



PUBLIC PROTECTION CABINET

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ADVISORY OPINION

2022-0002

The following Advisory Opinion is to advise the reader of the current position of the Kentucky Department of Insurance ("Department"), on the specified issue. The Advisory Opinion is not legally binding on either the Department or the reader.

TO: ALL INSURERS AUTHORIZED TO TRANSACT BUSINESS IN KENTUCKY UNDER A PROPERTY AND CASUALTY LINE OF AUTHORITY

FROM: SHARON P. CLARK, COMMISSIONER
KENTUCKY DEPARTMENT OF INSURANCE

RE: NO FAULT REJECTION FORM DELIVERY FREQUENCY PURSUANT TO
KRS 304.39-060(6)

DATE: MAY 26, 2022

Effective Date

This advisory opinion shall take immediate effect.

Purpose

The purpose of this Advisory Opinion is to clarify the manner in which the Department of Insurance ("Department") interprets the requirements of KRS 304.39-060. The Department recently discovered that some insurers may be interpreting the language of KRS 304.39-060(6) differently, as it relates to the frequency with which an insurer must inform the insured in writing of their right to reject the limitations on their tort rights.

Interpretation

KRS 304.39-060(6) states that: "Every insurance company when issuing an automobile policy to a resident of this Commonwealth must inform the buyer in writing in a form to be prescribed by the insurance commissioner of his or her right to reject the limitations of the tort rights and liabilities under this subtitle in the manner provided in subsections (4) and (7) of this section."

In question is the interpretation of the word “issuing” in the statute. In the context of this statute, the Department interprets the word “issuing” to mean that the prescribed form must be delivered to the insured at the following times: 1.) the initial issuance of a new policy, but not at subsequent renewals of that policy; and 2.) at the addition of any drivers to a policy.

This Advisory Opinion is intended to serve as notice of the Department’s interpretation of KRS 304.39-060(6) to all insurers authorized to transact auto insurance business in Kentucky under a property and casualty line of authority. Insurers are charged with notifying their agents and employees of the Department’s interpretation. The Department does not provide legal advice to insurers or entities. The position provided herein has been offered to clarify the Department’s regulatory authority pursuant to KRS 304.2-100.

Questions regarding this advisory opinion should be directed to the Property and Casualty Division by: Phone-(502) 564-6046; Fax-(502) 564-5922; or Email-DOI.propertycasualty@ky.gov.



Sharon P. Clark, Commissioner
Kentucky Department of Insurance
On this 26th day of May 2022