

Summary for the adoption of the Eighth Amendment to 11 NYCRR 60-2 (Insurance Regulation 35-D).

The following sections are amended or added:

Section 60-2.0 is amended to expand the preamble, set forth the applicability of the Subpart, and add definitions.

Section 60-2.1(e) is amended to provide an exception as set forth in Section 60-2.1(f) and to move language in Section 60-2.1(e)(4) to new Section 60-2.1(h).

Section 60-2.1(f) is re-lettered as Section 60-2.1(g), and a new Section 60-2.1(f) is added to provide that, with regard to a motor vehicle liability insurance policy originally entered into, on, or after June 16, 2018, other than a commercial risk insurance policy, an insurer must provide supplementary uninsured/underinsured motorists (“SUM”) limits in an amount equal to the bodily injury liability insurance limits of coverage provided under the motor vehicle liability insurance policy, unless a first named insured declines the SUM coverage or selects a lower amount of coverage through a written waiver signed by the first named insured, subject to the requirements of Insurance Law Section 3420(f)(2-a)(B); provided, however, that the insurer may require the insured’s SUM coverage limit to be equal to the insured’s bodily injury liability insurance limit under the policy.

This section also states that a first named insured’s written, signed waiver declining SUM coverage, or selecting a lower amount of SUM coverage, will apply to all subsequent renewals of coverage and to all policies or endorsements that extend, change, supersede, or replace an existing policy issued to the first named insured, unless changed in writing by a first named insured. Whenever SUM coverage is declined, the policy must provide the mandatory uninsured motorists (“UM”) coverage required by Insurance Law Section 3420(f)(1). The insurer, on subsequent renewals, must provide to the insured the applicable notice required by Section 60-2.2(a).

Section 60-2.1(g) adds a reference to subdivision (f) and states that an insurer providing coverage in satisfaction of the financial responsibility requirements of Vehicle and Traffic Law (“VTL”) Article 44-B must, if the policy provides liability coverage as required by VTL Section 1693(2): (1) offer SUM coverage as provided in Section 60-2.1(e) under an insurance policy, other than an insurance policy described in Section 60-2.1(g)(2), while the driver is logged onto the transportation network company’s (“TNC’s”) digital network but is not engaged in a TNC prearranged trip; or (2) provide SUM coverage as provided in Section 60-2.1(f) under an insurance policy originally entered into on or after June 16, 2018, other than a commercial risk insurance policy, while the driver is logged onto the TNC’s digital network but is not engaged in a TNC prearranged trip.

Section 60-2.2(a)(1) is amended to require that every insurer writing motor vehicle liability insurance that satisfies the requirements of VTL Article 6 or 8, with respect to all new and renewal policies, provide a written notice in concise language that includes, for the initial written notice, with regard to a motor vehicle liability insurance policy originally entered into on or after June 16, 2018 other than a commercial risk insurance policy: (1) a statement that the insurer must provide SUM limits in an amount equal to the bodily injury liability insurance limits of coverage provided under the motor vehicle liability policy unless a first named insured declines the SUM coverage or selects a lower amount of coverage through a written waiver signed by the first named insured, subject to the requirements of Insurance Law Section 3420(f)(2-a)(B), provided, however, if the insurer requires that the SUM coverage limit be equal to the policy’s bodily injury liability insurance limit, then the written waiver must only provide for the first named insured’s option to decline SUM coverage under the policy; and (2) a statement that the first named insured’s written, signed waiver declining SUM coverage or selecting a lower amount of SUM coverage will apply to all subsequent renewals of coverage and to all policies or endorsements that extend, change, supersede, or replace an existing policy issued to the first named insured, unless changed in writing by a first named insured.

Section 60-2.2(a)(2) is amended in a similar manner as Section 60-2.2(a)(1) with regard to every insurer writing motor vehicle liability insurance providing liability insurance coverage in satisfaction of the financial responsibility requirements of VTL Article 44-B.