

**NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
TWELFTH AMENDMENT TO 11 NYCRR 60-1
(INSURANCE REGULATION 35-A)**

MINIMUM PROVISIONS FOR AUTOMOBILE LIABILITY INSURANCE POLICIES

I, Adrienne A. Harris, Superintendent of Financial Services, pursuant to the authority granted by Sections 202 and 302 of the Financial Services Law and Sections 301 and 3420(g) of the Insurance Law, do hereby promulgate the proposed Twelfth Amendment to Subpart 60-1 of Part 60 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 35-A), to take effect upon publication of the Notice of Adoption in the State Register, to read as follows:

(Matter in brackets is deleted; new matter is underlined.)

Section 60-1.6 is amended as follows:

This section implements Insurance Law section 3420(a) and (g) [of the Insurance Law], as amended by chapter 584 of the Laws of 2002, chapter 735 of the Laws of 2022, and chapter 108 of the Laws of 2023, which requires motor vehicle liability insurers to [offer] provide supplemental spousal liability [(SSL)] insurance to all policyholders in New York State who are covered under motor vehicle liability insurance policies that satisfy the requirements of [article 6 of the] New York Vehicle and Traffic Law article 6, unless a named insured elects, in writing, and in such form as the superintendent determines, to decline and refuse such insurance in the policy. This requirement applies to all policies issued, [or] renewed, [that become effective] or modified on [and] or after [January] August 1, [2003] 2023, and applies to all policyholders, regardless of marital status, and regardless of whether the policyholder is a business entity or natural person. Section 3420(g)(2) provides that[, pursuant to regulations promulgated by the Superintendent of Financial Services,] a notification by the insurer to the named insured shall include an explanation of the coverage and the insurer's premium for the coverage.

(a) Minimum requirements of SSL insurance.

(1) Supplemental spousal liability insurance or SSL insurance means coverage against liability of an insured because of death of or injuries to [his or her] the insured's spouse up to the liability insurance limits provided under the policy even where the injured spouse, to be entitled to recover, must prove the culpable conduct of the insured spouse.

(2) SSL insurance and the requirements of this section shall apply only to the bodily injury liability coverage under a primary motor vehicle liability insurance policy that satisfies the requirements of [article 6 of the] New York Vehicle and Traffic Law article 6 and shall not apply to other coverages under the policy or other types of policies, such as an umbrella liability or a for hire motor vehicle liability policy.

(3) If [an insurer has offered to the insured the option to purchase SSL insurance and the] a named insured [has not opted to purchase this] elects, in writing, and in such form as the superintendent determines, to decline and refuse SSL insurance, the policy will [continue to] not include [spousal liability coverage] SSL insurance. An insurer shall not be required to obtain a written declination at each renewal or amendment of the policy if a named insured previously submitted a written declination of SSL insurance. An insurer may obtain

an electronic written declination if the insurer adheres to the requirements of Insurance Law section 3458 regarding electronic notices and documents.

(b) Notification about SSL insurance.

(1) An insurer issuing motor vehicle liability insurance policies that satisfy the requirements of [article 6 of the] New York Vehicle and Traffic Law article 6 shall, with all such policies issued, [or] renewed, [that become effective] or modified on [and] or after [January] August 1, [2003] 2023, provide the notification to the named insureds under the policies [of] that the [availability of the optional] policies shall include SSL insurance unless a named insured declines and refuses such insurance in writing and in such form as determined by the superintendent.

(2) The notification [must] shall be contained on the front of the premium notice in boldface type and include a concise statement that supplementary spousal liability insurance is [available] provided unless declined by a named insured, an explanation of the insurance, and the premium for the insurance.

(3) For the purpose of this section, *premium notice* shall mean any one or more of the following: declarations page, premium notice, premium bill, installment bill or any attachment thereto, generally used by the insurer to communicate information to the insured concerning an insured's coverages and corresponding premiums.

(4) This notification shall be provided [with all new policies and thereafter annually with all] upon issuance, renewal, or amendment of policies.

(5) For the purpose of this section, *amendment* or *modified* means a change in the policy coverage or underlying risk characteristics that results in a revised policy premium, such as the addition or removal of a vehicle, driver, or any coverage under the policy, or a change in the principal garaging of the insured's vehicle. Amendment or modified shall not mean purely ministerial changes, such as changes to the manner or timing of payment or corrections of typographical errors.

(6) An insurer may use the following sample notification or its substantive equivalent:

SUPPLEMENTAL SPOUSAL LIABILITY COVERAGE

New York State law requires [that upon written request of an insured, and upon payment of the premium,] an insurer issuing or delivering a policy that satisfies the requirements of [article 6 of the] New York Vehicle and Traffic Law article 6 [shall] to provide [Supplemental Spousal Liability Insurance coverage] supplemental spousal liability insurance, unless a named insured elects, in writing, to decline and refuse such insurance in the policy.

Supplemental spousal liability insurance provides bodily injury liability coverage under a motor vehicle insurance policy [to cover the liability of an insured spouse because of the death of or injury to his or her spouse, even where the injured spouse must prove the culpable conduct of the insured spouse] when a person is injured or killed in a motor vehicle accident caused by the negligence of the person's spouse.

This coverage is included within the policy's bodily injury liability limits and does not increase the amount of those limits. For example:

Insured's bodily injury policy coverage limit: \$100,000/\$300,000

Insured's bodily injury damage claim paid to spouse: \$75,000

Insured's bodily injury policy coverage limit available to all other claimants subject to a maximum of \$100,000 per person: \$225,000

This example assumes the spouse and other claimants involved in the accident have a right to sue the insured for economic loss or for non-economic loss (*i.e.*, pain and suffering) sustained as a result of a "serious injury" as defined in [section 5102(d) of the] Insurance Law section 5102(d). It must also have been shown that there was negligence on the part of the insured.

If you decline this coverage, then the injured or deceased spouse would not be covered under the bodily injury liability coverage in the policy.

The additional premium for [SSL coverage] supplemental spousal liability insurance is \$XX.XX. If you do not [elect to purchase] decline or have not previously declined this coverage [and do not remit the additional premium] in writing, [SSL coverage] supplemental spousal liability insurance is [not] automatically included in your motor vehicle insurance policy. If the supplemental spousal liability insurance is not declined in writing, failure to pay the supplemental spousal liability insurance premium may result in the issuance of a policy cancellation notice for nonpayment of premium.

(7) An insurer may specify the supplemental spousal liability insurance premium in the declination form or the notification as a percentage of the bodily injury premium if the declination form or notification clearly includes all the relevant information so that the named insured can reasonably ascertain the dollar amount from the declination form or notification, including the bodily injury premium. If the bodily injury premium is listed on a different page of the notification (i.e., on the declarations page), then the notification shall direct the named insured to such other page. If the policy provides coverage for more than one motor vehicle and the bodily injury premium is separately stated for each motor vehicle, the declination form or notification shall clearly state that the premium for supplemental spousal liability insurance would be a percentage of the sum of all the bodily injury premiums.

KATHY HOCHUL
Governor



ADRIENNE A. HARRIS
Superintendent

CERTIFICATION

I, Adrienne A. Harris, Superintendent of Financial Services, do hereby certify that the foregoing is the Twelfth Amendment to Subpart 60-1 of Part 60 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Insurance Regulation 35-A), signed by me on September 13, 2023 pursuant to the authority granted by Financial Services Law Sections 202 and 302 and Insurance Law Sections 301 and 3420(g), to take effect upon the publication of the Notice of Adoption in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed rule was published in the New York State Register on July 5, 2023. No other publication or prior notice is required by statute.

Signed copy filed with Department of State
Adrienne A. Harris
Superintendent of Financial Services

Date: September 13, 2023