

INSURANCE
DEPARTMENT OF BANKING AND INSURANCE
DIVISION OF INSURANCE

Insurance Identification Cards

Adopted Repeal: N.J.A.C. 11:3-6.5

Adopted Amendments: N.J.A.C. 11:3-6.1 through 6.4

Proposed: August 4, 2003 at 35 N.J.R. 3521(a)

Adopted: March 26, 2004 by Holly C. Bakke, Commissioner, Department of Banking and Insurance

Filed: March 26, 2004 as R.2004 d.166, **with substantive and technical changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 17:1-8.1, 17:1-15e and 39:3-29.1 and section 70 of P.L. 2003, c. 89.

Effective Date: April 19, 2004

Expiration Date: January 4, 2006

Summary of Public Comments and Agency Responses:

The Department of Banking and Insurance received written comments from the following:

American International Group, Inc., Chubb and Son, CNA, State Farm Indemnity Company, New Jersey Auto Agents Alliance, Independent Insurance Agents of New Jersey, Professional Insurance Agents of New Jersey, Alliance of American Insurers, The Relizon Company, Aon Risk Services, and a joint submission from the Insurance Council of New Jersey, American Insurance Association, and National Association of Independent Insurers.

COMMENT: The Department notes that several commenters expressed support for the proposal.

RESPONSE: The Department appreciates the support.

COMMENT: One commenter indicated that the reference to the Interstate Commerce Commission in N.J.A.C. 11:3-6.1 should be replaced by a reference to the U.S. Department of Transportation.

RESPONSE: The Department has confirmed that the Interstate Commerce Commission was abolished in 1995, with its remaining responsibilities assumed by the U. S. Department of Transportation. Accordingly, upon adoption, the Department is amending the reference to policies covering commercial vehicles regulated by the Interstate Commerce Commission that appeared in N.J.A.C. 11:3-6.1 as proposed to refer to the U.S. Department of Transportation. At the present time, the Department is not aware of any identification cards issued by insurance companies that are not subject to the rule. It should be noted that this rule does not cover identification cards issued by entities other than insurance companies, such as self-insurers, government entities, etc.

COMMENT: Several commenters suggested that complying with the relaxed formatting requirements in N.J.A.C. 11:3-6.2 will be difficult and costly for producers. Although the relaxed formatting requirements may benefit some insurance companies, the benefits are outweighed by the burden on producers. One commenter recommends that the ACORD standard ID card continue to be used by all companies, with an option for the company to have its own ID card. The format on all ID cards would be the same (size, location of information, etc.), and agents would have the option of issuing an ACORD ID card or a company ID card.

RESPONSE: The commenters have not provided any reason why the relaxed formatting requirements would be any more burdensome on producers than the current requirements. The current rules do not require companies to use the ACORD standard ID card.

COMMENT: Several commenters stated that it would be expensive and unnecessary to require the issuance and expiration time on an ID card. One commenter noted that the effective date of coverage is 12:01 A.M., unless a producer binds coverage immediately. The specific time is not retained in the computer system, and only appears on the original application. Another commenter noted that while this information may be needed for temporary cards, it was unnecessary for permanent ID cards. One commenter was unclear why the information was needed on temporary cards but not permanent ones.

RESPONSE: The Department was not aware of the difficulties inherent in placing the policy issuance and expiration times on the ID card, and has amended the rule upon adoption to delete this requirement.

COMMENT: One commenter sought clarification whether the issuance time to be shown on each card must be manually entered by the producer, since their computer systems are not capable of providing the exact issuance time. The commenter noted that this requirement would be inconsistent with the Department's direction on how to treat vehicles added to a policy midterm. In those situations, the ID card reflects the original effective date of the policy. The commenter also noted a potential problem if there is a combination policy (home and auto).

RESPONSE: As noted in response to the Comment above, the Department has determined not to require that the time of issuance appear on the ID card.

COMMENT: One commenter suggested that a mandatory grace period, with no penalty for payments received on the date the policy expires so long such payments are received within

normal business hours, would address the expiration time issue and obviate the need for printing a specific expiration time on the ID card.

RESPONSE: As noted in response to a Comment above, the Department has determined not to require that the times of issuance and expiration appear on the ID card.

COMMENT: One commenter noted that the 12:01 A.M. expiration time is inconsistent with the Department's recently proposed amendment to N.J.A.C. 11:3-8 that would change the expiration time from 12:01 A.M. to 11:59 P.M..

RESPONSE: As noted in response to a Comment above, the Department has determined not to require that the time of issuance and expiration appear on the ID card. In addition, the Department did not adopt the proposed amendment to N.J.A.C. 11:3-8, which would have changed the expiration time of the policy. (See 35 N.J.R. 3081(a).)

COMMENT: One commenter sought clarification whether the standard ACORD form can still be used, or if this violates the requirements that each company develop its own ID card and that the temporary and permanent cards be in the same format. The ACORD forms are printed directly from information in the computer system, thereby reducing the chances for error. If information on ID cards must be manually entered, the commenter stated that the likelihood of error is increased.

RESPONSE: A company can still use ACORD forms for its ID card provided that the ACORD system includes an anti-counterfeiting measure that has been approved by the Department.

COMMENT: One commenter suggested that producers and agents be allowed to use an alternative ID card for both temporary and permanent ID cards, instead of company cards.

RESPONSE: Insurers are not required to produce their own ID cards. An insurer can use an ID card produced by a third party, such as ACORD, for temporary or permanent ID cards, provided that such a card has an anti-counterfeiting measure that has been submitted to, and has not been disapproved by, the Department.

COMMENT: One commenter suggested that there should not be a temporary ID card. The commenter recommended that once coverage is bound, the agent should issue a standard ACORD permanent ID card, which can be replaced by a company card when a new policy or endorsement is issued.

RESPONSE: The Department does not agree with the commenter's suggestion. The rule seeks to give insurers and producers the necessary flexibility to issue ID cards in all the circumstances that occur in the marketplace, while still enabling law enforcement personnel to determine whether ID cards they encounter are genuine.

COMMENT: Several commenters expressed support for N.J.A.C. 11:3-6.4(g) and (h) which enable insurers to select the anti-counterfeiting measures to be used for ID cards. One commenter sought assurance that watermarked cards and proposals developed through the ACORD process are acceptable anti-counterfeiting measures.

RESPONSE: The Department appreciates the support. The Department cannot state in advance whether any anti-counterfeiting method is acceptable, without having an actual filing from an insurer.

COMMENT: One commenter questioned the provision wherein each insurer or group of insurers must file with the Department its anti-counterfeiting measures. The commenter inquired about the situation in which a broker (not the insurer) issues the ID card and the security measures of the broker are utilized in the card. This would create a situation in which the anti-counterfeiting measures on file with the Department are different than those in the card.

RESPONSE: A producer can only issue an ID card with the authorization of the insurer whose policy is represented by the card. Insurers have the ability under the rule to authorize producers to use an insurer-produced ID card or to use a generic ID card, such as the ACORD. The insurer is responsible for ensuring that ID cards issued on its behalf contain an approved anti-counterfeiting measure.

COMMENT: Several commenters urged the Department to add a provision to N.J.A.C. 11:3-6.4(i) requiring the insurer to identify the implementation date of the anti-counterfeiting measures filed for approval with the Department.

RESPONSE: The Department does not agree that such an amendment is necessary. A filing would normally include an effective date.

COMMENT: Several commenters requested confirmation that the requirement regarding an insurance verification phone number for inquiries from law enforcement during normal business hours refers to the normal business hours of the insurer. One commenter suggested that the normal business hours be identified as 8:30 A.M. - 4:30 P.M., EST. Another commenter sought clarification that the responsibility for the insurance verification phone number should not be

delegated to producers, since producers often do not have computer access to the information sought.

RESPONSE: The Department does not believe that any clarification is necessary. An insurer can indicate on its filing what its normal business hours are. Some insurers may have longer business hours than those suggested by the commenter. With regard to the suggestion that the verification duty be delegated to producers, the rule is clear that insurers, not producers, must provide the verification information.

COMMENT: One commenter stated that the proposed changes would not decrease counterfeit ID cards and may make it more difficult for law enforcement to do its job because of the many different card formats that can be utilized. The commenter indicated that counterfeit ID cards are a small part of the larger problem of invalid ID cards. This larger problem is best addressed by the use of a cost-effective computer database accessible by law enforcement. Another commenter stated that the Department should establish several acceptable options for compliance and allow carriers to choose among them, in addition to allowing carriers to craft their own measures. Another commenter suggested that the Department put into place technologies that no longer require a paper ID card.

RESPONSE: The Department does not agree with the commenter, and believes that the proposed amendments will make it more difficult to counterfeit ID cards. Law enforcement officers already have a directory of information to identify counterfeit ID cards. The adopted amendments should simplify the process for law enforcement officers, because the Department believes that only a limited number of anti-counterfeiting measures will be used. The Department does not, at this time, have all of the information necessary to designate acceptable

anti-counterfeiting measures in the rule. The commenter's suggestion that the Department look into technologies to replace paper ID cards is beyond the scope of this rulemaking.

COMMENT: Several commenters expressed concern about application of the proposed rule to commercial auto coverage, since commercial policies cover an insured's entire fleet of vehicles, and coverage is usually obtained through a producer who generates the ID card in the name of the business. In private passenger automobile insurance, the insurer generates the ID card and policy. Commercial producers generally issue one form of ID card, regardless of the carrier. In the commercial context, the carrier generally does not have the VIN #, make and model, or other vehicle-specific information. Several commenters suggested that there be an industry standard form of ID for commercial auto producers and that the ACORD form be so designated. Several commenters suggested that the Department establish its own procedures for fraud prevention in connection with the issuance of standard commercial ID cards.

RESPONSE: The Department does not agree with the commenters. Prior to the proposed amendments, the rule applied to identification cards issued by all insurers, which would include commercial auto policies, except for those vehicle regulated by the Interstate Commerce Commission or the New Jersey Board of Public Utilities. Prior to the proposed amendments, the rule required that the ID card show the complete vehicle identification number. The proposed amendment only added an abbreviation "VIN" to the rule text. The Department will consider whether it is appropriate to establish a separate standard for ID cards in commercial insurance in future rulemaking.

COMMENT: Several commenters also suggested that commercial vehicles be exempt from this rule. If commercially insured vehicles are not excepted from this rule, then such insurers should be given more time to reply to inquiries from law enforcement, and be able to respond in writing within 30 days, and confirm only the policy's existence and vehicles covered.

RESPONSE: As noted above in response to an earlier Comment, this rule has always applied to ID cards issued by all insurers. The commenters have not provided any reason why commercial insurers need additional time to respond to law enforcement requests.

COMMENT: Several commenters expressed concern with N.J.A.C. 11:3-6.4(h). One commenter stated that the proposal requires insurers to file within 60 days of the effective date of the adoption a description of its anti-counterfeiting measures and the information necessary for law enforcement and other authorized persons to determine that the card has not been counterfeited. Additionally, insurers are required to file, within 30 days of the effective date of this proposal, other detailed information.

The commenter stated that the time schedule outlined in the proposal may not provide insurers with sufficient time to make a filing with the Department and adopt the Department changes before placing the changes into operation. The commenter requested that the Department provide insurers with at least six months from the time of their filing to making the operational changes necessary to comply with the Department's approval. The commenter stated that there may be reasons for some companies to request an extension of this deadline. The commenter requested that the Department recognize the difficulty some of these changes may have on a company's present operations and provide extensions, if necessary.

A second commenter suggested that the Department provide a year-long implementation approach, whereby new insurance ID cards are issued with policies as they are written and as they renew.

RESPONSE: The Department does not agree with the commenter. The requirement imposed by N.J.A.C. 11:3-6.4(h) is for each insurer or group of insurers to file a description of its anti-counterfeiting measure(s), not to start issuing new ID cards that contain the measure(s). The Department believes that all insurers should be able to make such a filing within the time called for in the rule. Implementation of the new ID cards will, of necessity, be a longer process.

COMMENT: A commenter noted that independent agents represent more than one company. The commenter stated that small to mid-size agencies may be required to issue 40 to 50 ID cards per week to new applicants, those changing vehicles and those who have lost ID cards. The standard practice is for agents to maintain a supply of ACORD forms, which can be issued from an agency management system in a timely manner. The ID card is printed directly from the policy information in their system, thus reducing the chance of incorrect information relating to the named insured, policy information and vehicle information. The commenter stated that while the statement in the proposed rule indicates that the standard ACORD form should still be acceptable, it seems to indicate that each company must develop their own card and that the company's temporary card and permanent card must be in the same format. The commenter stated that this would appear to conflict with the ability to use an ACORD form, since the format would not match the format of the company's permanent ID card. The commenter believes that this would require agencies to purchase typewriters to print ID cards, which would disrupt normal workflow and delay the issuance of ID cards to consumers. The commenter also stated

that, if the information must be entered manually, it could result in an increase in policy and vehicle information errors that could hurt consumers who are stopped by law enforcement.

RESPONSE: The Department agrees with the commenter's concern that the rule could be interpreted to require that an insurer's temporary and permanent ID card be the same, which would preclude an insurer from having its own permanent ID card and using a third-party ID card, such as ACORD, as a temporary ID card. The Department did not intend this result in the proposal, and has amended N.J.A.C. 11:3-6.3(a) upon adoption to require that the format and content of an insurer's temporary ID card be the same as "those for a permanent ID card," not the same as "the permanent ID card," which could be interpreted to refer to the insurer's permanent ID card.

COMMENT: One commenter was concerned that N.J.A.C. 11:3-6.4(l) does not provide sufficient assurance to insurers that filings made pursuant to this provision will receive the necessary protection. The commenter believes that this information needs to be protected from any and all unauthorized uses. The commenter stated that some of this information may be considered a company trade secret, requiring similar protections from the public domain. The commenter requested that the Department provide insurers with sufficient assurance that this information will not become public information. The commenter recommended that the Department revise N.J.A.C. 11:3-6.4(l) to place identical protection requirements on law enforcement agencies or any other agency that may obtain material listed in subsections (h) through (i).

RESPONSE: The Department does not believe that any changes to the rule are appropriate. The information will be marked as proprietary, and will contain a statement that unauthorized

disclosure is prohibited. The Department anticipates that the Office of the Insurance Fraud Prosecutor and law enforcement agencies will, as appropriate, treat the information as confidential.

COMMENT: Several commenters noted typographical errors in N.J.A.C. 11:3-6.4(k) and (j)2. N.J.A.C. 11:3-6.4(j)2 should refer to subsection (k) rather than (h); and N.J.A.C. 11:3-6.2(k) should refer to filings in subsection (h) through (j), rather than (h) through (k).

RESPONSE: The Department has amended the rule upon adoption to correct the errors.

Federal Standards Statement

A Federal standards analysis is not required because the adopted amendments and repeal relate to the business of insurance and are not subject to any Federal requirements or standards.

Full text of the adoption follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks *[thus]*):

SUBCHAPTER 6. INSURANCE IDENTIFICATION CARDS

11:3-6.1 Scope

In accordance with N.J.S.A. 39:3-29.1, this subchapter concerns the issuance, design and content of auto insurance identification cards issued by insurance companies in this State. This subchapter shall not apply to policies covering commercial motor vehicles regulated by the

[Interstate Commerce Commission] ***U. S. Department of Transportation*** or the New Jersey Board of Public Utilities.

11:3-6.2 Permanent identification cards

(a) A permanent insurance identification card shall conform to the following specifications:

1. – 2. (No change from proposal.)

3. The front of the card shall include the following:

i. - iv. (No change from proposal.)

v. Effective date and expiration date: month, day, *and* year *[and time (for example, 12:01 A.M.)]*.

vi. – xi. (No change from proposal.)

4. - 5. (No change from proposal.)

(b) (No change from proposal.)

11:3-6.3 Temporary identification card

(a) The format and content of the temporary card shall be the same as *[the]* ***those for a*** permanent identification card except as noted below.

1. – 4. (No change from proposal.)

11:3-6.4 General provisions

(a) – (g) (No change from proposal.)

(h) *[Within 60 days of the effective date of this amendment]* ***By June 18, 2004***, each insurer or group of insurers shall file for approval with the Department a description of its anti-counterfeiting measures and the information necessary for law enforcement and other authorized persons to determine that the card has not been counterfeited.

1. (No change from proposal.)

(i) No later than *[the operative date of this amendment]* ***April 19, 2004*** and within 30 days of any change in the information, each insurer shall file with the Department:

1. – 2. (No change from proposal.)

(j) *[Within 30 days of the effective date of this amendment]*, ***By May 19, 2004*** every insurer or group of insurers shall file with the Department an insurance verification phone number *[where]* ***to which*** inquiries from law-enforcement personnel about the insurance status of a driver can be made.

1. (No change from proposal.)

2. The Department shall be notified within one business day at the address in *[(h)]* * **(k)** below of any change in the insurance verification phone number.

(k) The filings in (h) through *[(k)]* * **(j)** above shall be made to:

New Jersey Department of Banking and Insurance

Insurance Identification Card Unit

P. O. Box 329

Trenton, NJ 08625-0329

E-mail: autoidcards@dobi.state.nj.us

(l) (No change from proposal.)