

1 Public Protection Cabinet

2 Department of Insurance

3 Property and Casualty Division

4 (Amendment)

5 RELATES TO: KRS 304.39-060

6 STATUTORY AUTHORITY: KRS 304.2-110, 304.39-300

7 NECESSITY, FUNCTION, AND CONFORMITY: KRS 304.2-110 provides that the

8 commissioner of the Department of Insurance may promulgate administrative regulations

9 necessary for or as an aid to the effectuation of any provisions of the Kentucky Insurance Code.

10 KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person

11 may reject limitations on his or her tort rights and liabilities. This administrative regulation

12 establishes the Kentucky No-Fault Rejection Form and provides for its electronic submission.

13 Section 1. Rejection. Any person may refuse to consent to the limitation of his or her tort rights

14 and liabilities by filing with the Department of Insurance a Kentucky No-Fault Rejection Form.

15 Section 2. Submitting the Kentucky No-Fault Rejection Form. (1) Members of the same

16 household may indicate rejections on the same form, but each household member shall execute

17 the form on his or her own behalf unless under legal disability, or a minor under eighteen (18)

18 years of age.

1 Section 3. (1) The policyholder shall:

2 (a) Mail the original and one (1) copy of the NF-1(a)(b)(c) P and C, “Kentucky No-Fault
3 Rejection Form” [form] to the Department of Insurance; or

4 (b) Submit the NF-1(a)(b)(c) P and C, “Kentucky No-Fault Rejection Form” [form]
5 electronically [~~using the online version of the “Kentucky No-Fault Rejection Form,”~~] through
6 [~~available on~~] the department's Web site at <https://insurance.ky.gov/ppc/CHAPTER.aspx>
7 [~~http://insurance.ky.gov~~].

8 (2) Upon receipt of the properly completed form, the department shall provide the policyholder a
9 file-stamped electronic or hard copy for his or her records.

10 (3) A rejection is effective upon the date of filing with the department as indicated by the
11 department file stamp and remains effective unless superseded by the filing of a subsequent
12 rejection form.

13 (4) A rejection may be revoked by submitting a Kentucky No-Fault Rejection Form and selecting
14 the revocation option.

15 Section 4 [~~Section 3~~]. Legal Disability or a minor. Where a guardian or conservator has been
16 appointed for a person under a legal disability, the guardian or conservator shall execute the
17 rejection form on behalf of the person. A rejection for a minor under eighteen (18) years of age
18 shall be executed by a parent, if there is no guardian or conservator. A rejection executed by a
19 parent, guardian, or conservator is valid only so long as the individual is under legal disability,
20 which includes a minor under eighteen (18) years of age.

1 Section 5 [~~Section 4~~]. Notice to insurer. Each policyholder or insured submitting the Kentucky
2 No-Fault Rejection Form shall send to his or her insurance company a file stamped copy of any
3 rejection form filed with the Department of Insurance.

4 Section 6 [~~Section 5~~]. Materials Incorporated [~~Incorporation~~] by Reference. (1) NF-1(a)(b)(c) P
5 and C, “Kentucky No-Fault Rejection Form”, 9/2022 [~~(12/17)~~], is incorporated by reference.

6 (2) This material may be inspected, copied or obtained, subject to applicable copyright law, at
7 the Kentucky Department of Insurance, 500 Mero Steet, Frankfort, Kentucky 40601, Monday
8 through Friday, 8 a.m. to 4:30 p.m. This material is also available on the Department of
9 Insurance Web site: https://insurance.ky.gov/PPC/New_Default.aspx [~~http://insurance.ky.gov~~]

806 KAR 39:030

READ AND APPROVED:



Sharon P. Clark
Commissioner, Department of Insurance

9/8/2022

Date



Ray A. Perry
Secretary, Public Protection Cabinet

9/8/2022

Date

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held at 9:00 AM on November 22, 2022 at 500 Mero Street, Frankfort, KY 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 PM on November 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

Contact Person: Abigail Gall

Title: Executive Advisor

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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

806 KAR39:030

Contact Person: Abigail Gall

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Email: abigail.gall@ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the “Kentucky No-Fault Rejection Form” and the method for an individual to reject limitations on tort rights and liabilities.

(b) The necessity of this administrative regulation: KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person may reject limitations on his tort rights and liabilities. This administrative regulation is needed to prescribe the required form and the manner in which it is to be used.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 304.2-110 authorizes the Commissioner of Insurance to promulgate administrative regulations necessary for or as an aid to the effectuation of any provision of the Kentucky Insurance Code, as defined in KRS 304.1-010. KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person may reject limitation on his tort rights and liabilities. This administrative regulation prescribes the required form and establishes the process for an individual to reject his or her limitations on tort rights and liabilities.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will establish the specific procedures that must be followed to reject limitations on tort rights and liabilities.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendments to this administrative regulation amend the incorporated form. The amendments to the form better define the options for individuals who are rejecting limitations on their tort rights, specifically those who reject those limitations for vehicles covered by a commercial insurance policy.

(b) The necessity of the amendment to this administrative regulation: The Department has seen several inquiries seeking clarity with respect to the options listed on the “KY No-Fault Rejection Form” and this amendment will provide further clarity.

(c) How the amendment conforms to the content of the authorizing statutes: KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person may reject limitations on his tort rights and liabilities and these amendments clarify the options available to individuals seeking to reject limitations on their tort rights and liabilities.

(d) How the amendment will assist in the effective administration of the statutes: KRS 304.39-060 requires the Department of Insurance to prescribe a form whereby any person may reject limitation on his tort rights and liabilities. These amendments clarify the options available to each individual (owner/operator) based upon their rejection preference.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department has received 356,319 No-Fault forms since 1999. To date in 2022, the Department has received 247 new No-Fault forms.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Insurers and agents will be required to assist individuals in completing the Kentucky No-Fault Rejection Form on-line. Prior to finalizing the form for submission to the Department, the insurance agent or the insurer will be required to provide a paper copy of the form to the person rejecting no-fault benefits, and to obtain the individual's original signature.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): This amendment will not impose additional costs for individuals, insurers, or agents.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Compliance will allow individuals to properly address the specific tort right limitations they wish to reject.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No associated cost

(b) On a continuing basis: No associated cost

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Department of Insurance's operational budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No, there is not a need to increase fees.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: No, this regulation does not establish any fees directly or indirectly.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied because this regulation applies equally to all individuals rejecting the limitations on their tort rights and liabilities.

FISCAL NOTE

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Contact Person: Abigail Gall

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(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Insurance as the implementer.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 304.2-110, 304.39-300.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated.

(c) How much will it cost to administer this program for the first year? There is no administrative cost associated with this program.

(d) How much will it cost to administer this program for subsequent years? There is no administrative cost associated with this program.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: There is no expectation of any fiscal impact.

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year? No cost savings are associated with this regulation or amendments.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years? No cost savings are associated with this regulation or amendments.

(c) How much will it cost the regulated entities for the first year? There is no cost expected.

(d) How much will it cost the regulated entities for subsequent years? There is no cost expected.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation: There is no cost associated with this administrative regulation and therefore no fiscal impact.

(5) Explain whether this administrative regulation will have a major economic impact, as defined below. *"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)]* No, this administrative regulation will not have a major economic impact.

SUMMARY OF MATERIAL INCORPORATED BY REFERENCE
806 KAR 39:030

- (1) “Kentucky No-Fault Rejection Form”, 9/2022; This form contains a disclosure expressing the limitations on an individual’s tort rights and liabilities as prescribed in KRS 304.39-060, and requires signatures and identifying information for each individual insured by a policy of motor vehicle insurance who wishes to reject their limitations.

SUMMARY OF CHANGES TO MATERIAL INCORPORATED BY REFERENCE
806 KAR 39:030

- (1) “Kentucky No-Fault Rejection Form”, 9/2022; The amendments to this form alter the options available to individuals who are filing a no-fault rejection. Because “Option 1” has been interpreted to include a rejection of tort limitations for all vehicles owned/operated by the person submitting the form—whether covered by a personal insurance policy or a commercial insurance policy—the Department added a new option which allows individuals to reject tort limitations for only those vehicles that are covered by a commercial insurance policy. The Department has been contacted on several occasions with expressions of confusion about this particular section of the form. The remaining amendments are technical in nature.

