

October 19, 1979

SUBJECT: INSURANCE

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

WITHDRAWN

CIRCULAR LETTER NO. 28, 1979

TO: ALL INSURERS LICENSED TO WRITE AUTOMOBILE LIABILITY INSURANCE IN NEW YORK STATE

RE: IMPLEMENTATION OF CHAPTER 665 OF THE LAWS OF 1979 INCREASING THE REQUIRED  
MINIMUM LIMITS OF LIABILITY FOR MOTOR VEHICLE DEATH CASES

Chapter 665 of the Laws of 1979 increased the required minimum limits of liability under the financial security laws of this State. The law will become effective on December 1, 1979 and applies to all policies outstanding on that date and to those issued on and after that date.

Chapter 665 increased the required minimum coverage for liability for the death of one person in a motor vehicle accident from \$ 10,000 to \$ 50,000 and the required minimum coverage for liability for the death of more than one person from \$ 20,000 to \$ 100,000 in any one accident. Minimum bodily injury liability limits when there is no death continue to be \$ 10,000 for one person and \$ 20,000 for more than one person, in any one accident. Similar revisions were made where the Motor Vehicle Accident Indemnification Corporation ("MVAIC") is the only source of payment because no other motor vehicle insurance is available. The \$ 50,000/100,000 liability minimum is distinct from the statutory \$ 10,000/20,000 personal injury liability minimum, and the coverages will not be stacked.

I have promulgated the third amendment to Regulation 35-A (11 NYCRR 60 establishing minimum automobile liability policy provisions) to incorporate the changes required by the new law.

Attached are the texts of two endorsements ("Limits of Liability Amendatory Endorsement" and "New York Automobile Accident Indemnification Amendatory Endorsement") which are acceptable for approval by the Insurance Department and the Board of Directors of the Motor Vehicle Accident Indemnification Corporation, respectively, and which will be approved for each insurer upon filing with the Department. The endorsements contain contractual language which affords the additional coverage required by the new law and will meet the requirements of Regulation 35-A, as amended. All policies will be construed as if the provisions of the endorsements were embodied therein.

No substantive deviation from the foregoing endorsements will be approved by the Department at this time. Insurers may include the language of the endorsements within their policy forms.

Insurers are directed to transmit to all of their policyholders, regardless of the limits of liability coverage in force, copies of the endorsements not later than the first renewal billing occurring on and after March 1, 1980.

To provide some guidance on the effect of the Endorsements on the existing limits of policies, the following illustrations are furnished:

\$ 10/20,000 Limits

1. If one person dies as a result of an automobile accident, whether instantly or after a period of time, only the \$ 50,000 death limit applies, and the \$ 10,000 personal injury liability coverage is not applicable.
2. If one person dies and another person is injured as a result of an automobile accident, the \$ 50,000 death liability limit applies to the death case and the \$ 10,000 personal injury liability limit applies to the injury case.
3. If two or more persons die as a result of an automobile accident, the \$ 100,000 aggregate minimum death liability limit applies, and the \$ 20,000 personal injury liability limit is not applicable.
4. If two or more persons die and two or more other persons are injured in a single automobile accident, there is a maximum of \$ 100,000 available for the death cases and a maximum of \$ 20,000 for the personal injury liability cases. Thus, the limit of liability under the policy for this accident would be \$ 120,000.

\$ 25/50,000 Limits

1. If one person dies as a result of an automobile accident, whether instantly or after a period of time, only the \$ 50,000 death limit applies, and the \$ 25,000 personal injury liability coverage is not applicable.
2. If one person dies and another person is injured as a result of an automobile accident, the \$ 50,000 death liability limit applies to the death case and the \$ 25,000 personal injury liability limit applies to the injury case.
3. If two or more persons die as a result of an automobile accident, the \$ 100,000 aggregate minimum death liability limit applies, and the \$ 50,000 personal injury liability limit is not applicable.
4. If two or more persons die and two or more other persons are injured in a single automobile accident, there is a maximum of \$ 100,000 available for the death cases and a maximum of \$ 50,000 for the personal injury liability cases. Thus, the limit of liability under the policy for this accident would be \$ 150,000.

\$ 100,000/300,000 Limits

This limit complies with the increased financial responsibility limits of Chapter 665 so long as \$ 50/100,000 is available for death cases.

Kindly have a responsible officer of your company acknowledge receipt of this letter to:

Mr. Henry Bergens

New York State Insurance Department

Property and Casualty Bureau

2 World Trade Center

New York, New York 10047

Very truly yours,

[SIGNATURE]

ALBERT B. LEWIS

Superintendent of Insurance

ATTACHMENT

AUTOMOBILE

LIMITS OF LIABILITY AMENDATORY ENDORSEMENT  
(Chapter 665 - New York Laws of 1979)

With respect to such [D> [Bodily Injury Liability Coverage] <D] as is afforded by the policy, if the bodily injury results in death, the company will provide supplemental limits of liability of \$ 50,000 for such bodily injury resulting in death sustained by [D> [each person] <D] as the result of any one [D> [occurrence] <D] and, subject to this limit for [D> [each person] <D], \$ 100,000 for such bodily injury resulting in death sustained by two or more persons as the result of [D> [each occurrence] <D].

The limits of liability of this endorsement shall be reduced as follows:

1. In the event of the death of one person, the \$ 50,000 limit shall be reduced by any amounts paid to or on behalf of that person under the [D> [Bodily Injury Liability Coverage] <D] of this policy, and
2. In the event of the death of two or more persons, and subject to the limitation in item 1 above, the \$ 100,000 limit shall be reduced by any amounts paid to or on behalf of those persons under the [D> [Bodily Injury Liability Coverage] <D] of this policy.

Note: The appropriate reference may be substituted for matter in brackets.

AUTOMOBILE

NEW YORK AUTOMOBILE ACCIDENT INDEMNIFICATION AMENDATORY [D> [ENDORSEMENT] <D]  
(Chapter 665 - New York Laws of 1979)

With respect to such insurance as is afforded under the New York Automobile Accident Indemnification [D> [Endorsement] <D] for bodily injury, if the bodily injury results in death, the company will provide supplemental limits of liability of \$ 50,000 for such bodily injury resulting in death sustained by one person as the result of any one accident and subject to this limit for each person, \$ 100,000 for such bodily injury resulting in death sustained by two or more persons as the result of any one accident.

The limits of liability of this endorsement shall be reduced as follows:

1. In the event of the death of one person, the \$ 50,000 limit shall be reduced by any amounts paid to or on behalf of that person under the New York Automobile Accident Indemnification [D> [Endorsement] <D], and
2. In the event of the death of two or more persons, and subject to the limitation in item 1 above, the \$ 100,000 limit shall be reduced by any amounts paid to or on behalf of those persons under the New York Automobile Accident Indemnification [D> [Endorsement] <D].

Note: The appropriate reference may be substituted for matter in brackets.