NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
THIRTEENTH 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, Sections 301 and 3420(g) of the Insurance Law, and Section 311 of the Vehicle and Traffic Law, do hereby promulgate the proposed Thirteenth 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 the publication of the Notice of Adoption in the State Register, to read as follows:

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

Subdivisions (c) and (d) of section 60-1.1 are amended as follows:

(c)(1) A provision insuring as "insured":

[(1)] (i) the named insured and, if an individual, [his or her] the named insured's spouse if a resident of the same household with respect to the motor vehicle or vehicles;

[(2)] (ii) any other person using the motor vehicle with the permission of the named insured or such spouse provided [his or her] the person's actual operation or (if [he or she] the person is not operating) [his or her] the person's other actual use thereof is within the scope of such permission; and

[(3)] (iii) any other person or organization but only with respect to [his, her or its] the person's or organization's liability because of acts or omissions of an insured within subparagraph (i) or (ii) of this paragraph [(1) or (2) of this subdivision].

(2) As respects any person or organization other than the named insured or such spouse, the policy need not apply:

(i) to any person or organization, or to any agent or employee thereof, employed or otherwise engaged in operating an automobile sales agency, repair shop, service station, storage garage or public parking place, with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith;

(ii) to any employee with respect to injury, sickness, disease or death of a fellow employee injured in the course of [his or her] the employee's employment in an accident arising out of the maintenance or use of the motor vehicle in the business of their common employer; or

(iii) to any person or organization, or to any agent or employee thereof, with respect to bodily injury, sickness, disease or death, or injury to or destruction of property arising out of the loading or unloading of the motor vehicle.

(3) The insurance shall apply separately to each insured against whom claim is made or suit is brought, provided the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(d)(1) A provision that, if the named insured is an individual or [husband or wife] spouse and the policy affords insurance with respect to a private passenger automobile owned by either, such policy shall afford bodily injury and property damage liability insurance for:

(i) any other private passenger automobile of which the named insured acquires ownership provided it replaces the automobile described in the policy or the company insures all automobiles owned by the named insured or [his] the named insured's spouse on the delivery date; or

(ii) any automobile, used with the permission of the owner, and not owned by the named insured or [his] the named insured's spouse or any resident of the same household, which is temporarily substituted for the said automobile while withdrawn from service because of breakdown, servicing, repair, loss or destruction; or

(iii) the incidental use in other than a business or occupation of such insured or [his] such insured's spouse of automobiles not owned by such named insured or a member of [his] such named insured's household, nor furnished or available for their regular use, provided the actual operation or other actual use thereof is with the permission of the owner and is within the scope of such permission.

(2) Such a provision need not apply:

(i) to any accident arising out of the maintenance or use of an automobile by a person employed or otherwise engaged in the business of an automobile sales agency, repair shop, service station, storage garage or public parking place; or

(ii) with respect to a newly acquired automobile, to any loss against which the named insured or [his] the named insured's spouse has other valid and collectible insurance.

Section 60-1.6 is amended as follows:

This section implements Insurance Law section 3420(a) and (g), 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, and chapter 356 of the Laws of 2024, which requires motor vehicle liability insurers to provide, upon payment of a reasonable premium, supplemental spousal liability insurance to all policyholders in New York State who are covered under motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law article 6 and are subject to Insurance Law section 3425, and where the policyholders have indicated that they have spouses on their insurance applications, unless a first 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, renewed, or modified on or after August 1, 2023, and applies to all policyholders and regardless of whether the policyholder is a business entity or natural person]. In addition, Insurance Law section 3420(g), as amended, requires motor vehicle liability insurers to provide supplemental spousal liability insurance to a policyholder in New York State, other than a policyholder specified above, who is covered under a motor vehicle liability insurance policy that satisfies the requirements of New York Vehicle and Traffic Law article 6, upon the

written request of the policyholder and payment of a reasonable premium. Section 3420(g)(2) [provides that a notification] requires certain notifications by the insurer to [the] a first named insured that shall include a concise statement that supplemental spousal liability insurance is provided or available, as relevant, 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 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 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 a named insured elects, in writing, and in such form as the superintendent determines, to decline and refuse SSL insurance, the policy will not include SSL insurance. An] Pursuant to Insurance Law section 3420(g)(2)(B)(iii), an insurer shall not be required to obtain a written declination at each renewal [or amendment] of the policy if a first 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)(i) An insurer issuing motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law article 6 and are subject to section 3425 of the Insurance Law shall, with all such policies issued[, renewed, or modified] on or after [August 1, 2023] March 26, 2025, provide [the] notification to [the] first named insureds under the policies who have indicated that such insureds have a spouse on the insurance applications, that the policies shall include SSL insurance unless a first named insured declines and refuses such insurance in writing and in such form as determined by the superintendent.

(ii) An insurer issuing motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law article 6 and include SSL insurance under the policies shall, with renewal or amendment of the policies on or after March 26, 2025, provide a notification to a first named insured under the policies that the policies include SSL insurance unless a first named insured declines and refuses such insurance in writing and in such form as determined by the superintendent.

(iii) An insurer issuing motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law article 6 shall, upon policy issuance, other than for policies to which the notification requirement in subparagraph (i) of this paragraph applies, provide a notification to a first named insured that SSL insurance is available.

(iv) At least once a year, starting March 26, 2025, an insurer issuing motor vehicle liability insurance policies that satisfy the requirements of New York Vehicle and Traffic Law article 6 that do not already include SSL insurance shall provide a notification to a first named insured that SSL insurance is available.

(2) The [notification] notifications required by paragraph (1) of this subdivision shall be contained on the front of the premium notice in boldface type. [and] The notifications required by subparagraphs (i) and (ii) of paragraph (1) of this subdivision shall include a concise statement that [supplementary] supplemental spousal liability insurance is provided unless declined by a first named insured, an explanation of the insurance, and the premium for the insurance. The notifications required by subparagraphs (iii) and (iv) of paragraph (1) of this subdivision shall include a concise statement that supplemental spousal liability insurance is available, an explanation of the insurance, and the insurer's premium for such coverage.

(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 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)](5) An insurer may use the following sample notification or its substantive equivalent for the notifications required by subparagraphs (i) and (ii) of paragraph (1) of this subdivision:

SUPPLEMENTAL SPOUSAL LIABILITY COVERAGE

New York State law requires an insurer issuing or delivering a policy that satisfies the requirements of New York Vehicle and Traffic Law article 6 to provide supplemental spousal liability insurance upon payment of the premium if the policy is a non-commercial motor vehicle policy and a first named insured has indicated that such insured has a spouse on the insurance application or if supplemental spousal liability insurance is currently on the policy, unless a first 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 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 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 supplemental spousal liability insurance is [$XX.XX] (insert the dollar amount or percentage of the bodily injury premium). If you do not decline or have not previously declined this coverage in writing, supplemental spousal liability insurance is 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.

(6) An insurer may use the following sample notification or its substantive equivalent for the notifications required by subparagraphs (iii) and (iv) of paragraph (1) of this subdivision:

SUPPLEMENTAL SPOUSAL LIABILITY COVERAGE

New York State law requires an insurer issuing or delivering a policy that satisfies the requirements of New York Vehicle and Traffic Law article 6 to make available supplemental spousal liability insurance upon the written request of a first named insured and payment of the premium.

Supplemental spousal liability insurance provides bodily injury liability coverage under a motor vehicle insurance policy 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 Insurance Law section 5102(d). It must also have been shown that there was negligence on the part of the insured.

If you do not purchase 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 supplemental spousal liability insurance is [$XX.XX] (insert the dollar amount or percentage of the bodily injury premium). If you would like to purchase supplemental spousal liability insurance, then you must request the insurance in writing and pay the additional premium.

(7) An insurer may specify the supplemental spousal liability insurance premium in the declination form or the [notification] notifications as a percentage of the bodily injury premium if the declination form or notification clearly includes all the relevant information so that the first 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 first 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 Thirteenth Amendment to Part 60-1 (Insurance Regulation 35-A) of Title 11 of the Official Compilation of the Codes, Rules and Regulations of the State of New York, signed by me on March 27, 2025 pursuant to the authority granted by Financial Services Law Sections 202 and 302, Insurance Law Sections 301 and 3420(g), and Vehicle and Traffic Law Section 311, 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 December 31, 2024. 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: March 27, 2025