



NEW YORK STATE  
DEPARTMENT *of*  
FINANCIAL SERVICES

Andrew M. Cuomo  
Governor

Benjamin M. Lawsky  
Superintendent

**Insurance Circular Letter No. 7 (2012)  
July 9, 2012**

**TO: All Insurers Authorized to Write Motor Vehicle Insurance in New York State; Rate Service Organizations; New York Automobile Insurance Plan; and Insurance Producer Organizations**

**RE: Revised Information Statement on the Consequences of Driving While Under the Influence of Alcohol or Drugs**

**STATUTORY REFERENCES: Insurance Law §§ 3425 and 5103(b)(2); Vehicle and Traffic Law §§ 312(1), 1192, and Article 31**

This Circular Letter replaces and supersedes Insurance [Circular Letter No. 11 \(2003\)](#); that Circular Letter is hereby withdrawn.

I. Summary

The DWI Information Statement required by Vehicle and Traffic Law § 312(1) has been revised as a result of amendments to the Insurance Law, Vehicle and Traffic Law, and Penal Law. Insurers must begin using the updated statement and should commence doing so no later than September 1, 2012 with regard to newly issued policies and October 1, 2012 with regard to renewal policies.

II. Discussion

Vehicle and Traffic Law § 312(1) states that upon the issuance or renewal of a private passenger automobile insurance policy subject to Insurance Law § 3425, the insurer must provide the insured with an information statement outlining the legal and financial consequences of convictions under Vehicle and Traffic Law § 1192 for operating a motor vehicle while under the influence of alcohol or drugs (the “DWI Information Statement”). Section 312(1) also requires the Department of Financial Services to supply the DWI Information Statement to insurers after consultation with the Commissioner of Motor Vehicles.

New York State has made significant changes to strengthen its impaired driving laws in recent years. The most relevant changes were enacted by Chapter 496 of the Laws of 2009 (commonly referred to as “Leandra’s Law”), which amended both the Vehicle and Traffic Law and the Penal Law. Chapter 496 increases the penalties for driving while impaired when a child fifteen years old or younger is in the vehicle and requires ignition interlock devices to be installed and maintained for at least six months in vehicles driven by persons convicted of

driving while intoxicated or aggravated driving while intoxicated. Other amendments and regulatory changes increased the penalties, including fines and surcharges, for various impaired driving convictions, added a driver responsibility assessment charge, provided for longer periods of suspension and revocation of a driver's license, and added felony charges for certain egregious actions punishable with a jail sentence in state prison.

In addition, Chapter 303 of the Laws of 2010 amended Insurance Law § 5103(b)(2) to require a no-fault insurer to provide coverage for necessary emergency health services rendered in a general hospital, including ambulance services attendant thereto and related medical screening, to any person injured as a result of operating a motor vehicle while in an intoxicated condition or while the person's ability to operate the vehicle is impaired by the use of a drug within the meaning of Vehicle and Traffic Law § 1192. See Ins. Circular Letter No. 4 (2011). Section 5103(b)(2) also permits a no-fault insurer to maintain a cause of action against the covered person for the amount of first party benefits paid or payable on behalf of the covered person if such person is found to have violated Vehicle and Traffic Law § 1192. See id.

The DWI Information Statement has been revised as a result of the aforementioned statutory changes. Insurers must begin using the updated statement and should commence doing so no later than September 1, 2012 with regard to newly issued policies and October 1, 2012 with regard to renewal policies. Insurers may revise the format of the statement, but must submit any variation in the text of the prescribed statement to the Department of Financial Services for review. The submission must include an explanation of any deviations from the prescribed language along with the reasons for the deviations.

### III. Conclusion

Insurers must begin using the updated statement and should commence doing so no later than September 1, 2012 with regard to newly issued policies and October 1, 2012 with regard to renewal policies.

Please direct any questions or comments regarding this Circular Letter to Alan Goren, Associate Insurance Examiner, at (212) 480-5598 or [alan.goren@dfs.ny.gov](mailto:alan.goren@dfs.ny.gov).

Very truly yours,

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Jean Marie Cho  
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