

September 8, 1987

SUBJECT: INSURANCE

WITHDRAWN

Circular Letter No. 15 (1987)

TO: All Insurers Authorized to Write Private Passenger Automobile. Insurance in New York State

RE: Required Informational Statement on the Legal and Financial Consequences of Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs

Pursuant to Circular Letter No. 11 (1984), all licensed insurers writing personal private passenger automobile insurance in New York should be Providing their insureds with an informational statement outlining the serious legal and financial consequences of convictions for operating a motor vehicle while under the influence of alcohol or drugs.

Chapter 484 of the Laws of 1987 requires amplifying this statement with specific data concerning the relationship between body weight, alcohol consumption rate, and the amount of alcohol consumed after which persons are deemed to be in violation of section 1192 of the Vehicle and Traffic Law. Also mandated is specific reference to the coverage exclusion in section 5103 of the Insurance Law for a DWI operator of a motor vehicle whose condition caused or contributed to the accident. While the informational statement set forth in Circular Letter No. 11 (1984) refers to this no fault exclusion, the new statement expands the reference.

This expanded informational statement must be furnished with all private passenger automobile policies issued or renewed 180 days after the date of this Circular Letter.. Any variation in the text of the attached statement must be submitted to the Insurance Department for approval. Insurers shall acknowledge receipt of this letter, and submit a draft copy of the required statement prior to issuance, to the attention of Martin Ballot, Supervising Insurance Examiner, at the above address.

Very truly yours,

[SIGNATURE]

JAMES P. CORCORAN

SUPERINTENDENT OF INSURANCE

FACT SHEET

PENALTIES FOR ALCOHOL/DRUG-RELATED DRIVING OFFENSES

AS OF APRIL 1, 1984

According to New York State Vehicle and Traffic Law, the following penalties will be imposed for convictions for the noted violations:

VIOLATION	MANDATORY FINE	MAXIMUM JAIL TERM	MANDATORY ACTION AGAINST LICENSE
*DRIVING WHILE INTOXICATED (DWI)			
First Violation	\$ 350-500	1 Year	Revoked at least 6 months
Two or more Violations in			
10 Years	\$ 500-\$ 5000	4 Year	Revoked at least 1 Year
DRIVING WHILE ABILITY IMPAIRED (DWAI)			
First Violation	\$ 250	15 Days	Suspended 90 days
** Two Violations in			
5 Years	\$ 350-\$ 500	30 Days	Revoked at least 6 months
Three Violations in 10 Years	\$ 500-\$ 1500	90 Days	Revoked at least 6 months if current violation occurred within 5 Years of previous violation
CHEMICAL TEST REFUSAL			Revoked at least 6 MONTHS Civil Penalty-\$ 100
CHEMICAL TEST REFUSAL			
with prior Alcohol- related Incident Within the past 5 Years			Revoked at least 1 Year Civil Penalty-\$ 250

* DWI penalties also apply to violations of Driving with a .10 Percent of Second or Alcohol in the Blood and Driving While Impaired by a Drug. subsequent violations in ten years are felonies. However, the one-year revocation applies only if both violations were either DWI or Driving

VIOLATION	MANDATORY FINE	MAXIMUM JAIL TERM	MANDATORY ACTION AGAINST LICENSE
with a .10 Percent of Alcohol in the Blood, and not if one or both violations were Driving While Impaired by a Drug.			

** Applicable if a DWAI violation occurs within five years of any alcohol drug-related conviction.

. When your license is revoked by the Department of Motor Vehicles, you will be required to pay a \$ 35 reinstatement fee at the time of re-application, unless you participate in the New York State Alcohol and Drug Rehabilitation Program, known as the "Drinking Driver" Program (DDP). This fee is non-refundable even if your application is denied, and is in addition to any fines imposed by the courts.

. If you have been drinking or have been taking drugs and cause a death or serious injury as a result of a traffic accident, you may face felony charges of vehicular manslaughter or vehicular assault. Conviction of such a charge could result in a \$ 5,000 fine and/or up to seven years in prison.

. If you attend the Drinking Driver Program, you must pay an administrative fee of \$ 50 and a tuition fee of either \$ 75 or \$ 85, depending on the area of the State where you attend the program. In addition, if you are required to obtain an evaluation and/or treatment for alcohol-related problems, you must also pay for these additional services.

. If you drive while your license is suspended or revoked for DWI, DWAI, or for refusing a chemical test, you face a mandatory jail term of seven to 180 days and a mandatory fine of \$ 200-\$ 500.

. If you are under age 21, convicted of DWI of Driving While Ability Impaired by a Drug, and you do not complete the New York State DDP, your license will be revoked, at a minimum, for six months or until you are 21, whichever period is greater.

. If you are convicted of an alcohol-related offense outside of New York State, your license will be revoked in New York State for a minimum period of sixty days for a charge of Driving Under the Influence (DUI). This is in addition to any fines and/or jail sentences imposed by the court in the state in which the incident occurred, or any action against your "privilege" to drive in that state.

HOW MANY DRINKS MAKE YOU LEGALLY INTOXICATED?

. In New York State you are legally intoxicated when your Blood Alcohol Content (B.A.C.) reaches .10%. You are Driving While Ability Impaired (DWAI) when the B.A.C. is between .05% and .09%.

. Any amount of drinking will effect your judgment and coordination. The degree of impairment depends on four basic factors:

- (a) The amount you drink.
- (b) Eating before or during your drinking as food will slow absorption of alcohol.
- (c) Your body weight.

(d) The length of time spent drinking.

. One drink, whether a 12-Ounce can of beer, a 5-ounce glass of wine, or a shot of 86 proof liquor all contain the same amount of alcohol. Your body metabolizes about one drink each hour. Only time will sober you up, not coffee, a walk, or a cold shower.

. Therefore, if you consume more than one drink per hour, the likelihood is that you are at least DWAI if you weigh around 110 pounds and had 2 drinks or DWAI if you had 3 drinks and weigh 170 pounds or more. A rule of thumb for an average 140-160 pound person is a rise in B.A.C. of .02% per hour per drink.

. As an example, a 140 pound person who consumes 5 drinks in a two hour period will have a .08% B.A.C. (.02% is deducted for the passage of time). If no more alcohol is consumed by that individual, he or she may not safely drive for a minimum of 4 hours. Remember, any elevation in B.A.C. will impair your judgment and coordination.

ALCOHOL/DRUG-RELATED CONVICTIONS AND YOUR AUTOMOBILE INSURANCE POLICY

. The suspension of your driver's license (or the driver's license of any person who customarily operates your automobile) can be cause for your insurance company to cancel or non-renew your automobile insurance policy.

. A conviction of driving while impaired or intoxicated through the use of alcohol or drugs will probably result in your insurance policy being non-renewed and in your inability to obtain insurance in an insurance company other than through the New York Automobile Insurance Plan (Assigned Risk Plan)

. Under the Assigned Risk Plan, a conviction of operating a motor vehicle while intoxicated or impaired by the consumption of alcohol or drugs results in a 75% surcharge (increase) on your automobile insurance premiums for three years. Most automobile insurance companies will also surcharge (increase) your premiums substantially for any convictions for operating a motor vehicle while under the influence of alcohol or drugs.

NO-FAULT EXCLUSIONS

. Another reason for not driving in an intoxicated condition or while your ability to operate a motor vehicle is impaired by the use of a drug is that no-fault benefits will not be available to you if your injuries result from your operation of the motor vehicle. Any basic economic loss incurred as the result of your own bodily injury would remain outside of the no-fault system. If you permit a non-DWI or non-DWAI to chauffeur you home, then full no-fault benefits will be available to all occupants of your motor vehicle.