

Dear Senators PATRICK, Souza, Ward-Engelking, and
Representatives DIXON, Furniss, Berch:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of
the Department of Insurance:

IDAPA 18.02.02 - Automobile Insurance Policies (ZBR Chapter Rewrite) - Proposed Rule (Docket
No. 18-0202-2201);

IDAPA 18.02.03 - Certificate of Liability Insurance for Motor Vehicles (ZBR Chapter Rewrite) -
Proposed Rule (Docket No. 18-0203-2201).

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the
cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research
and Legislation no later than fourteen (14) days after receipt of the rules' analysis from Legislative
Services. The final date to call a meeting on the enclosed rules is no later than 09/06/2022. If a meeting is
called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules' analysis
from Legislative Services. The final date to hold a meeting on the enclosed rules is 10/03/2022.

The germane joint subcommittee may request a statement of economic impact with respect to a
proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement,
and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has
been held.

To notify Research and Legislation, call 334-4854, or send a written request to the address on the
memorandum attached below.



Terri Kondeff
Director

Legislative Services Office

Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Commerce & Human Resources Committee and the House Business Committee

FROM: Principal Legislative Drafting Attorney - Elizabeth Bowen

DATE: August 18, 2022

SUBJECT: Department of Insurance

IDAPA 18.02.02 - Automobile Insurance Policies (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0202-2201)

IDAPA 18.02.03 - Certificate of Liability Insurance for Motor Vehicles (ZBR Chapter Rewrite) - Proposed Rule (Docket No. 18-0203-2201)

Summary and Stated Reasons for the Rule

Docket No. 18-0202-2201: This proposed rule regarding automobile insurance policies is a chapter rewrite, clarifying language and removing duplicative language.

Docket No. 18-0203-2201: This proposed rule regarding certificate of liability insurance for motor vehicles is a chapter rewrite, clarifying language and removing duplicative language.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted for both rules. Neither rule is anticipated to have a negative fiscal impact on the state general fund.

Statutory Authority

Both rules appear to be authorized pursuant to several sections of the Idaho Code.

cc: Department of Insurance
Weston Trexler

***** PLEASE NOTE *****

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

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Boise, Idaho 83720-0054

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IDAPA 18 – DEPARTMENT OF INSURANCE
18.02.02 – AUTOMOBILE INSURANCE POLICIES
DOCKET NO. 18-0202-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211 and 41-2502(3), Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702
<i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3
<i>Join by phone at:</i> 1-720-650-7664 (USA Toll Free)

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule provides implementation and uniform interpretation of Section 41-2502, 41-2506, 41-2507, 41-2508, and 41-2509, relating to insurance cancellation, non-renewal, and under/uninsured motorists. This rulemaking clarifies language, removes duplicative language, and moves information to the Department's website. It also improves transparency to consumers as to their underinsured motorist coverage.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, [Vol. 22-04, pages 37-38](#), under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0202-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

18.02.02 – AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code. ()

001. SCOPE.

Assists in implementing and interpreting Sections 41-2502, and 41-2506 through 41-2509, Idaho Code. ()

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. “The Act” means Sections 41-2506 through 41-2512, Idaho Code. ()

02. Conviction. For purposes of Section 41-2507, Idaho Code, the term “conviction” means a final conviction by any court having competent jurisdiction over violations of laws regulating the operation of motor vehicles. An overtime parking violation is not considered a conviction. ()

03. Underinsured Motorist (UIM) Coverage Types. “Offset” or “Difference in Limits” UIM coverage has limits that decrease by any amounts recovered from another party’s insurance. “Excess” UIM coverage has limits that are added to what is paid by another party’s insurance. ()

011. MISREPRESENTATIONS IN THE APPLICATION.

After properly notifying the insured, an insurer may cancel or refuse to renew a policy if the insurer has evidence the named insured or their legal representative made fraudulent or material misrepresentations, omissions, concealment of facts or incorrect statements in obtaining the policy and if the insurer in good faith would not have issued the policy or covered a particular hazard if the true facts had been made known to the insurer. This is not to be construed

to allow the insurer to void or rescind coverage to prevent a recovery in the event of a loss otherwise insured by the policy. ()

012. TERMINATION TIMING.

Unless otherwise agreed by the insured, insurer, and the lienholder, if any, the time and date of cancellation of a policy for nonpayment of premium will be no earlier than ten (10) days after the date such notice was mailed or delivered at the last known address of the named insured. The date of mailing is the first day, and the tenth day ends at midnight. Any existing policy will terminate on the effective date of another policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. ()

013. NOTICE OF PREMIUM DUE AS INSURER'S WILLINGNESS TO RENEW.

An insurer's mailing of the renewal premium notice constitutes the insurer's willingness to renew. If the insured fails to pay the renewal premium when due, the policy will terminate per its terms. The insurer need not further notify the insured of the insurer's intent not to renew for nonpayment. ()

014. ACCEPTABLE FORMS FOR CERTAIN NOTICES.

The insurer will prepare forms of notice to use and submit to the Director for approval. Examples of acceptable language are available on the Department's website. ()

015. UNINSURED AND UIM COVERAGE.

a. The form on the Department's website is the standard statement per Section 41-2502(3), Idaho Code. Carriers are to provide the form with all new policies and renewals. Carriers may make non-substantive changes to this form, for example, inserting company letterhead. Carriers need to file their standard statement form with the Director prior to use ()

b. The carrier's Declarations Page for "offset" UIM coverage is to indicate that the coverage decreases by any payments from another party's coverage. ()

c. To avoid illusory coverage, insurers may offer "offset" UIM coverage at the state financial responsibility limits defined in Section 49-117(20), Idaho Code, only if coverage is provided at no (\$0.00) premium. ()

016. -- 999. (RESERVED)

IDAPA 18 – DEPARTMENT OF INSURANCE
18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES
DOCKET NO. 18-0203-2201 (ZBR CHAPTER REWRITE)
NOTICE OF RULEMAKING – PROPOSED RULE

AUTHORITY: In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Sections 41-211, 49-1129, 49-1231, and 49-1608A, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing concerning this rulemaking will be held as follows:

Tuesday, July 26, 2022 2:00 p.m. to 3:30 p.m. (MT)
<i>In-person participation is available at:</i> Department of Insurance 700 W State St, 3rd Floor Conference Room A Boise, Idaho 83702
<i>Phone or virtual participation via Webex is available at:</i> Join WebEx Meeting Meeting Number (Access Code): 2451 825 4219 Meeting Password: fN4m3AqFSr3
<i>Join by phone at: 1-720-650-7664 (USA Toll Free)</i>

The hearing sites will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

The purpose of this rule identifies requirements of Sections 49-1129, 49-1331, and 49-1608A, Idaho Code, relating to the certificate of liability insurance for motor vehicles. This rulemaking clarifies language and removes duplicative language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased: N/A.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year as a result of this rulemaking: None.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the April 6, 2022 Idaho Administrative Bulletin, Vol. 22-04, pages 37-38, under Docket No. 18-ZBRR-2201.

INCORPORATION BY REFERENCE: Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Weston Trexler, (208) 334-4214, weston.trexler@doi.idaho.gov.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before July 27, 2022.

DATED this June 3, 2022.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID, 83720-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

THE FOLLOWING IS THE PROPOSED TEXT OF DOCKET NO. 18-0203-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES

000. LEGAL AUTHORITY.

Title 49, Sections 49-1229, 49-1231, and 49-1608A, Idaho Code. ()

001. SCOPE.

To identify the form of a certificate of liability insurance for motor vehicles per Sections 49-1229, 49-1231 and 49-1608A, Idaho Code. ()

002. -- 010. (RESERVED)

011. CONTRACT OF INSURANCE -- CERTIFICATE OF LIABILITY INSURANCE.

A certificate of liability insurance can be the original liability insurance contract, or a copy thereof, or a written binder, showing active motor vehicle liability insurance in at least the applicable amounts prescribed by Sections 49-117(20), 49-1212, 49-1229, and 49-1608A, Idaho Code, and also any other coverage prescribed by Title 41, Idaho Code. ()

012. MINIMUM SPECIFICATIONS FOR A CERTIFICATE OF LIABILITY INSURANCE IN LIEU OF THE CONTRACT OF INSURANCE.

A document constitutes a certificate of liability insurance if it has these characteristics: ()

01. Individual-Owned Motor Vehicles. ()

a. Identifies the insurer or surety company authorized to do business in Idaho. ()

b. States the name and address of the owner of the insured motor vehicle. ()

c. Describes the motor vehicle including an identification number or the words “all owned vehicles”

if more than one vehicle is insured. ()

d. Shows the date coverage begins. ()

e. Shows either that coverage ends after a fixed date or period, or when cancelled. ()

f. May show of the insurance policy or document number. ()

02. Dealer and Manufacturer Vehicles. ()

a. Identifies the insurer or surety company authorized to do business in Idaho. ()

b. States the name and address of the dealership or owner(s) of the insured motor vehicle. ()

c. Shows the date coverage begins. ()

d. Shows either that coverage ends after a fixed date or period, or when cancelled. ()

e. May show the insurance policy or document number. ()

013. EXAMPLES OF A DOCUMENT FORMAT.

The Department's website includes examples of documents that would satisfy these specifications for a certificate of liability insurance. ()

014. -- 999. (RESERVED)