

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

1. INTRODUCTION. The Texas Department of Insurance proposes amendments to 28 TAC §5.204, concerning the standard proof of liability insurance form prescribed under Transportation Code §601.081. Senate Bill 1567, 83rd Legislature, Regular Session (2013), amended Transportation Code §601.081 by requiring a disclosure for named driver policies on the prescribed form. The proposed amendments to §5.204 are necessary to implement the named driver disclosure.

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.”

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 TDI must include the disclosure required under Insurance Code §1952.0545. Proposed §5.204 adds the required disclosure to the prescribed form and includes nonsubstantive editorial and formatting changes to improve the rule’s clarity. TDI proposes to remove the graphics and replace them with written descriptions of the ID card requirements. The prescribed form would be available on the TDI website and upon request. Additionally,

proposed §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 would 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.

2. FISCAL NOTE. Marilyn Hamilton, director of the Personal and Commercial Lines Office for the Property and Casualty Section, has determined that, for each year of the first five years the proposed section is in effect, there will be no measurable fiscal impact to state and local governments as a result of the enforcement or administration of this proposal. Ms. Hamilton does not anticipate any measurable effect on local employment or the local economy as a result of the proposal.

3. PUBLIC BENEFIT/COST NOTE. For each year of the first five years the proposed amendments are in effect, Ms. Hamilton expects that enforcing or administering the proposed amendments will have the significant public benefit of ensuring that TDI's rules conform to Transportation Code §601.081, as amended by SB 1567. Ms. Hamilton expects any costs of compliance with the proposed amendments to be minimal.

Ms. Hamilton does not anticipate any adverse economic effect on large or small insurers from the proposed amendments. Insurers are not currently required to use the prescribed form, and the proposed amendments do not impose a new requirement to use

the prescribed form. Section 5.204 already includes a prescribed standard proof of liability insurance form, and the proposed amendment merely implements the ID card disclosure requirement in SB 1567 for named driver policies, including the Spanish translation of the disclosure. It also updates the Spanish notice language for insurers that choose to provide the Spanish version of Side B on request only. Ms. Hamilton does not expect a disproportionate economic impact on small or micro businesses.

4. ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

FOR SMALL AND MICRO BUSINESSES. TDI has determined that the proposed amendments to §5.204 will not have an adverse economic effect on small or micro businesses. Insurers are not currently required to use the prescribed form, and the proposed amendments do not impose a new requirement to use the prescribed form. As a result, and in compliance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

5. TAKINGS IMPACT ASSESSMENT. TDI has determined that no private real property interests are affected by this proposal and that this proposal does not restrict or limit an owner's right to property that would otherwise exist in the absence of government action. As a result, this proposal does not constitute a taking or require a takings impact assessment under Government Code §2007.043.

6. REQUEST FOR PUBLIC COMMENT. If you wish to comment on the proposal, or to request a public hearing, you must do so in writing no later than 5 p.m., Central time, on

March 24, 2014. A hearing request must be on a separate page from any written comments. TDI requires two copies of your comments or hearing request. Send one copy by mail to the Texas Department of Insurance, Office of the Chief Clerk, Mail Code 113-2A, P.O. Box 149104, Austin, Texas 78714-9104; or by email to chiefclerk@tdi.texas.gov. Send the other copy by mail to the Texas Department of Insurance, Personal and Commercial Lines Office, Mail Code 104-PC, P.O. Box 149104, Austin, Texas 78714-9104; or by email to marianne.baker@tdi.texas.gov.

7. STATUTORY AUTHORITY. TDI proposes the amendments 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 Subchapter A, Chapter 2301. 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.

8. CROSS REFERENCE TO STATUTE. This proposal implements the following

statutes:

<u>Rule</u>	<u>Statute</u>
§5.204	Insurance Code §1952.0545 and §2301.008 Transportation Code §601.081

9. TEXT.

§5.204. Motor Vehicle Safety Responsibility

(a) Form. For each motor vehicle insurance policy, the liability insurer must issue
a [which becomes effective on or after September 1, 1991, the insurer shall comply with
the provisions of paragraphs (1)-(4) of this section.]

[(4)][A] standard proof of 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. [shall be
issued by each liability insurer. The Texas Liability Insurance Card shall contain all of the
following languages as explained in paragraphs (3) and (4) of this section.]

(b)[(2)] Side A. Side A of the form must [shall] be written in [the English language
or, at the option of the insurer, can be written in English and Spanish. It shall be] at least
10-point type, except where otherwise specified in [for the language in subparagraph (H)
of] this subsection[paragraph]. The insurer must provide Side A in English, or in English
and Spanish. [entire text shall be in upper and lowercase letters.] Side A of the form
must [shall] include all of the following (optional Spanish language in parentheses):

(1)~~(A)~~ the ~~[insured--]~~ name and address of each insured or covered person (el nombre y la dirección del asegurado) [;]

(2)~~(B)~~ the ~~[vehicle--]~~ 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 [block] should contain the appropriate wording to [which will] describe the types of vehicles the policy covers, such as [for which coverage is afforded, i.e.,] "any auto driven by the insured," "any auto driven with dealer plates," or similar descriptive language~~ } [;]

(3)~~(C)~~ the ~~[effective date--display]~~ effective date of the policy (la fecha de efectividad de la póliza) [;]

(4)~~(D)~~ the ~~[expiration date--display]~~ expiration date of the policy (la fecha de vencimiento de la póliza) [;]

(5)~~(E)~~ the policy number (el número de la póliza) [~~--display number;~~]

(6)~~(F)~~ the ~~[insurance company--]~~ 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)~~(G)~~ the ~~[agent--]~~ name and phone number of the agent, if applicable (el nombre del agente y el número de teléfono) [;]

(8)~~(H)~~ 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.”

[Figure: ~~28 TAC §5.204(2)(h)~~]

(9) for a named driver policy, the following statement in boldfaced capital letters: “**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: UN CONDUCTOR MENCIONADO EN LA PÓLIZA NO PROVEE COBERTURA A LAS PERSONAS QUE RESIDEN EN EL HOGAR DEL ASEGURADO QUE NO SON MENCIONADAS EN LA PÓLIZA DE SEGUROS.**”

~~[(3) Side B of the form shall be entitled “Texas Liability Insurance Card.”]~~

~~[(A) Side B shall contain the following language.]~~

[Figure: ~~28 TAC §5.204(3)(A)~~]

~~[(B) The format explaining when a card may be required cannot be changed. That is, the card shall use bullets (o) and list the places a card might be requested in a vertically descending manner.]~~

~~[(C) Side B of the form shall appear in upper and lower case, using at least 10-point type for the text body with at least 12-point type for the heading, “Texas~~

~~Liability Insurance Card." Boldfaced type shall be used for the heading and first line, reading "Keep this card." Boldfaced capital letters shall be used for the word "IMPORTANT" as it appears on Side B.]~~

~~[(4) At its option, the insurer shall comply with at least one subparagraph out of subparagraphs (A)-(D) of this paragraph:]~~

~~[(A) provide to the insured a Texas Liability Insurance Card in which the text of Side B is in English and Spanish;]~~

~~[(B) provide to the insured two separate cards, one in English, the other with Side B in Spanish;]~~

~~[(C) provide to the insured a Texas Liability Insurance Card in English and with that mailing include a notice in Spanish regarding the availability of a Texas Liability Insurance Card in Spanish. The notice shall include all the language required for Side B, in the same manner as required for Side B. The notice shall also inform the insured that the insured can obtain a Spanish Texas Liability Insurance Card by calling the company's toll-free number, the insured's agent, or any other applicable number. This last information shall appear as follows: "IMPORTANTE: Si usted quiere una tarjeta oficial escrita en español, llame a este numero:" and shall be followed by the company's toll-free number, the insured's agent, or any other applicable number. This shall appear in at least 10-point type with the word "IMPORTANTE" appearing in boldface and uppercase letters. Upon request, the company shall furnish Spanish cards in compliance with subparagraph (A) or (B) of this paragraph;]~~

~~[(D) provide to the insured a Texas Liability Insurance Card in which the text of both Side A and Side B are in Spanish and English.]~~

(c) 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.)

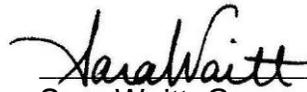
(5) All drivers in Texas must carry liability insurance on their vehicles or otherwise meet legal requirements for financial responsibility. If you do not meet your financial responsibility requirements, you could be fined up to \$1,000, your driver's license and motor vehicle registration could be suspended, 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).

(d) 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 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.

10. CERTIFICATION. This agency certifies that legal counsel has reviewed the proposal and found it to be a valid exercise of the agency's legal authority.

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Sara Waitt, General Counsel
Texas Department of Insurance