

June 17, 1985

SUBJECT: INSURANCE

WITHDRAWN

CIRCULAR LETTER NO. 10 (1985)

June 17, 1985

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

RE : DRIVING DETERRENT PROGRAMS FOR INTOXICATED OR IMPAIRED PATRONS OF TAVERNS, RESTAURANTS, OR OTHER ESTABLISHMENTS SERVING ALCOHOLIC BEVERAGES

The Insurance Department is keenly aware of the problems faced by the public in light of the great number of automobile accidents due to alcohol abuse and drunk driving.

It is common knowledge that the public has become more litigious and many restaurants, taverns, clubs and even private hosts increasingly face the threat of lawsuits for letting their customers and guests overindulge with alcohol resulting in drunk driving fatalities and injuries.

Many insurers have filed schedule rating plans which grant debits or credits to insureds in recognition of such risk characteristics as are not fully reflected in determination of the premiums or rates otherwise developed for the perils insured against.

I urge that carriers consider filing appropriate amendments to their rating plans and provide credits of up to 15% applicable to liquor liability insurance when the insured participates in a program which provides an alternative to a potentially intoxicated patron's driving his/her vehicle from the establishment to such patron's home.

The elements for an acceptable alternative program should include a model with the following characteristics:

1. The alternative model should provide a means of transporting a potential drinking driver and his/her car to their residence or final destination.
2. The model must be available 365 days a year.
3. The model must be available for use from 7:00 P.M. to closing time of an establishment.
4. The model should include a liquor servers training program that routinely trains bartenders and waiter staff in human relations skills needed to intervene with potential drinking drivers, the details of Section 11-100 of the General Obligations Law and their liability, and the procedures in securing the alternative.
5. The model should provide for the establishment of a recording system that tapes and electronically times all requests for the alternative or documentation of attempts to intervene to a central dispatch center. Those tapes must be maintained for at least 90 days.

6. The model should include an on-going, broad-based public information campaign to make citizens aware of its presence.

Programs are currently available in New York State that provide the above alternative to the drinking driver. While the above program has particular merit, this letter is not intended to exclude the filing by insurers of appropriate discounts for other anti-DWI programs applicable to liquor liability risks.

The Department encourages the development of programs designed to minimize the occurrence of driving while intoxicated (DWI) and solicits the aid of insurers in this endeavor.

Kindly acknowledge receipt of this letter to:

Henry Bergens, Principal Examiner
Property and Casualty Insurance Bureau
New York State Insurance Department
160 West Broadway
New York, New York 10013

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

Superintendent of Insurance