

SUBCHAPTER A. AUTOMOBILE INSURANCE
DIVISION 3. MISCELLANEOUS INTEPRETATIONS
28 TAC §5.204 AND §5.208

INTRODUCTION. The Commissioner of Insurance adopts amendments to 28 TAC §5.204, relating to Motor Vehicle Safety Responsibility, and the repeal of 28 TAC §5.208, relating to Disclosures for Named Driver Automobile Insurance Policies. The amendments and repeal implement changes made by House Bill 259, 86th Legislature, Regular Session (2019), which prohibits named driver auto policies. The amendments and repeal are adopted without changes to the proposed text published in the May 8, 2020, issue of the *Texas Register* (45 TexReg 19).

REASONED JUSTIFICATION. The amendments to §5.204 and the repeal of §5.208 are necessary to implement HB 259. HB 259 prohibits Texas automobile insurers from delivering, issuing for delivery, or renewing a named driver policy that is not an operator's policy. An operator's policy is a policy that covers the named insured when operating an automobile the insured does not own.

HB 259 amends Insurance Code Chapter 1952 to add Subchapter H, consisting of §§1952.351–1952.353, and repeals §1952.0545. Section 1952.351 provides definitions for the new subchapter, and §1952.352 addresses applicability of the subchapter. Section 1952.353 prohibits an insurer writing automobile insurance in Texas from delivering, issuing for delivery, or renewing named driver auto policies. Section 1952.0545 establishes required disclosures for named driver policies. The named driver prohibition applies to policies issued, issued for delivery, or renewed on or after January 1, 2020.

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The amendments and repeal will reduce confusion by eliminating the now unnecessary requirements for named driver automobile insurance, including disclosures from the agent or insurer and on the proof of insurance card and the policy. The amendments also include nonsubstantive edits to update the language to current agency style.

SUMMARY OF COMMENTS AND AGENCY RESPONSE

Commenters: TDI received one written comment in support of the proposal from the Texas Independent Automobile Dealers Association (TIADA).

Comment: A commenter supports the rule repealing named driver policies because of the issues they create for policyholders, lienholders, and the general public.

Agency Response to Comment: TDI appreciates the supportive comment.

STATUTORY AUTHORITY. The Commissioner adopts the amendments to §5.204 under Insurance Code §1952.353 and Insurance Code §36.001.

Section 1952.353 prohibits an insurer from delivering, issuing for delivery, or renewing a named driver policy unless the named driver policy is an operator's policy.

Section 36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.

SUBCHAPTER A. AUTOMOBILE INSURANCE

DIVISION 3. MISCELLANEOUS INTEPRETATIONS**§5.204. Motor Vehicle Safety Responsibility.**

(a) Applicability. This section does not apply to evidence of financial responsibility exhibited as an image displayed on a wireless communication device. Under Transportation Code §601.053(a)(2-a), the image must include the information required by Transportation Code §601.081, as provided by a liability insurer.

(b) Form. For each motor vehicle insurance policy, the liability insurer must issue a standard proof of motor vehicle liability insurance form. The form must be titled "Texas Liability Insurance Card." The insurer may use its own form or TDI's prescribed form. TDI's prescribed form is available on the TDI website or upon request.

(c) Side A. Side A of the form must be written in at least 10-point type, except where otherwise specified in this subsection. The insurer must provide Side A in English, or in English and Spanish. Side A of the form must include the following (optional Spanish language in parentheses):

(1) the name and address of each insured or covered person (el nombre y la dirección del asegurado)

(2) the year, make, and model of each covered vehicle (el año, marca, y modelo de cada vehículo con cobertura); or a description of the types of vehicles the policy covers, and, at the company's option, the VIN. {Note: If the policy does not require the description of a vehicle, then this section of the ID card should contain the appropriate wording to describe the types of vehicles the policy covers, such as "any auto driven by the insured," "any auto driven with dealer plates," or similar descriptive language.}

(3) the effective date of the policy (la fecha de efectividad de la póliza)

(4) the expiration date of the policy (la fecha de vencimiento de la póliza)

(5) the policy number (el número de la póliza)

(6) the name and toll-free phone number of the insurer, if the insurer is required by statute to maintain a toll-free number for consumer inquiries (el nombre de la compañía de seguro y el número de teléfono gratis)

(7) the name and phone number of the agent, if applicable (el nombre del agente y el número de teléfono)

(8) the following statement in at least eight-point type, "This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicles and named insureds and may provide coverage for other persons and vehicles as provided by the insurance policy." If the insurer provides Side A in Spanish, the Spanish statement must read, "Esta póliza provee por lo menos las cantidades mínimas de seguro de responsabilidad civil que es requerida por la ley de responsabilidad para la seguridad de los vehículos motorizados de Texas (Texas Motor Vehicle Safety Responsibility Act) para los vehículos especificados y para los asegurados nombrados y puede proveer una cobertura para otras personas y vehículos según lo proporcionado en la póliza de seguro."

(d) Side B. Side B of the form must be written in at least 10-point type, except where otherwise specified. Side B must contain the following statements, in this order, and formatted as shown in this subsection (optional Spanish language in parentheses; not italicized):

(1) Texas Liability Insurance Card (Tarjeta de Seguro de Responsabilidad Civil de Texas) *(at least 12-point, boldfaced type)*

(2) Keep this card. (Guarde esta tarjeta.) *(boldfaced type)*

(3) **IMPORTANT**: You must show this card or a copy of your insurance policy when you apply for or renew your: (**IMPORTANTE**: Usted debe mostrar esta tarjeta o una copia de su póliza de seguro cuando solicite o renueve su:) ("**IMPORTANT**" in *boldfaced capital letters*)

(A) Motor vehicle registration (Registro del vehículo motorizado)

(B) Driver's license (Licencia de conducir)

(C) Motor vehicle safety inspection sticker. (Etiqueta de inspección de seguridad para su vehículo.)

(4) You may also be asked to show this card or your policy if you have an accident or if a peace officer asks to see it. (También se puede pedir que usted muestre esta tarjeta o su póliza si tiene un accidente o si se la pide un oficial de policía.)

(5) All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. If you do not meet your financial responsibility requirements, you could be fined up to \$1,000, your driver's license and motor vehicle registration could be suspended, and your vehicle could be impounded for up to 180 days (at a cost of \$15 per day). (Todos los conductores en Texas deben tener un seguro de responsabilidad civil para sus vehículos, o de lo contrario deben cumplir con los requisitos legales de responsabilidad financiera. Si usted no cumple con los requisitos de responsabilidad financiera, podría estar sujeto a pagar una multa de hasta \$1,000, mas la suspensión de su licencia de conducir y la suspensión del registro del vehículo, y además su vehículo podría ser confiscado por hasta 180 días (a un costo de \$15 por día).)

(e) The insurer must issue Side B in English. The insurer must also make Side B available in Spanish, either on the same card as the English version, or on a separate card. If the insurer initially provides only the English version and offers to provide the Spanish

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version on a separate card when the insured requests it, the insurer must include with the English version the following notice in Spanish, in at least 10-point type, formatted as shown in this subsection, with or without the optional bracketed text "IMPORTANTE: Si usted desea una tarjeta oficial de comprobante de seguro escrita en español, comuníquese con su agente de seguros a este número {o dirección de correo electrónico}." The notice must be followed by the company's toll-free number, the insured's agent's number, or any other applicable number, and, at the insurer's option, the agent's or company's email address.

SUBCHAPTER A. AUTOMOBILE INSURANCE

Repeal of 28 TAC §5.208

STATUTORY AUTHORITY. TDI repeals §5.208 under Insurance Code §1952.353 and Insurance Code §36.001.

Insurance Code §1952.353 prohibits an insurer from delivering, issuing for delivery, or renewing a named driver policy unless the named driver policy is an operator's policy.

Insurance Code §36.001 provides that the Commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.

SUBCHAPTER A. AUTOMOBILE INSURANCE

DIVISION 3. MISCELLANEOUS INTEPRETATIONS

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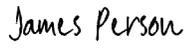
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§5.208. Disclosures for Named Driver Automobile Insurance Policies.

CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on 8/26/2020.

DocuSigned by:

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James Person, General Counsel
Texas Department of Insurance

The Commissioner adopts amendments to 28 TAC §5.204 and the repeal of 28 TAC §5.208.

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Kent C. Sullivan
Commissioner of Insurance

Commissioner's Order No. **2020-6449**