

SUBCHAPTER A. AUTOMOBILE INSURANCE
DIVISION 3. MISCELLANEOUS INTERPRETATIONS
28 TAC §5.204

1. INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §5.204, concerning the standard proof of motor vehicle liability insurance form prescribed under Transportation Code §601.081. Section 5.204 is adopted with changes to the proposed text as published in the February 21, 2014, issue of the *Texas Register* (39 TexReg 1058).

2. REASONED JUSTIFICATION. The amendments to §5.204 are necessary to implement the named driver disclosure requirement in SB 1567, 83rd Legislature, Regular Session (2013). SB 1567 amended Transportation Code §601.081 by requiring a disclosure for named driver policies on the prescribed standard proof of motor vehicle liability insurance form.

Under new Transportation Code §601.081(a) and new Insurance Code §1952.0545, a named driver policy is “an automobile insurance policy that does not provide coverage for an individual residing in a named insured’s household specifically unless the individual is named on the policy. The term includes an automobile insurance policy that has been endorsed to provide coverage only for drivers specifically named on the policy.”

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The amendment to Transportation Code §601.081(b) states that, for a named driver policy, the standard proof of motor vehicle liability insurance form prescribed by the Texas Department of Insurance must include the disclosure required under Insurance Code §1952.0545. Section 5.204 adds the disclosure to the list of requirements for the ID card and includes nonsubstantive editorial and formatting changes to improve the rule's clarity. TDI has replaced the outdated graphics with written descriptions of the ID card requirements. The prescribed form will now be available on the TDI website and upon request. Additionally, §5.204 corrects errors in spelling and translation for the Spanish versions of Side A and Side B of the ID card, and allows for optional communication by email.

Except for the addition of the disclosure required for named driver policies under SB 1567, the Spanish translation of the disclosure, and the corrected Spanish translations of the ID card, the changes do not impose new or different requirements for the proof of motor vehicle liability insurance form. SB 1567 requires the disclosure for all policies delivered, issued for delivery, or renewed on or after January 1, 2014.

In response to comments, TDI has made the following changes to the proposed text: amended the Spanish translation; added a reference to Insurance Code §1952.0545, which defines a named driver policy; included a reference to the definition of "conspicuous" in Business and Commerce Code §1.201(b)(10)(B); and inserted new §5.204(a) to clarify the section's applicability. TDI has also made several nonsubstantive editorial changes.

3. SUMMARY OF COMMENTS AND AGENCY RESPONSE.

Commenters: TDI received comments from the Office of Public Insurance Counsel; Texas Watch; and Thompson, Coe, Cousins, & Irons, L.L.P. (on behalf of the Insurance Council of Texas). All three commenters were for adopting the proposed amendments to §5.204, with changes.

Comment: A commenter suggested an improvement to the Spanish translation of the disclosure in §5.204(b)(9).

Agency Response: TDI agrees that the commenter's suggested translation is a better description of the disclosure. TDI has amended the Spanish translation in §5.204(b)(9)—which has been relettered as §5.204(c)(9)—accordingly.

Comment: A commenter stated that, to ensure that the disclosure in §5.204(b)(9) is conspicuous, TDI should require insurers to provide it in 11-point font, in a different font and color than the surrounding text, and set off by a lined border or text box. The commenter cited Insurance Code §1952.0545(d) and Business and Commerce Code §1.201(b)(10)(B).

Agency Response: TDI agrees that including a reference to the definition of “conspicuous” in Business and Commerce Code §1.201(b)(10)(B) would clarify the requirement. TDI has amended §5.204(b)(9)—which has been relettered as §5.204(c)(9)—to include the reference.

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Comment: A commenter stated that §5.204 should be clear that it applies only to paper auto ID cards, and not to information displayed on a digital device, which Transportation Code §601.053 also allows as evidence of financial responsibility.

Agency Response: TDI agrees that displaying an image on a digital device is a method of complying with the evidence of financial responsibility requirement in Transportation Code §601.053 that is distinct from TDI's prescribed standard proof of motor vehicle liability insurance form. TDI has inserted §5.204(a) to clarify the section's applicability and provide references to the statutes that apply to evidence of financial responsibility exhibited as an image displayed on a wireless communication device.

Comment: A commenter suggested that §5.204(b)(9) include the statutory definition of "named driver policy" and clarify that a named driver policy does not include a policy that has been endorsed to exclude one or more specific drivers.

Agency Response: TDI has added a reference to Insurance Code §1952.0545, which defines "named driver policy" in §5.204(b)(9), which has been relettered as §5.204(c)(9).

TDI declines to include a statement in this section that a named driver policy does not include a policy that has been endorsed to exclude one or more specific drivers. This rule amends the ID card requirements to include the statutorily required disclosure. It does not address which policies trigger the disclosure requirements or how to fulfill the requirements. TDI anticipates proposing a separate rule to implement

the broader named driver disclosure requirements in §1952.0545, and will consider this comment when drafting the proposal for that rule.

4. STATUTORY AUTHORITY. The commissioner adopts amendments to §5.204 under Transportation Code §601.081 and Insurance Code §§1952.0545, 2301.008, and 36.001. Transportation Code §601.081, as amended by SB 1567, requires that, for a named driver policy, the standard proof of motor vehicle liability insurance form prescribed by TDI must include the disclosure required under Insurance Code §1952.0545. Insurance Code §1952.0545 requires the following written disclosure for a named driver policy, “WARNING: A NAMED DRIVER POLICY DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS RESIDING IN THE INSURED’S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY.” Insurance Code §2301.008 allows the commissioner of insurance to adopt standard insurance policy forms, printed endorsement forms, and related forms other than insurance policy forms and printed endorsement forms, that an insurer may use instead of the insurer’s own forms in writing insurance subject to Chapter 2301, Subchapter A. Insurance Code §36.001 provides that the commissioner of insurance 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.

5. TEXT.

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(a) Applicability. This section does not apply to evidence of financial responsibility exhibited as an image displayed on a wireless communication device. Under Transportation Code §601.053(a)(2-a), the image must include the information required by Transportation Code §601.081, as provided by a liability insurer, including the named driver disclosure that Insurance Code §1952.0545 requires.

(b) Form. For each motor vehicle insurance policy, the liability insurer must issue a standard proof of motor vehicle liability insurance form. The form must be titled "Texas Liability Insurance Card." The insurer may use its own form or TDI's prescribed form. TDI's prescribed form is available on the TDI website or upon request.

(c) Side A. Side A of the form must be written in at least 10-point type, except where otherwise specified in this subsection. The insurer must provide Side A in English, or in English and Spanish. Side A of the form must include all of the following (optional Spanish language in parentheses):

(1) the name and address of each insured or covered person (el nombre y la dirección del asegurado)

(2) the year, make, and model of each covered vehicle (el año, marca, y modelo de cada vehículo con cobertura); or a description of the types of vehicles the policy covers, and, at the company's option, the VIN. {Note: If the policy does not require the description of a vehicle, then this section of the ID card should contain the appropriate wording to describe the types of vehicles the policy covers, such as "any auto driven by the insured," "any auto driven with dealer plates," or similar descriptive language.}

(3) the effective date of the policy (la fecha de efectividad de la póliza)

(4) the expiration date of the policy (la fecha de vencimiento de la póliza)

(5) the policy number (el número de la póliza)

(6) the name and toll-free phone number of the insurer, if the insurer is required by statute to maintain a toll-free number for consumer inquiries (el nombre de la compañía de seguro y el número de teléfono gratis)

(7) the name and phone number of the agent, if applicable (el nombre del agente y el número de teléfono)

(8) the following statement in at least eight-point type, "This policy provides at least the minimum amounts of liability insurance required by the Texas Motor Vehicle Safety Responsibility Act for the specified vehicles and named insureds and may provide coverage for other persons and vehicles as provided by the insurance policy." If the insurer provides Side A in Spanish, the Spanish statement must read, "Esta póliza provee por lo menos las cantidades mínimas de seguro de responsabilidad civil que es requerida por la ley de responsabilidad para la seguridad de los vehículos motorizados de Texas (Texas Motor Vehicle Safety Responsibility Act) para los vehículos especificados y para los asegurados nombrados y puede proveer una cobertura para otras personas y vehículos según lo proporcionado en la póliza de seguro."

(9) for a named driver policy under Insurance Code §1952.0545, the following statement, which must comply with the Business and Commerce Code §1.201(b)(10)(B) definition of conspicuous, "**WARNING: A NAMED DRIVER POLICY**

**DOES NOT PROVIDE COVERAGE FOR INDIVIDUALS RESIDING IN THE
INSURED'S HOUSEHOLD THAT ARE NOT NAMED ON THE POLICY."**

If Side A contains Spanish, the warning in Spanish should read, "**ADVERTENCIA:
ESTA PÓLIZA NO PROVEE COBERTURA A LAS PERSONAS QUE RESIDEN EN
EL HOGAR DEL ASEGURADO QUE NO SON MENCIONADAS EN LA PÓLIZA DE
SEGUROS.**"

(d) Side B. Side B of the form must be written in at least 10-point type, except where otherwise specified. Side B must contain the following statements, in this order, and formatted as shown in this subsection (optional Spanish language in parentheses; not italicized):

(1) **Texas Liability Insurance Card (Tarjeta de Seguro de Responsabilidad Civil de Texas)** (*at least 12-point, boldfaced type*)

(2) **Keep this card. (Guarde esta tarjeta.)** (*boldfaced type*)

(3) **IMPORTANT:** You must show this card or a copy of your insurance policy when you apply for or renew your: (**IMPORTANTE:** Usted debe mostrar esta tarjeta o una copia de su póliza de seguro cuando solicite o renueve su:)

(*"IMPORTANT" in boldfaced capital letters*)

(A) Motor vehicle registration (Registro del vehículo motorizado)

(B) Driver's license (Licencia de conducir)

(C) Motor vehicle safety inspection sticker. (Etiqueta de inspección de seguridad para su vehículo.)

(4) You may also be asked to show this card or your policy if you have an accident or if a peace officer asks to see it. (También se puede pedir que usted muestre esta tarjeta o su póliza si tiene un accidente o si se la pide un oficial de policía.)

(5) All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. If you do not meet your financial responsibility requirements, you could be fined up to \$1,000, your driver's license and motor vehicle registration could be suspended, and your vehicle could be impounded for up to 180 days (at a cost of \$15 per day). (Todos los conductores en Texas deben tener un seguro de responsabilidad civil para sus vehículos, o de lo contrario deben cumplir con los requisitos legales de responsabilidad financiera. Si usted no cumple con los requisitos de responsabilidad financiera, podría estar sujeto a pagar una multa de hasta \$1,000, mas la suspensión de su licencia de conducir y la suspensión del registro del vehículo, y además su vehículo podría ser confiscado por hasta 180 días (a un costo de \$15 por día).)

(e) The insurer must issue Side B in English. The insurer must also make Side B available in Spanish, either on the same card as the English version, or on a separate card. If the insurer initially provides only the English version and offers to provide the Spanish version on a separate card when the insured requests it, the insurer must include with the English version the following notice in Spanish, in at least 10-point type, formatted as shown in this subsection, with or without the optional bracketed text, "IMPORTANTE: Si usted desea una tarjeta oficial de comprobante de seguro escrita

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en español, comuníquese con su agente de seguros a este número {o dirección de correo electrónico}.” The notice must be followed by the company’s toll-free number, the insured’s agent’s number, or any other applicable number, and, at the insurer’s option, the agent’s or company’s email address.

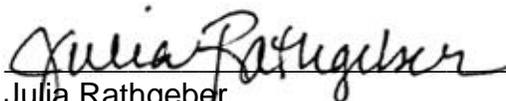
6. CERTIFICATION. This agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency’s legal authority.

Issued in Austin, Texas, on April 17, 2014.



Sara Waitt, General Counsel
Texas Department of Insurance

The commissioner adopts amendments to §5.204.



Julia Rathgeber
Commissioner of Insurance

Commissioner’s Order No. **3214**