

MODEL ACT FOR PRE-INSURANCE INSPECTION OF MOTOR VEHICLES

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(Adopted March 4, 1994)

SUMMARY OF PROVISIONS



Background

Rising auto insurance rates are a concern for consumers and insurers alike. In 1993, the coalition conducted a study and found that auto insurance fraud accounts for a large part of the rate increases. Two types of auto insurance fraud account for much of the increase. The first involves the vehicle's owner failing to reveal existing physical damage when applying for insurance. The owner commits a fraudulent act after obtaining coverage by filing a false claim to cover the pre-existing damage. The second involves owners who provide false documentation to insure a vehicle that has been junked or salvaged or that exists in title form only. The owner reports the phantom vehicle stolen and files a claim after law enforcement fails to recover the non-existent vehicle.

The coalition's study also revealed that in five states requiring pre-insurance inspections, reports of auto theft rates declined in 1991 while the national rate rose (six states now require inspections: California, Florida, Massachusetts, New Jersey, New York and Rhode Island). New York instituted the first inspection plan in 1978 and since then, the state's vehicle theft rate has fallen from significantly above the national average to below the average. New Jersey reports a drop in auto theft and in bogus damage claims.

Purpose

This legislation is an effective and cost-efficient way to reduce the impact of insurance fraud on auto insurance rates without imposing an undue burden on consumers, insurers or insurance agents. While the coalition recognizes some insurers require pre-inspections prior to issuing a vehicle policy, legislation is needed to level the playing field among insurers. This prevents customers of insurers who require pre-inspections from subsidizing the rates charged by insurers who don't, and will reduce the costs of fraudulent claims for all consumers.

RATIONALE OF THE PROVISIONS

Section I. Mandatory inspection requirements

This section defines “physical damage coverage” to mean either comprehensive or collision coverage, or both. Insurers would not be allowed to issue a new policy providing this coverage, or to add the coverage to an existing policy, without inspecting the vehicle. Further, the insurer could not add an additional or a replacement vehicle to an existing policy without a pre-insurance inspection.

This requirement would apply to all insurers licensed to do business in the state and creates the level playing field discussed above.

Section II. Exemptions and waivers from inspection requirements.

This section details conditions under which an inspection wouldn’t be required. Conditions include:

- Vehicles already insured for either collision or comprehensive coverage;
- New vehicles purchased from a retail dealership;
- Insureds who have been continuously covered by the same insurer for a year or more;
- Vehicles that have been leased or rented for more than six months;
- Autos covered under commercial insurance policies;
- A vehicle more than seven years old;
- When the insurer is transferring either a book of business or an insured’s coverage, provided the new insurer receives a copy of the previous pre-inspection report.

The insurer may require pre-inspection of any or all vehicles if it so chooses as long as the decision is made on a non-discriminatory basis, including disregard for an insured’s previous coverage under a residual or non-voluntary market.

This provision requires inspections of about 10 percent of all cars; that 10 percent is where most frauds occur. New cars likely will have no pre-existing damage; older cars have a negligible value and rarely are part of a fraud scheme; and there is no profit motive for an individual to commit this type of fraud with a company vehicle. Also, most fraud perpetrators are new customers to insurance agents and insurers and are likely to commit the fraudulent act shortly after the policy is issued; longtime customers are least likely to commit this type of fraud. Further, to require a new insurer to re-inspect a vehicle in cases where a policy is simply being transferred is redundant.

Section III. Deferral of Inspection

The insurer may issue coverage and defer an inspection for up to seven days if it would create a “serious inconvenience” for the insured. However, the insured must be told of the requirement and the consequences of failing to comply.

The coalition recognizes some drivers need immediate coverage and may not be able to get an inspection first. This provision provides some flexibility for the insured. The provision doesn't define "serious inconvenience;" the coalition expects insurers to be reasonably accommodating to their customers.

Section IV. Standards and content of inspection reports.

An insurer has a choice who it may designate to conduct inspections: its employees, agents or independent contractors. Inspections must be held at a time and place "reasonably convenient" to applicants; states may define this in terms of mileage from an applicant's home, with allowances for the differences in urban, suburban and rural areas. Inspection forms must be subject to some sort of control system to prevent forgeries, backdating or other fraudulent activity. At a minimum, the report must include:

- The vehicle identification number (VIN) with an accompanying photograph of the VIN on the federal certification label;
- Mileage on the odometer;
- Notation of any visible damage with two photographs (defined to include videotape and digital imaging) taken at angles permitting viewing of the vehicle's four sides;
- List of all optional accessories.

The insurer must give a copy of the report to the insured and keep the report and photographs for at least two years. If the inspection isn't done by the insurer's employee or agent at the time of the application, the insurer must provide a list of inspection sites. Insurers or independent contractors may not charge applicants directly for the inspection.

This section states the minimum the coalition believes is necessary to do two things: prove the insured vehicle exists and prevent false claims for pre-existing damage. By allowing the insurer to make some choices, the bill doesn't micro-manage the process but does ensure inconveniences to all parties are kept to a minimum. The coalition believes costs will be negligible and shouldn't be directly charged to the honest consumer. This also eliminates complications in payments should an insurer opt to use agents or independent contractors to conduct the inspection.

Section V. Suspension of Physical Damage Coverage Upon Failure to Conduct Inspection

This provision requires an insurer, in the event an inspection hasn't been done within the allowed seven-day deferral period, to suspend physical damage coverage until the inspection is done. If it is not done within 30 days after suspension, coverage must be canceled and any premium refunded. The provision also details notification procedures.

The section also provides an enforcement tool to encourage consumers to have an inspection. Failure to do so would result in cancellation of coverage and leave the consumer liable for any costs that otherwise would have been covered. Should an insurer fail to comply with the act, the company would be open to appropriate action against it as detailed in each state's laws and regulations covering licensed insurers.

October, 1994

MODEL ACT FOR PRE-INSURANCE INSPECTIONS
OF MOTOR VEHICLES

(Adopted March 4, 1994)

MODEL LANGUAGE



Section I. Mandatory inspection requirements

- A. Except as otherwise provided in this Act, no policy of insurance providing motor vehicle physical damage coverage shall be issued or delivered in this state unless the insurer providing the coverage, or its authorized representative, inspects the motor vehicle.
- B. Except as otherwise provided in this Act, physical damage coverage shall not be added to a policy providing motor vehicle liability insurance or personal protection coverage by endorsement, nor may physical damage coverage be provided on an additional or replacement vehicle, unless the insurer providing the physical damage coverage, or its authorized representative, inspects the motor vehicle.
- C. For the purpose of this Act, the terms “motor vehicle physical damage coverage” or “physical damage coverage” mean either comprehensive insurance coverage, or collision insurance coverage, or both.

Section II. Exemptions and waivers from inspection requirements

- A. The requirement of a pre-insurance inspection under this Act shall not apply in the following circumstances:
 - 1) The motor vehicle is already insured under the policy for either comprehensive or collision coverage, but not both.
 - 2) The motor vehicle is a new vehicle purchased from a retail dealership, and the insurer is provided with either:
 - (a) A copy of the bill of sale containing a full description of the motor vehicle, including options and accessories and a statement from the seller that the motor vehicle has no damage; or
 - (b) A copy of the Manufacturer Statement of Origin, a statement from the seller that the motor vehicle has no damage, and a copy of the window sticker or dealer invoice containing a full description of the motor vehicle, including options or accessories.
 - 3) An insured named in the policy has been insured by the same insurer for one (1) or more policy years under a policy which has continuously provided physical damage coverage.
 - 4) The motor vehicle is rented or leased for less than six (6) months, provided that the insurer is given a copy of the lease or rental agreement, and provided further that the document contains a complete description of the rented or leased motor vehicle including its condition at the time of lease or rental.
 - 5) The motor vehicle is rated or insured under a commercial automobile insurance policy.
 - 6) When a pre-insurance inspection would cause serious hardship to the insured or applicant for insur-

ance, and the hardship is documented in records maintained by the insurer.

- B. An insurer may require a pre-insurance inspection of an otherwise exempt motor vehicle. The decision to require a pre-insurance inspection of an exempt vehicle shall not be based on the age, race, sex, or marital status of the applicant or insured, or the fact that the motor vehicle has been insured through a residual or non-voluntary insurance market.
- C. An insurer may waive a pre-insurance inspection under the following circumstances:
 - 1) When a motor vehicle is over seven (7) model years old.
 - 2) Where an insurer or an insurance producer is transferring a book of business to another insurer.
 - 3) When an insured's coverage is being transferred by an insurance producer from one insurer to another and the producer of record provides the new insurer with a copy of any previously pre-insurance inspection reports and photographs, prepared on behalf of the previous insurer.

Section III. Deferral of Inspection

- A. An insurer may defer a pre-insurance inspection if a pre-insurance inspection would create a serious inconvenience for the applicant or insured. The insurer may defer the pre-insurance inspection for a period of up to seven (7) calendar days following the effective date of physical damage insurance coverage, or up to the seventh (7) day following receipt of notice by the insurer that physical damage insurance coverage is requested by an applicant or insured on the motor vehicle, whichever is later.
- B. When an applicant or insured is granted a deferral of pre-insurance inspection, the applicant or insured must be advised of the requirement for pre-insurance inspection and the consequences of non-compliance.

Section IV. Standards and content of inspection reports

- A. An insurer shall use employees, insurance producers, or independent contractors to conduct pre-insurance inspection services. Any person conducting such services shall:
 - 1) Provide pre-insurance inspections at a time and place reasonably convenient to applicants and insureds. A reasonably convenient place shall be a location within ___ miles of the residence of the applicant or insured in urban and suburban areas, or ___ miles in rural areas.
 - 2) Use sequentially numbered reporting forms, and maintain a control system for the reports. As an alternative, an insurer may elect an internal control system provided that it prevents backdating of reports or other related fraudulent activity.
- B. A pre-insurance inspection report shall include, but need not be limited to the following:
 - 1. The vehicle identification number (VIN), recorded by observing a number on the vehicle itself.
 - 2. A record of the mileage shown on the vehicle odometer.
 - 3. A notation of any observable damage to the vehicle.

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4. A record of all optional accessories attached to the vehicle not provided by the original equipment manufacturer. Optional equipment subject to recording on the report shall include, but shall not be limited to, radar detectors, citizen's band radios, custom wheels or other customization.
 5. Two (2) color photographs, which shall be taken at oblique angles, clearly showing all four (4) sides of the vehicle. In addition, if the report notes observable prior damage, additional photographs shall be made of the damage.
 6. One (1) close-up color photograph (using a special camera attachment, if necessary) clearly showing the VIN located on the Federal Certification Label: generally affixed to the driver-side door or lock post. If the Federal Certification Label is damaged, faded, missing or illegible, the report shall contain a photograph of the label, or the door or lock post, where the label is normally located.
- C. Upon completion of the pre-insurance inspection, a copy of the pre-insurance inspection report (without color photographs) shall be provided to the applicant or insured. For the purposes of this Section, the term "color photograph" means any acceptable technology producing a clear visual image in color, and may include but shall not be limited to, a photograph, videotape or digital imaging process. An insurer may electronically store any color photograph required by this Section. There shall be no direct charge to an applicant or insured for any inspection required by this Act.
- D. In the event that an insurer does not normally conduct pre-insurance inspection by using licensed insurance producers or employees at the time of application for coverage, the insurer shall maintain an up-to-date-list of the name, address, business telephone number and place of inspection of all persons conducting pre-insurance inspections, reasonably convenient to the residence of the applicant or insured. The list shall be provided to each applicant or insured when a pre-insurance inspection is not performed at the time of application.
- E. A copy of the pre-insurance inspection report and accompanying color photographs shall be retained by the insurer for a period of not less than two (2) years from the date of inspection.

Section V. Suspension of Physical Damage Coverage Upon Failure to Conduct a Pre-insurance Inspection

- A. If a pre-insurance inspection is not conducted as required by this Act, any physical damage insurance coverage provided under a policy of insurance shall be suspended on the eighth (8) day after the effective date of the physical damage insurance coverage, or on the eighth (8) day following receipt of notice by the insurer that physical damage insurance coverage is requested by the applicant or insured on the motor vehicle, whichever is later. The suspension shall continue until a pre-insurance inspection is completed. Upon completion of a pre-insurance inspection, coverage shall be reinstated with no time out-of-force.
- B. Whenever physical damage insurance is suspended because of an insurer's inability to conduct a pre-insurance inspection as required by this Act, the insurer shall provide written notice of the suspension to the applicant or insured, the producer of record and any lienholder. This notice shall be mailed on the effective date of the suspension.

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- C. If a pre-insurance inspection is not completed with thirty (30) days of the effective date of suspension, physical damage coverage shall be canceled. Premiums paid for the canceled coverages shall be refunded within forty-five (45) days of the effective date of suspension.