

February 12, 1993

SUBJECT: INSURANCE

Circular Letter No. 2 (1993)
February 12, 1993

TO: ALL INSURERS AUTHORIZED TO WRITE MOTOR VEHICLE INSURANCE IN THIS STATE AND
INSURANCE PRODUCER ORGANIZATIONS

RE: NEW AUTOMOBILE INSURANCE-RELATED LEGISLATION

This Circular Letter alerts the automobile insurance community about several 1992 statutory changes now in effect in New York State that impact on automobile insurance coverages. These changes are intended to promote safety and combat theft and fraud.

A. Required Discounts For Certain Anti-Theft Measures.

Chapter 480 of the Laws of 1992 adds subsections (e) and (f) to Section 2336 of the Insurance Law, applicable to all non-commercial private passenger automobile insurance policies issued or renewed on or after January 13, 1993. These new provisions mandate that insurers grant an appropriate reduction in comprehensive premium, to reflect reduced loss exposure for automobiles equipped with:

- (1) an electronic homing device, using a radio frequency network, if used in conjunction with a participating police agency; or
- (2) window glass etched with the vehicle identification number (VIN) or other unique identifying symbol, at least on the vehicle's door glass, windshield and rear window.

Accordingly, every authorized insurer writing comprehensive insurance must file with this Department a rule, to be effective no later than January 13, 1993, providing such mandated discounts for vehicles so equipped.

In response to numerous requests from insurers seeking Department guidance in establishing these discounts, we recommend, initially, discounts of 15% for electronic homing devices and 5% for window etching. Additionally, each insurer should file a rule that limits, to a maximum reduction of 25% per vehicle, the cumulative effect of all discounts applied to comprehensive coverage, including those under Sections 2336(e) and (f) and 2337 concerning other anti-theft devices.

This statute also provides that an insurer may not cancel, non-renew or increase the premiums of non-commercial private passenger automobile insurance policies due to the "non-use" of any anti-theft device(s).

Where an insurer can demonstrate that adoption of these recommended premium reductions would result in an inappropriate premium, it may file a different percentage for approval, together with supporting information. Every insurer should review its currently filed discount levels and consider filing any appropriate revisions.

Insurers are encouraged to offer similar discounts on commercial motor vehicle insurance policies as well, although

not required by legislation.

As discussed in Circular Letter No. 11 (1992), all applicable premium reductions applied on a policy must be indicated on the premium bill, declarations page or accompanying notice, as required by Section 2345 of the Insurance Law. Circular Letter No. 2 (1991) also has relevance, as it addresses the practice of selling warranties in connection with window glass etching.

B. New Civil Penalties for Fraudulent Claims.

Effective January 13, 1993, Chapter 480 of the Laws of 1992 also amended Section 403 of the Insurance Law, authorizing the Superintendent to impose a civil penalty of up to \$ 5,000, plus the value of any fraudulent claim, on any person found to have committed insurance fraud. This civil penalty is in addition to any criminal penalties that may be imposed.

Under this legislation, new warning statements are required, disclosing these penalties, on all applications and claim forms used in conjunction with personal and commercial lines insurance policies, including motor vehicle coverages. Accordingly, the Department will soon revise Regulation 95 (11 NYCRR 86), which governs, in part, warning statements and reporting of fraudulent acts, to address implementation specifics and prescribe the required warning statements concerning these new penalties.

C. Forged Motor Vehicle Insurance Identification Cards.

Effective August 16, 1992, Chapter 475 of the Laws of 1992 imposes a civil penalty on any agent, broker or other person who knowingly possesses or provides, either personally or through the action of an employee, a forged automobile insurance identification card falsely indicating that liability coverage or other form of financial security has been secured. The first such offense may subject the offender to a fine of up to \$ 1,000, and subsequent violations up to \$ 5,000. Insurers should disseminate this information to all of its agents, brokers and employees that are authorized to issue such identification cards.

D. New "Bumper Quality" Disclosures Required.

New Section 416-a of the Vehicle and Traffic Law, effective February 3, 1992, requires all private passenger vehicles sold or leased in New York, and manufactured after January 1, 1993, to display a "bumper quality" label. This label must be affixed to the same window as the manufacturer's price sticker, and indicate the maximum speed at which a particular model of car would sustain no damage to the body and only minimal damage to the bumper and attachment hardware.

This bumper quality label will provide a relative measure to help consumers assess how susceptible to damage a particular vehicle model would be in a crash. Even though these labels would aid auto insurance policyholders in purchasing (and insuring) vehicles that tend to incur less severe physical damage losses, certain auto manufacturers have brought suit seeking to enjoin enforcement of Section 416-a.

Please acknowledge receipt of this Circular Letter in writing to:

Mr. Lawrence Wertel (212-602-0335)
Senior Insurance Examiner
New York State Insurance Department
Property & Casualty Insurance Bureau
160 West Broadway
New York, New York 10013

Very truly yours,

[SIGNATURE]

SALVATORE R. CURIALE

SUPERINTENDENT OF INSURANCE