

Regulations of Connecticut State Agencies

TITLE 38a. Insurance Department

Agency

Insurance Department

Subject

Minimum Provisions for Automobile Liability Insurance Policies Covering Motor Vehicles

Inclusive Sections

§§ 38a-334-1—38a-334-10

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Minimum Provisions for Automobile Liability Insurance Policies Covering Motor Vehicles

Sec. 38a-334-1. Required areas of coverage

(a) Policies shall contain at least the following coverages:

- (1) Bodily injury liability and property damage liability;
- (2) protection against uninsured and underinsured motorists as described in section 38a-334-6.

(b) Any policy which, under a separate coverage, undertakes to pay, irrespective of fault, medical expense resulting from bodily injury sustained in motor vehicle accidents, shall provide insurance for medical payments as described in section 38a-334-7.

(Amended November 1, 2000)

Notes: History note reading “Amended, effective November 1, 2000” edited to standard format “Amended November 1, 2000” (February 18, 2015)

Sec. 38a-334-2. Definitions

As used in sections 38a-334-1 to 38a-334-9, inclusive:

(a) “Bodily injury” means bodily injury, sickness or disease, including death resulting therefrom;

(b) “Motor vehicle” means private passenger motor vehicle as defined in subsection (e) of section 38a-363 of the General Statutes; commercial motor vehicle as defined in section 14-1 of the General Statutes; motorcycle, as defined in section 14-1 of the General Statutes; motor vehicle used to transport passengers for hire, motor vehicle in livery service, as defined in section 13b-101 of the General Statutes; and vanpool vehicle, as defined in section 14-1 of the General Statutes;

(c) “Property damage” means injury to or destruction of tangible property, including loss of use thereof.

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Sec. 38a-334-3. Language of policies. Presumption re coverage

The provisions herein required need not be stated in the language or form of these regulations, but the coverage afforded shall be of equal or greater benefit to the insured. Policies affording a coverage to which these regulations apply shall be deemed to afford insurance under such coverage at least equal to that required by these regulations.

(Effective September 25, 1992)

Sec. 38a-334-4. Exceptions

These regulations do not apply to the insurance afforded under any policy: (1) to the extent that the insurance afforded exceeds the limits specified in subsection (a) of section

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14-112 of the General Statutes or (2) if the policy contains an underlying insurance requirement or provides for a retained limit of self-insurance equal to or greater than the limits specified in said subsection (a) of section 14-112.

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Sec. 38a-334-5. Minimum provisions for bodily injury liability and property damage liability

(a) **Coverage.** The insurer shall undertake to pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages because of bodily injury or property damage caused by accident and arising out of the ownership, maintenance or use of a motor vehicle owned or long-term leased by the named insured. The policy shall designate by explicit description or by appropriate reference the motor vehicles to which this coverage applies.

(b) **Defense, settlement, supplementary payments.** The insurer shall defend the insured against any suit seeking damages covered by the policy, and may make such settlement of any claim or suit as it deems expedient, but the insurer shall not be obligated to defend any suit after the exhaustion of its liability by payment of judgments or settlements. The insurer shall pay, in addition to the policy limits, all expenses incurred by the insurer, premiums on attachment and appeal bonds, court costs, interest on judgments until the insurer has offered to pay its portion of the judgment, the cost of bail bonds, not to exceed one hundred dollars per bond, all expenses incurred by the insured for first aid to others at the time of the accident and other reasonable expenses, other than loss of earnings, incurred by the insured at the insurer's request. The insurer shall, upon request of the named insured, issue or arrange for the issuance of a bond which shall not exceed the aggregate limit of bodily injury coverage for the purpose of obtaining release of an attachment.

(c) **Exclusions.** The insurer's obligation to pay and defend may be made inapplicable:

- (1) To liability assumed under contract;
- (2) to intentionally caused injury or damage;
- (3) to any obligation of the insured to provide workers' compensation or disability benefits or to cover liability of an employer for employee injuries;
- (4) to the use of a motor vehicle as a public or livery conveyance;
- (5) to bodily injury or property damage resulting from the radioactive, toxic explosive or other hazardous properties of source, special nuclear or byproduct material, each as defined in the Atomic Energy Act of 1954, as amended;
- (6) while the private passenger motor vehicle is used for towing a trailer, designed for use with other than a private passenger motor vehicle which is owned or hired by the insured and not covered by like insurance in the same company;
- (7) to damage to property (A) owned or transported by the insured or (B) rented to or in the care, custody or control of the insured or as to which the insured is for any purpose

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exercising physical control, other than property damage to a residence or private garage by a private passenger motor vehicle covered by this insurance;

(8) to the operation of a motor vehicle by an individual or individuals specifically named by endorsement accepted by the insured, the form of which has been accepted for filing by the insurance commissioner;

(9) to liability arising out of pollution or contamination;

(10) to bodily injury or property damage due to war, whether or not declared, civil war, insurrection, rebellion or revolution, or to any act or condition incident to any of the foregoing;

(11) to bodily injury or property damage arising out of the ownership, maintenance, use, loading or unloading of any

(A) haulaway, tank truck or tank trailer or any automobile used therewith owned, hired or held for sale by the named insured;

(B) motor vehicle

(i) while being used in any prearranged or organized racing, speed or demolition contest or in any stunting activity or in practice or preparation for any such contest or activity, or

(ii) while rented to others by the named insured unless to a salesman for use principally in the business of the named insured, or

(iii) while being used by the insured as a public or livery conveyance or for carrying property for a charge.

(12) To bodily injury to any passenger while occupying a motorcycle.

(d) **Insured.** The insurance afforded shall apply for the benefit of the named insured and any other person or organization using the motor vehicle within the scope of his permission from the named insured, except as follows:

(1) As respects loading or unloading of a motor vehicle, only the named insured, a lessee or borrower of the motor vehicle, or an employee of the named insured or of such lessee or borrower or organization must be an insured;

(2) the insurance as respects any person or organization other than the named insured need not apply:

(A) To any person or organization, or to any agent or employee hereof, employed or otherwise engaged in operating a motor vehicle sales agency, repair shop, service station, storage garage or public parking place with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith;

(B) to any employee other than an employee of the named insured with respect to bodily injury sustained by a fellow employee injured in the course of his employment;

(C) (i) to any person other than an employee of the named insured while engaged in the business of his employer with respect to bodily injury to any fellow employee of such person injured in the course of his employment;

(ii) to the owner or lessee (of whom the named insured is a sublessee) of a hired motor vehicle or the owner of a non-owned motor vehicle or any agent or employee of any such owner or lessee;

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(iii) to an executive officer of the named insured with respect to a motor vehicle owned by him or by a member of his household;

(iv) to a motor vehicle while used with any trailer owned or hired by such person or organization and not covered by like insurance in the company (except a trailer designed for use with a private passenger motor vehicle and not being used for business purposes with another type motor vehicle), or a trailer while used with any motor vehicle owned or hired by such person or organization and not covered by like insurance in the company;

(D) (i) to a non-owned motor vehicle used in the conduct of any partnership or joint venture of which the insured is a partner or member and which is not designated in this policy as a named insured, or

(ii) if the named insured is a partnership, to a motor vehicle owned by or registered in the name of a partner thereof. The insurance shall apply separately with respect to each insured against whom claim is made or suit is brought, provided the inclusion of more than one insured shall not operate to increase the limits of the insurer's liability.

(e) **Limits of liability.** The limit of the insurer's liability shall not be less than the applicable limits for bodily injury and property damage liability specified in subsection (a) of section 14-112 of the general statutes. Said limits may be stated separately with respect to bodily injury and property damage, or a single limit of liability may be stated, provided it shall not be less than the sum of the separate limits for bodily injury and property damage resulting from any one accident as specified in said subsection (a). The limits may be stated as applicable regardless of the number of insureds, persons or organizations sustaining bodily injury or property damage, claims made or suits brought or motor vehicles to which the policy applies. The insurance for the liability specified in subsection (a) of section 14-112 of the general statutes may be written subject to deductible amounts per claim or per accident, provided an appropriate premium consideration shall be allowed and the deductible provisions shall be clearly stated in the policy and provided the insurer shall make full payment of all losses regardless of reimbursement by the insured.

(f) **Subrogation.** The insurer shall be subrogated to any rights of recovery of the insured against third parties except as restricted by section 38a-336b of the General Statutes.

(g) **Other insurance.** The policy may provide for proration of loss with other insurance or may provide that insurance for persons or organizations other than the named insured does not apply if such person or organization has other insurance applicable to the loss with limits of liability not less than those specified in subsection (a) of section 14-112 of the General Statutes.

(Amended November 1, 2000)

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Sec. 38a-334-6. Minimum provisions for protection against uninsured or underinsured motorists

(a) **Coverage.** The insurer shall undertake to pay on behalf of the insured all sums which

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the insured shall be legally entitled to recover as damages from the owner or operator of an uninsured or underinsured motor vehicle because of bodily injury sustained by the insured caused by an accident involving the uninsured or underinsured motor vehicle. This coverage shall insure the occupants of every motor vehicle to which the bodily injury liability coverage applies. "Uninsured motor vehicle" includes a motor vehicle insured against liability by an insurer that is or becomes insolvent.

(b) **Arbitration.** The insurance may provide but not require that the issues of liability as between the insured and the uninsured or underinsured motorist, and the amount of damages, be arbitrated. The insurer may provide against being bound by any judgment against the uninsured or underinsured motorist.

(c) **Exclusions.** The insurer's obligations to pay may be made inapplicable:

(1) To any claim which has been settled with the uninsured motorist without the consent of the insurer;

(2) if the uninsured or underinsured motor vehicle is owned by

(A) the named insured or any relative who is a resident of the same household or is furnished for the regular use of any of the foregoing,

(B) a self insurer under any motor vehicle law, or

(C) any government or agency thereof;

(3) to pay or reimburse for workers' compensation or disability benefits.

(d) **Limits of liability.**

(1) The limit of the insurer's liability may not be less than the applicable limits for bodily injury liability specified in subsection (a) of section 14-112 of the general statutes, except that the policy may provide for the reduction of limits to the extent that damages have been

(A) paid by or on behalf of any person responsible for the injury,

(B) paid or are payable under any workers' compensation law, or

(C) paid under the policy in settlement of a liability claim.

(2) The policy may also provide that any direct indemnity for medical expense paid or payable under the policy will reduce the damages which the insured may recover under this coverage.

(3) Any payment under these coverages shall reduce the company's obligation under the bodily injury liability coverage to the extent of the payment.

(4) This subsection shall not apply to underinsured motorist conversion coverage except that no payment under a policy providing underinsured motorist conversion coverage shall duplicate payment from any other source.

(e) **Recovery over.** With respect to uninsured motorist coverage, the insurer may require the insured to hold in trust all rights against third parties or to exercise such rights after the insurer has paid any claim, provided that the insurer shall not acquire by assignment, prior to settlement or judgment, its insured's right of action to recover for bodily injury from any third party.

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Sec. 38a-334-7. Minimum provisions for medical payments

(a) **Coverage.** The insurer may undertake to pay reasonable medical expense incurred within one year from the date of the accident for persons who sustain bodily injury while occupying a motor vehicle designated as the subject of the coverage by specific description or appropriate reference.

(b) **Exclusions.** The insurer’s obligation to pay may be made inapplicable:

(1) To injury to any person while he is employed or otherwise engaged in the business or occupation of selling, servicing, repairing, parking or storing motor vehicles;

(2) to injury resulting from insurrection, rebellion, revolution or war;

(3) to employees of any insured injured in the course of their employment;

(4) to the use of a motor vehicle as a public or livery conveyance or while located for use as a residence or premises;

(5) to bodily injury resulting from the radioactive, toxic, explosive or other hazardous properties of source, special nuclear or byproduct material, each as defined in the Atomic Energy Act of 1954, as amended;

(6) to injury arising out of the use of

(i) a farm-type tractor or other equipment designed for use principally off public roads, while not upon public roads,

(ii) a vehicle operated on rails or crawlertreads, or

(iii) a vehicle while located for use as a residence or premises.

(c) **Non-duplicating provisions.**

(1) The insurer may provide for proration of benefits with other motor vehicle medical payments insurance but for policies effective on or after November 1, 2000, coverage provided pursuant to this section shall be primary over any amount of other health insurance as defined in section 38a-469 of the General Statutes, or any other health coverage, including but not limited to employee welfare plans subject to the Federal Employee Retirement Income Security Act of 1974, 29 U.S.C. section 1001, et seq., health care plans provided by collectively bargained arrangements, health care plans provided for employees of the United States government and their dependents, part A or part B of Title XVIII of the Social Security Act, Title XIX of the Social Security Act, medical care programs of the Indian Health Service or of a tribal organization and policies issued by the Health Reinsurance Organization;

(2) a provision offsetting the amount paid for medical expenses against any amount payable under the bodily injury liability coverage of the policy may be included;

(3) a provision for subrogation or a lien upon any recovery from a person legally responsible for the injury may be included;

(4) the insurance may be written subject to a deductible stated as a dollar amount provided an appropriate reduction in the rate shall be made in the premium structure; and

(5) in no event shall the total amount of recovery for medical expenses from all sources exceed the total of the insured’s medical expenses for bodily injury sustained while

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occupying a motor vehicle.

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Sec. 38a-334-8. General provisions

(a) **Policy period: Territory.** Policies shall provide coverage during the period the policy is in effect and within the territorial limits of the United States and Canada or, as regards private passenger automobiles only, between ports thereof.

(b) **Conditions.**

(1) A policy may contain in substance the following conditions:

(A) A provision relating to the computation and payment of premium;

(B) a provision that written notice of accident, claim or suit is required; and that copies of any demand or legal process against the insured, the insurer or any third party shall be forwarded immediately to the insurer;

(C) a provision requiring a claimant to benefits under medical payments or protection against uninsured and underinsured motorists coverage to submit to the insurer written proof of claim, and requiring the injured person to submit to physical examinations and to furnish medical reports and records;

(D) a provision requiring the insured to assist and cooperate with the insurer;

(E) a provision that no action shall lie against the insurer until all the terms of the policy have been complied with or, under the liability coverages, until the amount of the insured's obligation to pay shall have been finally determined either by judgment against the insured after actual trial or by written agreement of the insured, the claimant and the insurer, and a further provision that the insurer shall not be joined or impleaded in any action against the insured brought to determine his liability;

(F) a provision that the insurer's consent is necessary to any assignment of interest under the policy;

(G) a provision that the insurer issues the policy in reliance upon the declarations of the named insured and that the policy contains all agreements between the named insured and the insurer and any of its agents relating to the insurance;

(H) a provision relating to the insurer's own method of doing business.

(2) A policy must contain in substance the following conditions:

(A) a provision that bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy;

(B) a provision that the terms of the policy may not be waived or changed except as stated in the policy;

(C) a provision in a policy as defined in section 38a-341 of the General Statutes limiting the company's rights to terminate insurance on private passenger motor vehicles as provided

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under section 38a-323, and sections 38a-341 through 38a-346 of the General Statutes.

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Sec. 38a-334-9. Statutory references

All references in sections 38a-334-1 to 38a-334-8, inclusive, of the Regulations of Connecticut State Agencies to sections of the General Statutes of Connecticut shall mean and include the statutory provision in effect on the date these regulations become effective and as the statutory provision may be thereafter amended from time to time.

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Sec. 38a-334-10. Effective date

The amendments to Sections 38a-334-1, 38a-334-2, 38a-334-4; Subsections (f) through (g) inclusive of Section 38a-334-5; and Sections 38a-334-6, 38a-334-7, 38a-334-8 and 38a-334-9 of the Regulations of Connecticut State Agencies shall take effect November 1, 2000.

(Adopted effective November 1, 2000)