

September 19, 1978

SUBJECT: INSURANCE

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

WITHDRAWN

Circular Letter No. 13 (1978)

TO: ALL INSURERS LICENSED TO WRITE AUTOMOBILE INSURANCE IN THIS STATE

RE: EFFECT OF CHAPTER 426 OF THE LAWS OF 1978 ON: 1) MERIT RATING PLANS: AND 2)  
CANCELLATION AND NON-RENEWAL OF POLICIES SUBJECT TO SECTION 167-a OF THE INSURANCE  
LAW

Insurers doing business in this state are required to be familiar with the provisions of the Insurance Law, other laws of this state applicable to insurers and any amendments to such laws. Accordingly, the Insurance Department rarely draws the attention of insurers to specific changes in statutes. However, a new law (Chapter 426 of the Laws of 1978) affects the merit rating plans of most insurers and the rights of all policyholders subject to Section 167-a of the Insurance Law. The law was signed by Governor Carey on June 19, 1978 to become effective on November 1, 1978 with respect to policies issued or renewed on and after that date. Since insurers have not yet filed amendments to their merit rating plans in conformity with the new law, and since most insurers are now processing November policy renewals, this letter is being sent to all automobile insurers in order that the public be protected by implementing the requirements of the law without delay. A copy of Chapter 426 is attached.

(a) Merit Rating Plans

Your attention is drawn to Section 4 of the new law adding a new Subdivision 6 to § 167 of the Insurance Law which prohibits an increase in policy premiums for any automobile insurance coverage based solely on an administrative suspension or administrative suspensions [as defined in bill Section 1: § 167-a(1)(e)] which has or have been terminated on or before the effective date of the policy, or solely upon one conviction within a 36 month specified period for a traffic infraction. Specific exceptions are, however, made for (i) speeding convictions of more than fifteen miles in excess of the legal limit, (ii) violations for which notice of non-renewal or conditional non-renewal of a policy may be issued pursuant to § 167-a(5)(a), or (iii) two or more moving violations of any other provision of the Vehicle and Traffic Law.

All insureds whose policies will be issued or renewed with effective dates on or after November 1, 1978 must have their policy premiums determined in accordance with the requirements of the new statute. If such policies have already been or are now being issued in accordance with manual rules which are in conflict with Chapter 426, appropriate premium reductions to such insureds must be effected by January 1, 1979.

The effect of this statute on virtually all insurers is to prohibit certain merit-rating rules and classifications. Insurers must file amendments to their manual rules which will make them consistent with the statute by November 1, 1978.

Such amendments may take the form of an added New York exception page which essentially quotes the language of the statute. Alternatively, manuals may be generally amended to incorporate in their texts the substance of the New York statute.

(b) Cancellation and Non-Renewal

You should also be aware that insurers may no longer non-renew, conditionally renew or cancel automobile insurance policies subject to § 167-a of the Insurance Law based upon "one or more administrative suspensions arising from the same incident which has or have been terminated prior to the effective date of cancellation." (See Chapter 426, Section 2.) Accordingly, any notice of non-renewal, conditional renewal or cancellation of policies issued or renewed with effective dates on or after November 1, 1978 cannot be based upon a terminated administrative suspension. Furthermore, an insurer which bases a cancellation or non-renewal upon a non-terminated administrative suspension should advise its policyholder in writing that the policy may still be reinstated if the suspension is subsequently terminated prior to the effective date of the cancellation or non-renewal, provided that the policyholder gives timely notice to the insurer of such termination.

Please acknowledge receipt of this letter, and address all filings and communications, to

Mr. Henry L. Lauer, Principal Examiner  
Property and Casualty Insurance Bureau  
State Insurance Department  
2 World Trade Center (80th fl.)  
New York, NY 10047

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ATTACHMENT

IN SENATE

April 13, 1978

Introduced by Sens. DUNNE, LEVY, BRUNO, CAEMMERER, FARLEY, LaVALLE, SCHERMERHORN, BABBUSH, BARTOSIEWICZ, GOLD--(at request of the Department of Motor Vehicles)--read twice and ordered printed, and when printed to be committed to the Committee on Insurance--reported favorably from said committee with amendments and ordered reprinted as amended and when reprinted to be committed to the order of first report

AN ACT to amend the insurance law in relation to cancellation and non-renewal of automobile insurance policies and the prohibition of increases in rates for insurance on motor vehicles in certain cases

[A>The People of the State of New York, represented in Senate and Assembly, do enact as follows: <A]

Section 1. Subdivision one of section one hundred sixty-seven-a of the insurance law is hereby amended by adding a new paragraph (e) to read as follows:

[A> (E) "ADMINISTRATIVE SUSPENSION" MEANS A TEMPORARY SUSPENSION OF A DRIVER'S

LICENSE PENDING A HEARING, PROSECUTION OR INVESTIGATION OR AN INDEFINITE SUSPENSION OF A DRIVER'S LICENSE WHICH IS ISSUED BECAUSE OF THE FAILURE OF THE PERSON SUSPENDED TO PERFORM AN ACT, WHICH SUSPENSION WILL BE TERMINATED BY THE PERFORMANCE OF THE ACT BY THE PERSON SUSPENDED. <A]

§ 2. Subparagraph (ii) of paragraph (a) of subdivision three of section one hundred sixty-seven-a of such law, as amended by chapter three hundred forty-eight of the laws of nineteen hundred seventy-six, is hereby amended to read as follows:

(ii) suspension or revocation during the required policy period of the driver's license of the named insured or any other person who customarily operates an automobile insured under the policy, other than a suspension issued pursuant to subdivision one of section five hundred ten-b of the vehicle and traffic law [A> OR ONE OR MORE ADMINISTRATIVE SUSPENSIONS ARISING FROM THE SAME INCIDENT WHICH HAS OR HAVE BEEN TERMINATED PRIOR TO THE EFFECTIVE DATE OF CANCELLATION; <A]

§ 3. Subparagraph (ix) of paragraph (a) of subdivision five of section one hundred sixty-seven-a of such law, as added by chapter three hundred forty-eight of the laws of nineteen hundred seventy-six, is hereby amended to read as follows:

(ix) leaving the scene of an [D> [accident] <D] incident without reporting; or

§ 4. Section one hundred seventy-six of such law is hereby amended by adding a new subdivision six, to read as follows:

[A> 6. NO INSURER AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE, OR CONTROLLING OR CONTROLLED BY OR UNDER COMMON CONTROL BY OR WITH AN INSURER AUTHORIZED TO TRANSACT OR TRANSACTING BUSINESS IN THIS STATE, WHICH SELLS A POLICY PROVIDING MOTOR VEHICLE LIABILITY INSURANCE COVERAGE IN THIS STATE SHALL INCREASE THE POLICY PREMIUM IN CONNECTION WITH THE INSURANCE PERMITTED OR REQUIRED BY THIS CHAPTER SOLELY BECAUSE THE INSURED OR ANY OTHER PERSON WHO CUSTOMARILY OPERATES AN AUTOMOBILE COVERED BY THE POLICY: <A]

[A> A. HAS BEEN FOUND GUILTY OF A TRAFFIC INFRACTION UNDER ANY OF THE PROVISIONS OF THE VEHICLE AND TRAFFIC LAW PROVIDED, HOWEVER, THAT THIS PROVISION SHALL NOT APPLY TO A CONVICTION FOR A VIOLATION WHICH OCCURRED DURING THE THIRTY-SIX MONTH PERIOD ENDING ON THE LAST DAY OF THE FOURTH MONTH PRECEDING THE MONTH OF THE EFFECTIVE DATE OF THE POLICY IF SUCH CONVICTION CONSISTED OF (I) OPERATING A MOTOR VEHICLE AT A SPEED OF MORE THAN FIFTEEN MILES PER HOUR IN EXCESS OF THE LEGAL LIMIT, OR (II) A VIOLATION FOR WHICH A NOTICE OF NON-RENEWAL OR CONDITIONAL RENEWAL MAY BE ISSUED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FIVE OF SECTION ONE HUNDRED SIXTY-SEVEN-A OF THIS CHAPTER, OR (III) TWO OR MORE MOVING VIOLATIONS OF ANY OTHER PROVISION OF THE VEHICLE AND TRAFFIC LAW; OR <A]

[A> B. HAS HAD AN ADMINISTRATIVE SUSPENSION AS DEFINED IN SECTION ONE HUNDRED SIXTY-SEVEN-A OF THIS CHAPTER OR MORE THAN ONE ADMINISTRATIVE SUSPENSION ARISING OUT OF THE SAME INCIDENT ISSUED AGAINST HIM PROVIDED THE FOREGOING PROVISION OF THIS SECTION SHALL NOT APPLY IF SUCH SUSPENSION OR SUSPENSIONS HAS OR HAVE NOT BEEN TERMINATED ON OR BEFORE THE EFFECTIVE DATE OF THE POLICY. <A]

§ 5. This act shall take effect November first, nineteen hundred seventy-eight and shall apply to all policies issued or renewed on and after such date.