

**COLORADO: *Commercial Motor Vehicle***

**Emergency Regulation 03-E-2, Transition From a No-Fault System to a Tort System**

Effective June 3, 2003, the Division of Insurance has adopted Emergency Regulation 03-E-2, Transition From No-Fault Auto to Tort System, pursuant to House Bill 1188. House Bill 1188 repeals automobile no-fault insurance by repealing mandatory personal injury protection benefits effective July 1, 2003. The provisions of Emergency Regulation 03-E-2 are as follows:

- All motor vehicle policies issued, written or delivered on or after July 1, 2003 must be issued, written or delivered as tort policies.
- Renewal notices delivered to insureds prior to July 1, 2003 for policies with an effective date on or after July 1, 2003, must renew or amend the policies as tort policies.
- Existing no-fault policies do not automatically convert to tort policies on July 1, 2003. The policy's no-fault coverages apply until the next renewal date.
- Insurers may offer policyholders the option to convert their no-fault policies to tort policies effective after midnight July 1, 2003, and policyholders may request such conversions. The insurer and policyholder must mutually agree to this mid-term conversion. Insured consent may be made in the same medium as that by which the offer or request to convert is made, e.g., electronically. The insurer must maintain adequate proof of the insured's consent. Adequacy will be determined by the Division.
- Insurers are prohibited from requiring policyholders to convert their no-fault policies to tort policies, until the next renewal date that comes after midnight July 1, 2003.
- Insurers are prohibited from re-underwriting policies mid-term that convert from the no-fault to the tort system.
- Insurers are prohibited from charging application fees or cancellation fees or other similar charges to insureds upon conversion of policies from no-fault to tort policies.
- Insurers are prohibited from "rolling on" additional coverages such as medical payments coverage without the insured's consent.
- The Division has determined that the notice requirements contained in Colorado Insurance Code §§10-4-110.5, Notice of Intent Prior to Unilateral Increase in Premium or Decrease in Coverage Previously Provided of Certain Policies of Insurance; 10-4-626, Cancellation — Renewal — Reclassification; and 10-4-720, Cancellation — Renewal — Reclassification, and regulations promulgated thereunder, do not apply at the first conversion of a no-fault policy to a tort policy, as the sole cause for the reduction in coverage is the repeal of the no-fault law. These statutes continue to apply when it is the insurer's actions that cause the reduction in coverage, the increase in premium or the failure to renew, i.e., application of the insurer's underwriting guidelines and/or rating rules. Where the reduction in coverage occurs solely because of the effect of the repeal of the no-fault law, the insurer is not unilaterally reducing coverages. Rather, coverages are being modified by operation of law and accordingly, these notice requirements do not apply.
- The Division has determined that the rating provisions contained in §10-4-416, Prohibiting Changes in Rates or Coverages, do not apply at the first conversion of a no-fault policy to a tort policy, as the sole cause for the decrease in coverage is the repeal of the no-fault law. This statute continues to apply when it is the insurer's action that causes the reduction in coverage or the increase in premium, i.e., application of the insurer's underwriting guidelines and/or rating rules. Where the reduction in coverage occurs solely because of the effect of the repeal of the no-fault law, the insurer is not unilaterally reducing coverages. Rather, coverages are being modified by operation of law and accordingly, the prohibition does not apply.
- Except in the event the insured requests a conversion, on or before the tenth (10th) calendar day before the effective date of a policy change where the insurer is first converting a no-fault policy to a tort policy, the insurer must send by first-class mail written notice of the change to the named insured at the insured's last known address. The notice must state in clear and specific terms all of the following:
  - ◆ The proposed action to be taken, including, if the change is a change in premium or change in coverage, the amount of the premium, the type of coverage to which the

premium change is applicable, the type of coverage increased or reduced, and the extent of the change in coverage.

- ◆ The proposed effective date of the change.
- ◆ A statement of reasons why the change is necessary, so that a person of average intelligence can understand the necessity for the change without making further inquiry. This must include an explanation of the change in law and why coverages are to be increased or reduced, and the effect on premium.
- In no event may a policy be issued that does not clearly differentiate the premiums for the various coverages.
- Separate notices may be sent by insurers regarding the changes in coverages and the changes in premium.
- Where the insured requests that the carrier convert the policy mid-term, and the insurer agrees to convert the policy, insurers must mail the notice to the insured as required or within ten (10) calendar days after the change becomes effective.
- Failure to comply with the provisions of this regulation constitute an unfair or deceptive act or practice in the business of insurance pursuant to §10-3-1110, Regulations.