



**STATE OF NEW YORK
INSURANCE DEPARTMENT
160 WEST BROADWAY
NEW YORK, NEW YORK 10013**

NOTE: WITHDRAWN EFFECTIVE OCTOBER 11, 2002

Circular Letter No. 17 (1994)
December 30, 1994

**TO: All Insurers Authorized To Write Motor Vehicle Insurance;
All Property/Casualty Insurer And Producer Organizations**
RE: New Automobile Insurance-related Legislation

Several recently enacted legislative changes now in effect in New York impact auto insurance coverages. As a result of these changes, consumer awareness of certain coverages and eligibility criteria for discounts will be heightened, fair underwriting will be promoted, and rates will appropriately reflect anti-theft and fraud programs.

A. Notice of Supplementary Uninsured Motorists (SUM) coverage.

Chapter 425 of the Laws of 1994, effective October 18, 1994, amends Section 3420 of the Insurance Law requiring motor vehicle insurers to include a notice to all policyholders advising them of the availability of SUM coverage when a new policy is issued and, for renewals, at least once a year.

The notice must contain an explanation of supplementary uninsured motorists coverage and the amounts in which it can be purchased. The Second Amendment to Regulation 35-D (Subpart 60-2 of 11-NYCRR) will require insurers to file a specimen of the notice for Department review. More specific requirements are addressed in the amendment, which has already been published in the State Register. Before the amendment is finalized, however, the notice contained therein will be simplified.

B. Reflection of anti-theft and anti-fraud measures in rate filings.

Chapter 170 of the Laws of 1994, effective June 9, 1994, added a new Section 2348 to the Insurance Law. This section requires that savings resulting from reduced theft and fraud (due to anti-theft and anti-fraud programs to be supported by the New York motor vehicle theft and insurance fraud prevention fund) be appropriately reflected in all insurer motor vehicle rate filings that are submitted for prior approval pursuant to Section 2328 of the Insurance Law. Such programs can be expected to first take effect sometime in early 1995. Accordingly, when savings from such programs become quantifiable (and some savings, depending on the programs, might become quantifiable in early 1995), it is expected that insurers will reflect such savings in their rate filings. Insurers should be prepared to answer inquiries from the Department concerning the impact of the anti-theft and anti-fraud programs on their rates.

C. Window glass etching requirements.

Chapter 335 of the Laws of 1994, effective August 19, 1994, amends Section 2336(f) of the Insurance Law which sets forth technical standards for window glass etching programs to qualify for a discount on a non-commercial, private passenger insured's comprehensive coverage insurance premium. Previously the law indicated that "window glass" includes not less than the windshield, door glass and rear window. The amended law adds T-top and moon/sun roof to the list of items included in the term "window glass." In addition, appropriate discounts may only be applied to etching programs that meet the standards specified in the law. However, the law provides that insurers must continue to provide discounts to insureds for as long as they own their car for etching installed on window glass prior to the effective date of this law, even if the etching does not conform to the new standards of the law.

All insurers are urged to advise their insureds by a notice mailed with new or renewal policies of the new technical requirements for eligibility for the window etching discount. The notice must also assure the insureds that they will continue to receive the window etching discount on their current automobile if previously eligible.

D. Applicants licensed more than 39 months cannot be denied voluntary coverage solely because they have not previously owned or leased a car.

Many New York State drivers do not own a vehicle. They gain their driving experience either by using an employer's vehicle or by renting or borrowing a vehicle. Because they lack an insurance history, some of these drivers have encountered difficulty obtaining auto insurance when they eventually purchase or lease a vehicle. Chapter 422 of the Laws of 1993, effective January 17, 1994, added a new Section 3435-a to the Insurance Law. Under this new law, auto insurers cannot refuse to issue coverage to drivers who have been licensed for at least 39 months solely because they have not owned or leased a vehicle during that period, unless that underwriting decision is based on actual or anticipated loss experience.

E. Insureds 60 years of age or over cannot be denied coverage solely because of age.

Chapter 337 of the Laws of 1994, effective August 19, 1994, amends Section 3435-a of the Insurance Law by adding a provision prohibiting insurers from nonrenewing a motor vehicle liability policy solely on the basis of the named insured becoming 60 years or older. The provision also prohibits insurers, for the purpose of policy renewal, from requesting a physical examination or medical questionnaire solely on the basis of the named insured reaching 60 years of age, unless such decision is based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience.

Please note that the new provision is in addition to a provision in existing Section 3425(i) which provides that an insurer is prohibited from refusing to issue or renew a "covered policy" as defined in Section 3425 (i.e., a non-commercial automobile insurance policy) solely on the ground of the advanced age of the applicant or insured.

Please acknowledge receipt of this Circular Letter in writing to:

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Very truly yours,

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