

**Subchapter A. Automobile Insurance**  
**Division 3. Miscellaneous Interpretations**  
**28 TAC §5.205**

**INTRODUCTION.** The Texas Department of Insurance (TDI) proposes to amend 28 TAC §5.205, concerning the Motor Vehicle Crime Prevention Authority (MVCPA) pass-through fee. The amendments to §5.205 implement Senate Bill 224, 88th Legislature, 2023.

**EXPLANATION.** Amending §5.205 is necessary to implement SB 224, which amended Transportation Code §1006.153 to increase the MVCPA fee amount from \$4 to \$5 to help fund the detection and prevention of catalytic converter thefts. The proposed amendments replace the \$4 fee amount and update the language in the notice that insurers must provide to policyholders when recouping the MVCPA fee.

To provide adequate time for insurers to update the notice, as required under subsection (b), TDI proposes an effective date of 90 days after the date the rule is adopted.

Descriptions of the section's proposed amendments follow.

**Section 5.205.** Subsection (a) is amended to remove the \$4 fee amount. Instead of replacing the \$4 fee amount with the updated \$5 fee, the amended text states that the insurer must pay the MVCPA fee as set by Transportation Code §1006.153(b), which removes the need to update the fee amount if it is changed in the statute in the future.

Subsection (b) is amended to update the notice that an insurer must provide to a policyholder when the insurer seeks to recoup the MVCPA fee, adding that the detection and prevention of catalytic converter thefts is an activity that the MVCPA fee helps to fund.

Existing subsections (c) and (d) are removed because they contain instructions for updating and filing the notice and are based on a previous amendment. Insurers should

have already made these updates to the notice required under subsection (b), making these subsections unnecessary.

A new subsection (c) is added to inform insurers that if the insurer recoups the fee from the policyholder, the insurer must file a new or revised notice with TDI. New subsection (c) also clarifies that an insurer does not need to include the actual fee amount in the filed notice. Rather, the insurer may use a variable field in the filed notice.

**FISCAL NOTE AND LOCAL EMPLOYMENT IMPACT STATEMENT.** Nicole Beall, manager, Property and Casualty Lines, has determined that during each year of the first five years the proposed amendments are in effect, there will be no measurable fiscal impact on state and local governments as a result of enforcing or administering them, other than that imposed by the statute. Ms. Beall made this determination because the proposed amendments do not add to or decrease state revenues or expenditures, and because local governments are not involved in enforcing or complying with the proposed amendments.

Ms. Beall does not anticipate a measurable effect on local employment or the local economy as a result of this proposal.

**PUBLIC BENEFIT AND COST NOTE.** For each year of the first five years the proposed amendments are in effect, Ms. Beall expects that administering the proposed amendments will have the public benefit of ensuring that TDI's rules conform to Transportation Code Chapter 1006. In addition, the proposed amendments will help policyholders understand why they are charged the MVCPA fee and what the fee funds.

Ms. Beall expects that the proposed amendments will not increase the cost of compliance with Transportation Code Chapter 1006 because the proposed amendments do not impose new requirements beyond those in the statute. The increased fee is

required by the statute, not the rule. Transportation Code §1006.153 requires insurers to pay to the MVCPA a fee equal to \$5 multiplied by the total number of years or portions of years during which a motor vehicle is covered by insurance. As a result, the costs associated with the increased fee and any filings needed to update the fee or the required notice do not result from the enforcement or administration of the proposed amendments.

**ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS.** TDI has determined that the proposed amendments will not have an adverse economic effect on small or micro businesses, or on rural communities. The increased fee is required by the statute and is not a result of the rule. As a result, and in accordance with Government Code §2006.002(c), TDI is not required to prepare a regulatory flexibility analysis.

**EXAMINATION OF COSTS UNDER GOVERNMENT CODE §2001.0045.** TDI has determined that the proposed amendments do not impose a cost on regulated persons. Even if the amendments did impose a cost, no additional rule amendments are required under Government Code §2001.0045 because the proposed amendments to §5.205 are necessary to implement legislation. The proposed amendments implement Transportation Code §1006.153, as amended by SB 224.

**GOVERNMENT GROWTH IMPACT STATEMENT.** TDI has determined that for each year of the first five years that the proposed amendments are in effect, the proposed rule:

- will not create or eliminate a government program;
- will not require the creation of new employee positions or the elimination of existing employee positions;

- will not require an increase or decrease in future legislative appropriations to the agency;
- will not require an increase or decrease in fees paid to the agency;
- will not create a new regulation;
- will expand, limit, or repeal an existing regulation;
- will not increase or decrease the number of individuals subject to the rule's applicability; and
- will not affect the Texas economy.

**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.

**REQUEST FOR PUBLIC COMMENT.** TDI will consider any written comments on the proposal that are received by TDI no later than 5:00 p.m., central time, on September 16, 2024. Send your comments to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030.

To request a public hearing on the proposal, submit a request before the end of the comment period to [ChiefClerk@tdi.texas.gov](mailto:ChiefClerk@tdi.texas.gov) or to the Office of the Chief Clerk, MC: GC-CCO, Texas Department of Insurance, P.O. Box 12030, Austin, Texas 78711-2030. The request for public hearing must be separate from any comments and received by TDI no later than 5:00 p.m., central time, on September 16, 2024. If a public hearing is held, TDI will consider written and oral comments presented at the hearing.

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**STATUTORY AUTHORITY.** TDI proposes amendments to §5.205 under Transportation Code §1006.153 and Insurance Code §36.001.

Transportation Code §1006.153 provides that an insurer pay to the MVCPA a fee equal to \$5 multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer.

Insurance Code §36.001 provides that the commissioner 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.

**CROSS-REFERENCE TO STATUTE.** Section 5.205 implements Transportation Code §1006.153.

**TEXT.**

**§5.205. Motor Vehicle Crime Prevention Authority Pass-Through Fee.**

(a) Each insurer must pay a fee [~~of \$4.00~~] per "motor vehicle year of insurance" to the Motor Vehicle Crime Prevention Authority, as set [~~as required~~] by Transportation Code §1006.153(b), concerning Fee Imposed on Insurer [~~§1006.153~~]. The insurer is authorized to recoup some or all of this fee from the policyholder.

(b) If an insurer recoups the fee from the policyholder under subsection (a) of this section, the insurer must:

(1) provide the policyholder with a notice using the following or similar language, in at least 10-point type: "Your payment includes a \$[\_\_\_\_\_] fee per vehicle each year. This fee helps fund (1) auto burglary, theft, and fraud prevention; (2) criminal

justice efforts;~~and~~ (3) trauma care and emergency medical services for victims of accidents due to traffic offenses;~~and~~ (4) the detection and prevention of catalytic converter thefts. By law, this fee funds the Motor Vehicle Crime Prevention Authority.";

(2) include the notice on or with each motor vehicle insurance policy, as defined in 43 TAC §57.48 (relating to Motor Vehicle Years of Insurance Calculations), that is delivered, issued for delivery, or renewed in this state, including those policies issued through the Texas Automobile Insurance Plan Association; and

(3) if the notice language required by paragraph (1) of this subsection is provided somewhere other than the declarations page, renewal certificate, or billing, also include the following or similar language on the declarations page of the policy, renewal certificate, or billing: "Motor Vehicle Crime Prevention Authority Fee \$[\_\_\_\_\_] (See enclosed explanation)."

(c) An insurer that recoups the fee from policyholders must file with TDI a new or revised notice as required by subsection (b)(1) of this section. An insurer does not need to include the fee amount in the filed notice. Instead, the insurer can use a variable field for the fee amount, like this: "\$[\_\_\_\_\_]."

~~[(c) An insurer may continue providing a notice used on or before the effective date of this section if the notice:]~~

~~[(1) contains the correct fee amount;]~~

~~[(2) includes "Motor Vehicle Crime Prevention Authority" in place of "Automobile Burglary and Theft Prevention Authority;" and]~~

~~[(3) has any statutory references removed or updated to change Tex. Rev. Civ. Stat. Ann. Art. 4413(37) to Transportation Code Chapter 1006.]~~

~~[(d) A notice that complies with subsection (c) of this section is considered similar to the notice language required by subsection (b) of this section.]~~

**CERTIFICATION.** The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Issued in Austin, Texas, on August 2, 2024.

Signed by:  
*Jessica Barta*  
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Jessica Barta, General Counsel  
Texas Department of Insurance