

18.02.02 – AUTOMOBILE INSURANCE POLICIES

000. LEGAL AUTHORITY.

Title 41, Chapter 25, Idaho Code.

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001. ~~TITLE AND SCOPE.~~

~~01. Title. IDAPA 18.02.02, “Automobile Insurance Policies.”~~

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~~02. Purpose. Provides guidelines to assist~~Assists in the implementation~~implementing~~ and uniform interpretation of the following~~interpreting~~ Sections 41-2502, 41-2506, 41-2507, 41-2508, and 41-2506 through 41-2509, of the Idaho Code.

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002. -- 009. (RESERVED)

010. DEFINITIONS.

The Idaho Department of Insurance adopts the definitions set forth in Title 41, Chapter 25, Idaho Code. In addition, the following terms are defined as used in this chapter.

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01. **The Act.** ~~The~~ “For the purpose of this Rule, the term “the Act” means,” unless otherwise noted, refers to Sections 41-2506, ~~41-2507, 41-2508, 41-2509, 41-2510, 41-2511,~~ through 41-2512, Idaho Code.

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02. **Non-Payment of Premium.** ~~The time and date of cancellation of a policy for non-payment of premium will be no earlier than ten (10) days after the date such notice was mailed or delivered, the date of mailing is the first day and the tenth day ends at midnight, standard time, at the last known address of the named insured. Nothing in this rule is construed to permit any agent or other representative of the insurer to cancel any policy without the agreement of the insurer or for any private debt between the agent and the insured. Also, nothing in the section is construed to prohibit a policy from being canceled effective as of any date mutually acceptable to the insured, the insurer and the lienholder, if any. Furthermore, a prior existing policy will terminate on the effective date of any other policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage.~~**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.

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03. **Sixty-Day Period.** ~~Should an insurer, after the sixty-day (60) period referred to in Section 41-2506, Idaho Code, find that after investigation of a particular risk, conclude that it does not wish to remain on the risk, it may decline to continue such policy in force. Therefore, an insurer may deliver notice of cancellation or mail notice of cancellation concerning any new automobile policy on or before the sixtieth (60th) day after the effective date of the policy. The policy will remain in force from the date the notice of cancellation is mailed to the usual date the cancellation is effective as prescribed by the terms and conditions of the policy, without the policy being subject to the provisions of the Act.~~**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.

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011. ~~ERRORS OR MISREPRESENTATIONS IN THE APPLICATION.~~

~~01. Material Misrepresentation.~~After properly notifying the insured, an insurer may cancel or refuse to renew a policy ~~after giving the insured proper notice~~ 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 provided coverage with respect to~~covered~~ a particular hazard if the true facts had been made known to the insurer ~~as prescribed in the application.~~

~~02. Prohibitions. Nothing in this rule is~~ **This is not to be** construed to allow the insurer to void ~~the policy back to its effective date~~ or rescind coverage ~~under the policy~~ to prevent a recovery ~~under the policy~~ in the event of a loss otherwise insured by the policy. ( )

~~012. Allowable Convictions For Traffic Violations.~~

~~01. Grounds and Requests for Cancellation Due to Traffic Violation Convictions. 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. ( )~~

~~02. Conviction Exception. For the purposes of the Act, an overtime parking violation is not considered a conviction. ( )~~

**012. TERMINATION TIMING.**

Unless otherwise mutually 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 ~~OF INSURER~~ TO RENEW.**

~~Mailing by the insurer~~ An insurer’s mailing of the renewal premium notice constitutes ~~the insurer’s~~ willingness ~~by the insurer~~ to renew. If the insured fails to pay the renewal premium when due, the policy will terminate ~~perin accordance with its terms.~~ perin accordance with its terms. ~~No~~ The insurer need not further ~~notice to~~ notify the insured ~~by of the insurer of an intention~~ insurer’s intent not to renew for ~~non payment of premium is necessary~~ nonpayment. ( )

**014. ACCEPTABLE FORMS FOR CERTAIN ~~NOTICES~~ ~~OF CANCELLATION,~~ ~~REFUSAL TO RENEW,~~ AND AVAILABILITY OF IDAHO AUTOMOBILE INSURANCE PLAN.**

~~01. Notice Forms.~~ 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. ( )

~~02. Acceptable Language.~~ As a guide, the Department may accept the following language, or language substantially similar, as satisfying the indicated notice requirements of the Act: ( )

~~a. Right of Insured to Request Reasons for Cancellation by Insurer: Upon your written request, mailed or delivered to (Name of Insurer) not less than ten (10) days prior to the effective date of this cancellation, (Name of Insurer) will supply to you the reason or reasons why your policy has been canceled.” ( )~~

~~b. Right of Insured to Request Reasons for Refusal to Renew by Insurer: Upon your written request, mailed or delivered to (Name of Insurer) not less than fifteen (15) days prior to the expiration date of your policy, which is the date coverage ceases under your policy unless it is renewed, the (Name of Insurer) will supply to you the reason or reasons why your policy will not be renewed.” ( )~~

~~c. Notification to Insured of Coverage Available Under Idaho Automobile Insurance Plan: “Should you experience difficulty in obtaining automobile liability insurance, please contact your agent or company representative for full particulars concerning your possible eligibility for insurance through the Idaho Automobile Insurance Plan.” ( )~~

**015. ~~STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST~~ UIM COVERAGE.**

~~a. The form set forth on the Department’s website is the standard statement approved by the Director pursuant to per Section 41-2502(3), Idaho Code, and e. Carriers are to use~~ provide the form ~~for~~ with all new policies and ~~those existing policies where UM or UIM coverage is added or removed~~ renewals. Carriers may make non-

substantive changes to this form, for example, ~~including~~ inserting company letterhead, ~~and e.~~ Carriers need to file their standard statement ~~forms~~ form with the Director prior to use. ~~This rule does not create new requirements for the types of UIM coverage carriers offer beyond what existed as of the effective date of this rulemaking.~~ ( )

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)**