renewal following the insurer's determination to charge or increase a premium for this coverage.

(d) Rental vehicle coverage shall provide protection:

(1) only with respect to rental vehicles operated within the United States, its territories or possessions, and Canada;

(2) regardless of whether the rental vehicle is rented or operated for business or pleasure, unless used for transporting persons or property for hire; and

(3) regardless of fault.

(e) For purposes of this section, the following definitions shall apply:

(1) "Insured" means named insured or any relative;

(2) "Relative" means a spouse, child or other person related to the named insured by blood, marriage or adoption (including a ward or foster child), who regularly resides in the insured's household, including any such person who regularly resides in the household, but is temporarily living elsewhere;

(3) "Private passenger motor vehicle" has the meaning ascribed by subsection (a) of Section 3440 of the Insurance Law;

(4) "Long-term contract," as used by subsection (a) of section 3440 of the Insurance Law, means a contract with a term of six months or longer; and

(5) "Rental vehicle" means a vehicle of the type described in subsection (a) of Section 3440 of the Insurance Law as a private passenger motor vehicle, if:

(i) not used for transporting persons or property for hire; and

(ii) owned by a person engaged in the business of renting or leasing vehicles rented or leased without a driver to persons other than the owner and is registered in the name of such owner.

(f) The protection provided under rental vehicle coverage shall not be provided elsewhere in the policy.

(g) An insurer may provide under rental vehicle coverage broader than that required by this Part, in terms of number or types of vehicles or territorial scope.

(h) The prescribed policy form shall be as follows:

RENTAL VEHICLE COVERAGE ENDORSEMENT

INSURER INSURED POLICY NUMBER

This Rental Vehicle Coverage endorsement applies only to, and is part of, every motor vehicle liability insurance policy that covers less than five private passenger motor vehicles.

For each such policy, this endorsement provides coverage for the insured's obligations in the event of actual damage to, or loss of, any rental vehicle, including loss of use, rented by the insured anywhere in the United States, its territories or possessions, and Canada under a rental agreement with a term no longer than thirty continuous days, regardless of where such rental vehicle may be registered, rented or operated.

Rental Vehicle Coverage shall provide protection regardless of: (a) fault; and (b) whether the rental vehicle is rented or operated for business or pleasure, unless used for transporting persons or property for hire.

Definitions:

(a) "Insured" means insured or any relative;

(b) "Relative" means a spouse, child or other person related to the named insured by blood, marriage or adoption (including a ward or foster child), who regularly resides in the insured's household, including any such person who regularly resides in the household, but who is temporarily living elsewhere;

(c) "Private passenger motor vehicle" means:

(1) a motor vehicle of the private passenger or station wagon type that is owned or hired under a long-term contract by an individual or by husband and wife, and is neither used as a public or livery conveyance for passengers nor rented to others without a driver; or

(2) a motor vehicle with a pick-up body, a delivery sedan, panel truck or van, owned by an individual or by husband or wife who are residents of the same household, or by a family farm co-partnership or a family farm corporation, and not customarily used in the occupation, profession or business of the insured other than farming or ranching, whether or not used in the course of driving to or from work.

(d) "Long-term contract" means a contract with a term of six months or longer.

(e) "Rental vehicle" means a vehicle of the type described in (c) above, if:

(1) not used for transporting persons or property for hire; and

(2) owned by a person engaged in the business of renting or leasing vehicles rented or leased without a driver to persons other than the owner and is registered in the name of such owner.

Priority of payment:

(a) In no event shall payment be made under this endorsement duplicating payment made by this policy, another policy or another insurer for the same claim.

(b) If more than one policy could cover the claim, payment on the claim shall be made in the following order of priority:

(1) the policy with respect to which the person is a named insured;

(2) if the person is not a named insured on any policy, the policy with respect to which the person is an insured; and

(3) where two or more policies provide coverage of equal priority, the policy or insurer with respect to which the claim is first submitted.

(c) An inquiry about coverage or notification of damage to, or loss of, a rental vehicle shall constitute submission of a claim.

Exclusions:

No Rental Vehicle Coverage shall be provided:

(a) arising beyond the geographic limitations of the policy to which Rental Vehicle Coverage is endorsed;

(b) to an insured who has committed fraud in connection with damage to, or loss of, a rental vehicle, including loss of use; or

(c) for damage to, or loss of, a rental vehicle, including loss of use, which the rental vehicle company is precluded from recovering from the insured:

(1) pursuant to the terms of the rental agreement; or

(2) due to the prohibitions of section 396-z of the General Business Law or similar statutory provisions of other jurisdictions.

Subrogation:

(a) In the event of any payment under this endorsement, the insurer is subrogated to the extent of such payments to the rights of the person to whom, or for whose benefit, such payments were made.

(b) Such person shall execute and deliver instruments and papers and do whatever else is necessary to secure such subrogation rights, and shall not act in a manner that may prejudice such rights.

(c) Subrogation shall not be pursued against any person who operated the rental vehicle with the insured's permission.

(i) The notice prescribed herein shall be sent to all policyholders, with motor vehicle liability insurance policies covering less than five private passenger motor vehicles, commencing February 24, 2003, upon policy renewal or new policy issuance, and shall be sent again if the insurer at any time thereafter determines to charge or increase a premium for rental vehicle coverage, giving affected policyholders an option to reject this coverage, except to those who previously exercised such option.

RENTAL VEHICLE COVERAGE NOTICE TO POLICYHOLDERS

****Rental Vehicle Coverage Premium Charge YES: ___ NO: ___ **If YES, Amount of Rental Vehicle Coverage Premium: \$ ____**

The Rental Vehicle Coverage endorsement to this policy provides protection in the event of damage to, or loss of, a rental vehicle, including loss of use, as described in the endorsement.

Rental Vehicle Coverage is mandated by New York State law to reduce problems that confront consumers and leave them vulnerable to major unanticipated costs when dealing with rental vehicle companies.

This Rental Vehicle Coverage protects you whenever rental vehicles are rented and operated anywhere within the United States, its territories or possessions, and Canada.

In the event that a premium is at any time charged or increased for Rental Vehicle Coverage, you have the right to reject this coverage and not pay such charge, if you so inform your insurer within ten calendar days after you receive notice that such a premium charge or increase will be made for Rental Vehicle Coverage.

Please review the Rental Vehicle Coverage endorsement itself. If, as indicated at the top of this notice, there is a premium charge or increase and you wish to reject Rental Vehicle Coverage -- or you simply wish to obtain additional information regarding this coverage -- please contact your insurance agent or broker, or call our toll-free telephone number: 800-[insert number].

11 NYCRR 60-1.6 Supplemental spousal liability insurance

This section implements Section 3420(a) and (g) of the Insurance Law, as amended by Chapter 584 of the Laws of 2002, which requires motor vehicle liability insurers to offer supplemental spousal liability (SSL) insurance to all policyholders in New York State who are covered under motor vehicle liability insurance policies that satisfy the requirements of Article 6 of the New York Vehicle and Traffic Law. This requirement applies to all policies issued or renewed that become effective on and after January 1, 2003. Section 3420(g)(2) provides that, pursuant to regulations promulgated by the Superintendent of Insurance, a notification by the insurer to the insured shall include an explanation of the coverage and the insurers premium for the coverage.

(a) Minimum requirements of SSL insurance.

(1) "Supplemental spousal liability insurance" means coverage against liability of an insured because of death of or injuries to his or her spouse up to the liability insurance limits provided under the policy even where the injured spouse, to be entitled to recover, must prove the culpable conduct of the insured spouse.

(2) SSL insurance and the requirements of this section shall apply only to the bodily injury liability coverage under a primary motor vehicle liability insurance policy that satisfies the requirements of Article 6 of the New York Vehicle and Traffic Law and shall not apply to other coverages under the policy or other types of policies, such as an umbrella liability policy.

(3) If an insurer has offered to the insured the option to purchase SSL insurance and the insured has not opted to purchase this insurance, the policy will continue to not include spousal liability coverage.

(b) Notification about SSL insurance.

(1) An insurer issuing motor vehicle liability insurance policies that satisfy the requirements of Article 6 of the New York Vehicle and Traffic Law shall, with all such policies issued or renewed that become effective on and after January 1, 2003, provide the notification to the named insureds under the policies of the availability of the optional SSL insurance.

(2) The notification must be contained on the front of the premium notice in boldface type and include a concise statement that supplementary spousal liability insurance is available, an explanation of the insurance, and the premium for the insurance.

(3) For the purpose of this section, premium notice shall mean any one or more of the following: declarations page, premium notice, premium bill, installment bill or any attachment thereto, generally used by the insurer to communicate information to the insured concerning an insureds coverages and corresponding premiums.

(4) This notification shall be provided with all new policies and thereafter annually with all renewal policies.

(5) An insurer may use the following sample notification or its substantive equivalent:

SUPPLEMENTAL SPOUSAL LIABILITY COVERAGE

New York State law requires that upon written request of an insured, and upon payment of the premium, an insurer issuing or delivering a policy that satisfies the requirements of Article 6 of the New York Vehicle and Traffic Law shall provide Supplemental Spousal Liability Insurance coverage.

Supplemental spousal liability insurance provides bodily injury liability coverage under a motor vehicle insurance policy to cover the liability of an insured spouse because of the death of or injury to his or her spouse, even where the injured spouse must prove the culpable conduct of the insured spouse.

This coverage is included within the policy's bodily injury liability limits and does not increase the amount of those limits. For example:

Insured's bodily injury policy coverage limit: \$100,000/\$300,000

Insured's bodily injury damage claim paid to spouse: \$75,000

Insured's bodily injury policy coverage limit available to all other claimants subject to a maximum of \$100,000 per person: \$225,000

This example assumes the spouse and other claimants involved in the accident have a right to sue the insured for economic loss or for non-economic loss (i.e., pain and suffering) sustained as a result of a "serious injury" as defined in Section 5102(d) of the Insurance Law. It must also have been shown that there was negligence on the part of the insured.

The additional premium for SSL coverage is \$XX.XX. If you do not elect to purchase this coverage and do not remit the additional premium, SSL coverage is not included in your motor vehicle insurance policy.