

**WEST VIRGINIA**  
**SECRETARY OF STATE**  
**KEN HECHLER**  
**ADMINISTRATIVE LAW DIVISION**

Form #3

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY APPROVAL OF A PROPOSED RULE  
AND  
FILING WITH THE LEGISLATIVE RULE-MAKING REVIEW COMMITTEE**

AGENCY: Insurance Commissioner TITLE NUMBER: 114

CITE AUTHORITY W. Va. Code § 33-6-31c

AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: Series 37

TITLE OF RULE BEING AMENDED: Substandard Risk Motor Vehicle  
Insurance Notice Requirements

IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_  
\_\_\_\_\_

THE ABOVE PROPOSED LEGISLATIVE RULE HAVING GONE TO A PUBLIC HEARING OR A PUBLIC COMMENT PERIOD IS HEREBY APPROVED BY THE PROMULGATING AGENCY FOR FILING WITH THE SECRETARY OF STATE AND THE LEGISLATIVE RULE MAKING REVIEW COMMITTEE FOR THEIR REVIEW.

*B. Keith Huffman*  
General Counsel

Authorized Signature

7.20



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

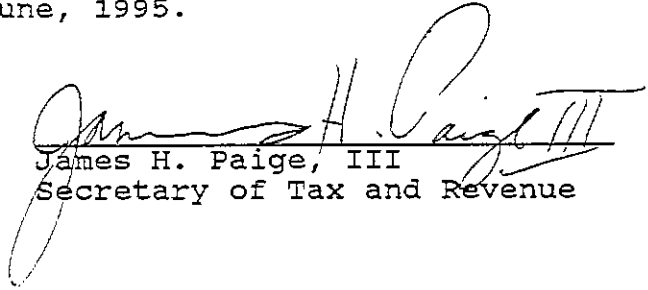
HANLEY C. CLARK  
Insurance Commissioner

CONSENT TO FILING OF RULE

To Whom It May Concern:

Pursuant to West Virginia Code § 5F-2-2(a)(12), the undersigned hereby grants consent to the filing of the following rule proposed by the Insurance Commissioner of the State of West Virginia: Title 114, Series 37, relating to "Substandard Risk Motor Vehicle Insurance Notice Requirements".

Signed this 26<sup>th</sup> day of June, 1995.

  
James H. Paige, III  
Secretary of Tax and Revenue

Insurance Commissioner  
Legislative Rule  
Title 114, Series 37

**SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENT**

Title 114, Series 37

**STATEMENT OF CIRCUMSTANCES**

On April 8, 1993, the West Virginia Legislature passed House Bill 2728 which added Section 31c to Article 6, Chapter 33 of the West Virginia Code relating to substandard risk motor vehicle insurance policies and required notices. Amendments were made to Section 31c in the 1995 legislative session which require insurers to provide notice to policyholders who may qualify for coverage under a standard or preferred policy.

West Virginia Code § 33-6-31c(e) requires the Insurance Commissioner to promulgate rules regarding the format, style, design and approval of substandard risk insurance applications, notices and policies.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Title 114, Series 37  
 Substandard Risk Motor Vehicle Insurance Notice  
 Requirements

Type of Rule:  Legislative  Interpretive  Procedural

Agency: INSURANCE COMMISSIONER

Address: Post Office Box 50540  
 2019 Washington Street, East  
 Charleston, West Virginia 25305-0540

-----  
 1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	Increase	Decrease	Current	Next	Thereafter
ESTIMATED TOTAL COST	None				
PERSONAL SERVICES	None				
CURRENT EXPENSE	None				
REPAIRS AND ALTERNATIONS	None				
EQUIPMENT	None				
OTHER	None				

2. Explanation of above estimates:

The rule will have no fiscal impact upon state, local or federal government.

3. Objectives of these rules:

The objectives of this rule are to establish the format, style, design and approval of substandard risk insurance applications and policies and notices to policyholders who may qualify for coverage under a standard or preferred policy.

Rule Title: Substandard Risk Motor Vehicle Insurance Notice Requirements

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

None. Filing of forms and filing fee established by West Virginia Code § 33-6-31c(d); 33-6-34.

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

None.

C. Economic Impact on Citizens/Public at Large.

None.

Date: 6/27/95

Signature of Agency Head or Authorized Representative

B. Keith Huffman, General Counsel

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: OFFICE OF THE INSURANCE COMMISSIONER

DATE: July 28, 1995

LEGISLATIVE RULE TITLE: Substandard Risk Motor Vehicle Insurance  
Notice Requirement  
(Title 114, Series 37)

1. Authorizing statute(s) citation W. Va. Code § 33-6-31c

2. a. Date filed in State Register with Notice of Hearing:

June 27, 1995

b. What other notice, including advertising, did you give of the hearing?

None

c. Date of hearing(s): Comment period ended on July

27, 1995

d. Attach list of persons who appeared at hearing, comments received, amendments, reasons for amendments.

Attached XX No comments received \_\_\_\_\_

e. Date you filed in State Register the agency approved proposed Legislative Rule following public hearing: (be exact)

July 28, 1995

f. Name and phone number of agency person to contact for additional information:

Donna S. Quesenberry

Associate Counsel

(304) 558-0401

3. If the statute under which you promulgated the submitted rules requires certain findings and determinations to be made as a condition precedent to their promulgation:

a. Give the date upon which you filed in the State Register a notice of the time and place of a hearing for the taking of evidence and a general description of the issues to be decided.

Not applicable

b. Date of hearing: Not applicable

c. On what date did you file in the State Register the findings and determinations required together with the reasons therefor?

Not applicable

d. Attach findings and determinations and reasons:

Attached Not applicable

Insurance Commissioner  
Legislative Rule  
Title 114, Series 37

**SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENT**

Title 114, Series 37

**BRIEF SUMMARY OF RULE**

This proposed rule implements the provisions of West Virginia Code § 33-6-31c which was amended during the 1995 legislative session by House Bill 2264. The rule establishes the format, style, design and approval of substandard risk insurance applications and policies and notices to policyholders who may qualify for coverage under a standard or preferred policy.



114CSR37

WEST VIRGINIA LEGISLATIVE RULE  
INSURANCE COMMISSIONER

SERIES 37

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENTS

Section

- 114-37-1. General.
- 114-37-2. Applicability.
- 114-37-3. Definitions.
- 114-37-4. Format of Substandard Risk Insurance Application Notice.
- 114-37-5. Format of Substandard Risk Insurance Policy Notice.
- 114-37-6. Submission of Form Filing Required.
- 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.
- 114-37-8. Severability.

RECEIVED

114CSR37

1995 JUL 28 PM 3:52

WEST VIRGINIA LEGISLATIVE ~~RULE~~ OFFICE OF WEST VIRGINIA  
INSURANCE COMMISSIONER SECRETARY OF STATE

SERIES 37

SUBSTANDARD RISK MOTOR VEHICLE INSURANCE NOTICE REQUIREMENTS

§ 114-37-1. General.

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-6-31c requiring a written notification on automobile insurance applications and policies written on substandard risks, and a written notification to such substandard risk applicants and insureds regarding eligibility for coverage under a standard or preferred policy. This rule sets forth the format, style, design and method for approval of substandard risk insurance applications, and policies, and notices, and any additional procedures required.

1.2. Authority. -- W. Va. Code § 33-6-31c.

1.3. Filing Date. --

1.4. Effective Date. --

§ 114-37-2. Applicability.

2.1. Applicability. -- This legislative rule applies to all insurers writing motor vehicle liability insurance in this State if the rate or premium charged for the motor vehicle liability coverage reflects a greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk. The notification provisions apply to all motor vehicle liability policies covering substandard risks issued on or after the effective date of this rule, and all motor vehicle liability insurance applications covering substandard risks taken on or after the effective date of this rule, and all notices to substandard risk policyholders of eligibility for coverage under a standard or preferred policy arising on or after the effective date of this rule.

2.2. This legislative rule applies to insurance companies writing motor vehicle ~~liability~~ liability insurance coverage through the assigned risk plan ("AIPSO").

2.3. This legislative rule applies to insurance companies that write only one tier of motor vehicle liability insurance business if the rate or premium charged for such coverage reflects the greater than normal exposure to loss which is assumed by the insurer writing insurance for a substandard risk.

**Insurance Commissioner  
Legislative Rule  
Title 114, Series 37**

2.4. The provisions of this legislative rule do not apply to insurance policies issued or applications taken for commercial automobile liability insurance.

**§ 114-37-3. Definitions.**

The following words and terms, when used in this rule, have the following meanings, unless the context clearly indicates otherwise:

3.1. "Application" means a printed form used by an insurance company which includes questions about a prospective insured and the desired insurance coverage and limits. It provides the insurer's underwriter with information for accepting or rejecting the prospective insured and rating the desired policy.

3.2. "Commissioner" means the Insurance Commissioner of the State of West Virginia.

3.3. "Contrasting Color" means a color strikingly dissimilar to the color of the other text and background as to produce an intensified effect that is easily readable and draws the attention of the reader.

3.4. "Form Filing" means a filing of the application and first page of the policy bearing the imprint of the specified statement submitted to the Commissioner for prior approval in accordance with West Virginia Code § 33-6-8.

3.5. "Policy" is the form setting forth the automobile insurance declarations, insuring agreements, conditions and exceptions, often bound by a policy jacket.

3.6. "Reverse Print" means white text on a black background as to produce an intensified effect that is easily readable and draws the attention of the reader.

~~3.6-3.7.~~ "State" means the State of West Virginia.

~~3.7-3.8.~~ "Substandard Risk Insurance Application Notice" means the written notice required by West Virginia Code § 33-6-31c(b).

~~3.8-3.9.~~ "Substandard Risk Insurance Policy Notice" means the written notice required by West Virginia Code § 33-6-31c(c).

Insurance Commissioner  
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~~3-9-3.10.~~ "Substandard Risk" means an applicant for insurance who presents a greater exposure to loss than that contemplated by commonly used rate classifications, as evidenced by one or more of the following conditions: (A) Record of traffic accidents; (B) Record of traffic law violations; (C) Undesirable occupational circumstances; or (D) ~~Undesirable moral characteristics~~ Any other valid underwriting consideration.

~~3-10-3.11.~~ "Substandard Risk Rate" means a rate or premium charge that reflects the greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk.

§ 114-37-4.       **Format of Substandard Risk Insurance Application Notice.**

4.1. The Application for a motor vehicle insurance policy to be issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon in a ~~minimum~~ minimum 10 point bold-faced type in a contrasting color or in reverse print, a statement appearing on the front page of the Application reading substantially as follows: **THE POLICY FOR WHICH YOU ARE APPLYING HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.**

4.2. The Substandard Risk Application Notice shall be clear and conspicuous on the face of the Substandard Risk Application.

4.3. The Substandard Risk Application Notice may not be printed on a separate sheet of paper, on a sticker attached to the Application, or on an overlay sheet or by using white text in a black box.

§ 114-37-5.       **Format of Substandard Risk Insurance Policy Notice.**

5.1. A motor vehicle insurance policy issued in this State and written on the basis of a substandard risk rate schedule shall have printed directly thereon, in a minimum 10 point boldfaced type in a contrasting color or in reverse print, a

Insurance Commissioner  
Legislative Rule  
Title 114, Series 37

statement appearing on the policy jacket or the first page of the policy reading substantially as follows: THIS POLICY HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.

5.2. The Substandard Risk Insurance Policy Notice shall be clear and conspicuous on the face of the Substandard Risk Policy.

5.3. The Substandard Risk Insurance Policy Notice may not be printed on a separate sheet of paper, on a sticker attached to the Policy, or on an overlay sheet or by using white text in a black box.

**§ 114-37-6. Submission of Form Filing Required.**

6.1. All insurers shall submit the Form Filing to comply with W. Va. Code 33-6-31c to the Rates and Forms Division of the Office of the West Virginia Insurance Commissioner. The form filing is effective upon approval by the Commissioner.

6.2. The Form Filing shall include: Two (2) Cover Letters informing the Commissioner that this filing is submitted to comply with West Virginia Code § 33-6-31c; a Form Filing Abstract (PCA-F-81); a copy of the properly imprinted application; a copy of the properly imprinted Policy Form; an amendment to the manual page stating that these imprinted forms are to be used with every automobile insurance policy written on a substandard risk in the State; and the appropriate filing fee required by law.

**§ 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.**

7.1. All insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to such substandard risk policyholders who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy.

Insurance Commissioner  
Legislative Rule  
Title 114, Series 37

7.2. The notice to substandard risk policyholders regarding their eligibility for coverage under a standard or preferred policy shall read substantially as follows: Our records show that for the past three years you have maintained continuous motor vehicle insurance coverage, have not been convicted of any moving traffic violations, and have had no at fault accidents. You may, therefore, be eligible for coverage under a standard or preferred policy at lower premium charges than those you are currently paying. To confirm your eligibility for such coverage, contact us at (appropriate address and telephone number)/the insurer of your choice.

7.3. The notice required in this section must be provided either by personal delivery or by regular mail addressed to the policyholder at the last address appearing for the policyholder in the records of the insurer.

§ 114-37-8. Severability.

8.1 If any provision of this rule or the application of this rule to any person or circumstances is for any reason held to be invalid, the remainder of the rule and the application of the provisions to other persons or circumstances shall not be affected by the holding.

Attachment to Question 2(d)

One comment to the proposed amendments to this rule was received during the comment period, a copy of which is attached hereto. In essence, the comment received from Heather Heiskell Jones of the West Virginia Insurance Federation requests that the language relating to the requirement that insureds be notified as to their eligibility under a standard or preferred policy be amended to reflect that such notice is required to be given only to those policyholders insured under a substandard risk policy. We are in agreement with this recommendation and have amended the language under sections 1.1, 2.1, 7.1 and 7.2 to read as follows:

**§ 114-37-1. General.**

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-6-31c requiring a written notification on automobile insurance applications and policies written on substandard risks, and a written notification to such substandard risk applicants and insureds regarding eligibility for coverage under a standard or preferred policy. This rule sets forth the format, style, design and method for approval of substandard risk insurance applications, and policies, and notices, and any additional procedures required.

**§ 114-37-2. Applicability.**

2.1. Applicability. -- This legislative rule applies to all insurers writing motor vehicle liability insurance in this State if the rate or premium charged for the motor vehicle liability coverage reflects a greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk. The notification provisions apply to all motor vehicle liability policies covering substandard risks issued on or after the effective date of this rule, and all motor vehicle liability insurance applications covering substandard risks taken on or after the effective date of this rule, and all notices to substandard risk policyholders of eligibility for coverage under a standard or preferred policy arising on or after the effective date of this rule.

**§ 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.**

7.1. All insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to such substandard risk policyholders who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or

preferred policy.

7.2. The notice to substandard risk policyholders regarding their eligibility for coverage under a standard or preferred policy shall read substantially as follows: Our records show that for the past three years you have maintained continuous motor vehicle insurance coverage, have not been convicted of any moving traffic violations, and have had no at fault accidents. You may, therefore, be eligible for coverage under a standard or preferred policy at lower premium charges than those you are currently paying. To confirm your eligibility for such coverage, contact us at (appropriate address and telephone number)/the insurer of your choice.

One comment to the proposed amendments to the rule was received after the comment period had ended. This comment from Edward T. Collins of Allstate Insurance Company is attached hereto. Allstate recommends that the Department revise the wording of the notice requirement under subsection 7.2. "to allow companies to send notice to all customers and to use the company's discretion in the wording of the notice, provided that it is substantially similar to the Department's promulgated language".

With regard to the wording of the language, subsection 7.2. as it is currently written clearly states that "[t]he notice to policyholders regarding their eligibility for coverage under a standard or preferred policy shall read **substantially** as follows ..."

The recommendation that the notice be provided to all nonstandard customers at their next renewal is inconsistent with the statute. West Virginia Code § 33-6-31c(e) states:

"On or after the first day of July, one thousand nine hundred ninety-five, all insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to **such policyholders who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had no at fault accidents**, that they may be eligible for coverage under a standard or preferred policy".

(emphasis added). It was therefore the intent of the legislature that policyholders be provided notice when they become eligible for coverage under a standard or preferred policy. Such notice may be given anytime between the anniversary date of eligibility for coverage under a standard or preferred policy and the date a notice of renewal is mailed to the insured. In fact, the notice may be included as an insert to the notice of renewal.



**SPILMAN, THOMAS & BATTLE**  
Post Office Box 273  
Charleston, West Virginia 25321-0273  
(304) 340-3800

Chg 13787

**THE FOLLOWING PAGES ARE FOR:**

**INDIVIDUAL:** Keith Huffman, Esquire  
**FIRM:** West Virginia Insurance Commission  
**CITY AND STATE:** Charleston, West Virginia  
**FAX NO.:** 558-0412  
**FROM:** Heather Heiskell Jones  
Executive Director  
West Virginia Insurance Federation

**TOTAL NUMBER OF PAGES:** 4 (INCLUDING INFORMATION SHEET)

**DATE TRANSMITTED:** July 27, 1995

\* \* \*

If you do not receive all the pages, please call Chris Blankenship as soon as possible. The telephone number is (304) 340-3883.

\* \* \*

Under cover: Letter of same date.

Comments:

**CONFIDENTIALITY NOTE:** The information contained in this facsimile message is legally privileged and confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copy of this telecopy is strictly prohibited. If you have received this telecopy in error, please immediately notify us by telephone so that we can arrange for the return of this material at no cost to you. Thank you.



July 27, 1995

VIA FAX

Keith Huffman, Esquire  
Insurance Commission  
State of West Virginia  
State Capitol Complex  
Charleston, West Virginia 25305

Re: Comments to Proposed Regulations Regarding Substandard Risk  
Motor Vehicle Insurance Notice Requirements

Dear Keith:

Pursuant to our telephone conversation yesterday, the following are comments submitted by the West Virginia Insurance Federation on proposed rules relating to substandard motor vehicle insurance notice requirements.

The proposed regulations (114 C.S.R. 37) pertain to § 33-6-31c of the West Virginia Code, which applies to substandard risk policyholders and applicants. In order to ensure that the regulations are consistent with the Code, we propose the changes set forth below. Specifically, the proposed regulations, as currently drafted, may arguably be construed to require insurers to notify applicants and policyholders of substandard and standard policies that they may be eligible for preferred policies. This is not consistent with the statute, which applies only to substandard risk applicants and policyholders. Therefore, we propose the following changes to the regulations:<sup>1</sup>

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<sup>1</sup>I have set forth in boldface type and underscored the new language that we are proposing.

Keith Huffman, Esquire  
July 27, 1995  
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§ 114-37-1. General.

1.1. Scope. -- This legislative rule implements the provisions of West Virginia Code § 33-6-31c requiring a written notification on automobile insurance applications and policies written on substandard risks, and a written notification to such substandard risk applicants and insureds regarding eligibility for coverage under a standard or preferred policy. This rule sets forth the format, style, design and method for approval of substandard risk insurance applications, policies, and notices, and any additional procedures required.

\* \* \*

§ 114-37-2. Applicability.

2.1. Applicability. -- This legislative rule applies to all insurers writing motor vehicle liability insurance in this State if the rate or premium charged for the motor vehicle liability coverage reflects a greater than normal exposure to loss which is assumed by an insurer writing insurance for a substandard risk. The notification provisions apply to all motor vehicle liability policies covering substandard risks issued on or after the effective date of this rule, all motor vehicle liability insurance applications covering substandard risks taken on or after the effective date of this rule, and all notices to substandard risk policyholders of eligibility for coverage under a standard or preferred policy arising on or after the effective date of this rule.

\* \* \*

§ 114-37-7. Notice of Eligibility for Coverage Under Standard or Preferred Policy.

7.1. All insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to such substandard risk policyholders who have maintained continuous insurance coverage for three years, have not been convicted or any moving traffic

Keith Huffman, Esquire  
July 27, 1995  
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violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy.

7.2. The notice to substandard risk policyholders regarding their eligibility for coverage under a standard or preferred policy shall read substantially as follows: Our records show that for the past three years you have maintained continuous motor vehicle insurance coverage, have not been convicted of any moving traffic violations, and have had no at fault accidents. You may, therefore, be eligible for coverage under a standard or preferred policy at lower premium charges than those you are currently paying. To confirm your eligibility for such coverage, contact us at (appropriate address and telephone number).

Thank you for considering these proposed changes. Should you have any questions, please call me.

Sincerely,



Heather Heiskell Jones

HHJ/cjb

cc: Hanley Clark, Insurance Commissioner

ALLSTATE INSURANCE COMPANY

LAW AND REGULATION  
2775 Sanders Road  
Suite A4  
Northbrook, Illinois 60062  
(708) 402-5763  
FAX (708) 402-9886

Edward T. Collins  
Counsel

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JUL 28 1995

July 27, 1995

VIA AIRBORNE EXPRESS

WEST VIRGINIA  
INSURANCE COMMISSION

The Honorable Hanley Clark  
Commissioner of Insurance  
West Virginia Department of Insurance  
2019 Washington Street, East  
Charleston, West Virginia 25305

Dear Honorable Clark:

Re: Substandard Risk Motor Vehicle Insurance Requirements --  
Proposed Regulation --114 CSR 37

On behalf of Allstate Insurance Company and Allstate Indemnity Company, please accept the following comments regarding the proposed regulation for Substandard Risk Motor Vehicle Insurance Notice Requirements (114 CSR 37).

The proposed regulation requires the promulgated notice of substandard insurance to appear on the policy jacket and the auto application. It also requires a very specific form of notice for renewal customers who may qualify for coverage under a preferred company.

The form and content of the notice to appear on the policy and application are appropriate and we have already amended our policy and applications to comply. Copies are attached. However, the proposed form and content of the renewal notice would require substantial re-work in our process and will require ongoing special processing at our processing center.

H2264 requires "all insurers selling or which have in force substandard risk motor vehicle insurance policies shall provide a one time notice in writing to such policyholder who have maintained continuous insurance coverage for three years, have not been convicted of any moving traffic violations and had no at fault accidents, that they may be eligible for coverage under a standard or preferred policy." To meet that requirement, we developed customer insert X5351 (copy attached) to be sent to all nonstandard customers at their next renewal. The insert provides the information required in the statute.

The Honorable Hanley Clark  
July 27, 1995  
Page 2

The proposed regulation would require us to change the insert to match the text provided and to send the insert only to those policyholders who meet the qualifications. This would require the following re-work:

- Develop the new insert and destroy the current stock (approximate cost \$700)
- Create programming to identify qualifying customers at renewal and add a special code to their declarations to indicate that they should receive the notice (approximate cost \$9,000)
- Sort all West Virginia decs as they are printed to pull out those with the applicable code and add the insert to those mailing packages (approximate cost over six months \$3,000)
- Provide project coordination (approximate cost \$150)

These costs would ultimately be borne by the customers in West Virginia in the form of increased expenses, which would increase the next rate indication.

We respectfully recommend that the Department revise the wording of their notice requirement in the proposed regulation to allow companies to send notice to all customers and to use the companies' discretion in the wording of the notice, provided that it is substantially similar to the Department's promulgated language. We believe the enclosed copies would meet that standard. This would allow us to retain our current notice and save policyholders unnecessary expense.

Please contact me if you have questions regarding these comments. Thank you for your time and consideration.

Yours very truly,

*Edward Collins*  
Edward T. Collins



## Important Notice

---

### *You May Qualify For a Standard Insurance Policy*

As an Indemnity policyholder, you may qualify for insurance rated under a Standard or Preferred plan if you meet each of the following criteria:

- You have maintained continuous coverage for three years.
- You have not been convicted of any moving traffic violations.
- You have had no at fault accidents.

If you think that you meet the qualifications listed above, or if you have any questions about this notice, please contact your Allstate agent.

---

Allstate Indemnity Company  
Home Office, Northbrook, IL  
X5351

**Allstate**  
You're in good hands.

ALLSTATE INDEMNITY COMPANY  
WEST VIRGINIA

HOME OFFICE  
NORTHBROOK, ILLINOIS

Application No: \_\_\_\_\_

THE POLICY FOR WHICH YOU ARE APPLYING HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.

To the best of my knowledge the statements made on this application, including attachments, are true. I request the Company, in reliance on these statements, to issue the insurance applied for. The Company may recompute the premium shown if the statements made herein are not true. In the event of any misrepresentation or concealment made by me or with my knowledge in connection with this application, the Company may deem this binder and any policy issued pursuant to this application void from its inception. This means that the Company will not be liable for any claims or damages which would otherwise be covered.

I understand that the insurance policy applied for contains provisions which may eliminate or reduce coverage under certain circumstances. I acknowledge the importance of reading and becoming familiar with the entire policy including these provisions.

I have read this entire application, including the binder provision, before signing.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Date



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THIS POLICY HAS BEEN RATED IN ACCORDANCE WITH A SPECIAL RATING SCHEDULE FILED WITH THE COMMISSIONER OF INSURANCE PROVIDING FOR HIGHER PREMIUM CHARGES THAN THOSE GENERALLY APPLICABLE FOR AVERAGE RISKS. IF THE COVERAGE OR PREMIUM IS NOT SATISFACTORY, YOU MAY BE ELIGIBLE FOR OTHER INSURANCE. IF THIS COVERAGE OR PREMIUM IS SATISFACTORY, YOU MAY BE ELIGIBLE FOR COVERAGE UNDER A STANDARD OR PREFERRED POLICY IF DURING THE NEXT THREE YEARS YOU HAVE NO TRAFFIC VIOLATIONS OR ACCIDENTS AND YOU MAINTAIN CONTINUOUS INSURANCE COVERAGE.

*General*

- 3 When And Where The Policy Applies
- 3 Insurance Coverage in Mexico
- 3 Premium Changes
- 4 Coverage Changes
- 4 Duty To Report Policy Changes
- 4 Combining Limits Of Two Or More Autos Prohibited
- 5 Transfer
- 5 Payment
- 5 Termination
- 5 Non-Renewal
- 6 Cancellation

*Part I — Automobile Liability Insurance (Coverages AA and BB)*

- 7 Insuring Agreement
- 7 Additional Payments Allstate Will Make
- 8 Insured Persons
- 8 Insured Autos
- 9 Definitions
- 9 Exclusions — What is not covered
- 10 Financial Responsibility
- 10 Limits Of Liability
- 11 If There Is Other Insurance
- 11 Assistance And Cooperation Of The Insured
- 11 Action Against Allstate
- 11 Bankruptcy Or Insolvency
- 11 Additional Interested Parties
- 12 What To Do In Case Of An Auto Accident Or Claim



STATE OF WEST VIRGINIA  
Offices of the Insurance Commissioner

Legal Division

GASTON CAPERTON  
Governor

HANLEY C. CLARK  
Insurance Commissioner

July 28, 1995

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

HAND DELIVERED

Ms. Judy Cooper, Director  
Administrative Law Division  
Office of Secretary of State  
State Capitol  
Charleston, West Virginia 25305


Dear Ms. Cooper:

Enclosed please find for filing one (1) copy of the following:

- (1) Notice of Agency Approval of a Proposed Rule and Filing with the Legislative Rule-Making Review Committee;
- (2) Fiscal Note;
- (3) Consent to Proposed Rule;
- (4) Brief Summary of the Rule;
- (5) Statement of Circumstances;
- (6) Legislative Rule-Making Review Committee Questionnaire; and
- (7) The agency-approved rule entitled "Substandard Risk Motor Vehicle Insurance Notice Requirements" (Series 37).

Please contact me if further information is required.

Very truly yours,

  
Donna S. Quesenberry  
Associate Counsel

DSQ/sar  
Enclosures