

Subchapter A. Automobile Insurance
Division 3. Miscellaneous Interpretations
28 TAC §5.208

INTRODUCTION. The commissioner of insurance adopts new 28 TAC §5.208, concerning terminology describing transportation-related incidents. The new section is adopted without changes to the proposed text published in the January 12, 2024, issue of the *Texas Register* (49 TexReg 122).

REASONED JUSTIFICATION. The new section is necessary to implement House Bill 2190, 88th Legislature, 2023, which, among other things, clarifies terminology in the Insurance Code.

New §5.208(a) clarifies that the changes made by HB 2190 are nonsubstantive and are intended to clarify rather than change existing law.

Subsection (b) clarifies that the term "collision" has the same meaning that "accident" had before passage of HB 2190, for the purposes of Insurance Code §1952.155 and §1954.056.

Subsection (c) clarifies that HB 2190's changes do not impact the rules in Title 28, Chapter 5, Subchapter A.

This section is adopted because the transition provision in Section 142 of HB 2190 is not included in the statutory text. This section highlights that the changes in law made by HB 2190 are nonsubstantive and are intended to clarify rather than change existing law. Because there is no substantive change to the meaning of the term "accident" as currently used in many policy forms, insurers do not need to file updated policy forms.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on February 14, 2024.

Commenters: TDI received comments from one commenter, Insurance Services Office, Inc. (ISO), that did not express support or opposition, but instead requested additions.

Comment on §5.208

Comment. The commenter notes that proposed new §5.208 does not address similar changes made in Transportation Code §601.072(a-1) and (b), which are also part of HB 2190. The commenter suggests including §601.072(a-1) and (b) in §5.208(a) and (b).

Agency Response. TDI declines to add language interpreting the Transportation Code. HB 2190 made numerous changes not only to the Insurance Code and Transportation Code but also to nine other codes, including the Business and Commerce Code, Civil Practice and Remedies Code, the Code of Criminal Procedure, Government Code, and others. Although TDI has some general and specific authority to adopt rules to implement portions of the Transportation Code--for example, TDI has authority to prescribe the motor vehicle liability insurance form under §601.081(b)--TDI has limited the scope of this rulemaking to the amendments in the Insurance Code enacted by HB 2190.

STATUTORY AUTHORITY. The commissioner adopts new §5.208 under Insurance Code §1951.002 and §36.001.

Insurance Code §1951.002 provides that the commissioner may adopt reasonable rules necessary to carry out the provisions of Insurance Code Title 10, Subtitle C, which includes Insurance Code §1952.155 and §1954.056.

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.

§5.208. Terminology Describing Transportation-Related Accidents (Collisions).

(a) House Bill 2190, 88th Legislature, 2023 (HB 2190) replaced the term "accident" with "collision" in Insurance Code §1952.155, concerning Benefits Payable Without Regard to Fault or Collateral Source; Effect on Subrogation, and §1954.056(b), concerning Financial Responsibility. However, the transition provision in Section 142 of HB 2190 states that these changes to the law are nonsubstantive and are intended to clarify rather than change existing law.

(b) Consistent with the transition provision in Section 142 of HB 2190, the Texas Department of Insurance (TDI) interprets the term "collision" when used in Insurance Code §1952.155 and §1954.056(b) as having the same meaning that "accident" had before passage of HB 2190 and as having no impact on rules adopted pursuant to Insurance Code §1952.155 and §1954.056(b) or forms filed for approval with TDI under those Insurance Code sections and rules before HB 2190.

(c) Because the transition provision in Section 142 of HB 2190 says the changes are nonsubstantive, they do not impact the rules in this subchapter.

2024-8676

TITLE 28. INSURANCE
Part I. Texas Department of Insurance
Chapter 5. Property and Casualty Insurance

Adopted Section
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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 May 30, 2024.

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Jessica Barta, General Counsel
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New 28 TAC §5.208 is adopted.

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C Brown
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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2024-8676