

FORMS – IMPLEMENTATION

SEPTEMBER 23, 2024

COMMERCIAL AUTOMOBILE

LI-CA-2024-256

NORTH CAROLINA UNINSURED MOTORISTS COVERAGE ENDORSEMENT AMENDED AND TO BE IMPLEMENTED

KEY MESSAGE

We have amended and are implementing Commercial Automobile forms filing [CA-2023-OUM1](#), in response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319). This circular updates and replaces circular [LI-CA-2024-095](#).

BACKGROUND

In circulars:

- [LI-CA-2024-095/LI-CA-2024-096/LI-CA-2024-097](#), we announced the implementation of forms, rules, and loss costs (filings CA-2023-OUM1, CA-2023-RUM1 and CA-2023-RUMLC) to be implemented in response to 2023 N.C. Sess. Laws 2023-133 (former S.B. 452), effective January 1, 2025. Forms filing CA-2023-OUM1 included changes to endorsements CA 21 16, North Carolina Uninsured Motorists Coverage and CA 01 26, North Carolina Changes.
- [LI-CA-2024-189](#), we announced that we anticipated providing forms and rules revisions in response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319), which included changes that become effective July 1, 2025, and apply to policies issued or renewed on or after that date.
- [LI-CA-2024-241](#), we announced that we anticipated providing updates to North Carolina filings CA-2023-OUM1, CA-2023-RUM1 and CA-2023-RUMLC by September 2024 in response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319).
- [LI-CA-2024-259](#), we announced that we updated Commercial Auto rules filing CA-2023-RUM1 and loss cost filing CA-2023-RUMLC to change the effective date from January 1, 2025, to July 1, 2025.
- [LI-CA-2024-260](#), we announced the filing and implementation of rules filing CA-2024-OUM2 in response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319).

ISO ACTION

In response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319), we have:

- Changed the effective date of filing CA-2023-OUM1 from January 1, 2025, to July 1, 2025.
- Revised the Other Insurance provision and Two or More Coverage Form or Policies Issued By Us condition of CA 21 16, North Carolina Uninsured Motorists Coverage.
- Filed the changes to endorsement CA 21 16 with the North Carolina Department of Insurance as an amendment to ISO Filing CA-2023-OUM1.

- **NOT** changed the content of endorsement CA 01 26, as originally filed under CA-2023-OUM1. However, the effective date of this form has changed to July 1, 2025.

Refer to the attached explanatory material for complete details about the amendment.

For more information on the status of filings in a particular state, including filed and approved documents, associated circulars and links to Print Ready Manuals and Commercial Lines Manual, please feel free to access our [Filings](#) feature within the ISOnet Circulars product.

IMPORTANT NOTE

This circular updates and replaces circular [LI-CA-2024-095](#). **Please disregard circular [LI-CA-2024-095](#) and be advised of the following changes in comparison to circular [LI-CA-2024-095](#):**

- The effective date of filing CA-2023-OUM1 (including endorsements CA 21 16 and CA 01 26) has changed from January 1, 2025, to July 1, 2025.
- Endorsement CA 21 16 has been amended.
- The Company Action language below includes an additional ISO Filing Designation Number and SERFF Tracking Number.

INSURANCE DEPARTMENT ACTION

We have received all necessary approvals or acknowledgements, as required by state laws and regulations, from the insurance department.

EFFECTIVE DATE

The ISO revision is subject to the following rule of application:

These changes are applicable to all policies effective on or after July 1, 2025.

COMPANY ACTION

If you have authorized us to file on your behalf and decide:

- To use our revision and effective date, you are not required to file anything with the Insurance Department.
- To use our revision with a different effective date, to use our revision with modification, or to not use our revision, you must make an appropriate submission with the Insurance Department.

For guidance on submission requirements, consult the ISO State Filing Handbook.

In all correspondence with the Insurance Department on this revision, you should refer to ISO Filing Designation Numbers [CA-2023-OUM1](#) and [CA-2023-OUM1\(A\)](#), and SERFF Tracking Numbers [ISOF-133935661](#) and [ISOF-134219362](#), not this circular number. Communications with the regulator concerning a filing affecting multiple lines of business (i.e., CL, PL, AL filing designation) should specify the line(s) of business that you are addressing.

RATING SOFTWARE IMPACT

New attributes being introduced with this revision:

- A new edition date of an existing form number is being introduced.

POLICYHOLDER NOTIFICATION

If you decide to implement this revision, you should check all applicable laws for the state(s) to which this revision applies to determine whether or not a specific policyholder notice requirement may apply. Please note that circular [LI-CL-2024-016](#) contains the ISO Guide To Renewals With Changed Conditions For Commercial Lines, which is available only as a guide to assist participating companies in complying with various conditional renewal statutes or regulations, for the major commercial lines of insurance serviced by ISO. The information in the Guide does not necessarily reflect all requirements or exceptions that may apply, and it is not intended as a substitute for your review of all applicable statutes and regulations concerning policyholder notification.

REVISION DISTRIBUTION

We will issue a Notice to Portfolioholders with an edition date of 7-25 (or the earliest possible subsequent date), along with any new and/or revised forms.

RELATED RULES REVISION

We are announcing in a separate circular the implementation of a corresponding rules revision. Please refer to the Reference(s) block for identification of that circular.

RELATED LOSS COSTS REVISION

We are announcing in a separate circular the implementation of a corresponding loss costs revision. Please refer to the Reference(s) block for identification of that circular.

REFERENCE(S)

- [LI-CA-2024-260](#) (09/23/2024) North Carolina Revised Commercial Automobile Rule 297. Filed And To Be Implemented
- [LI-CA-2024-259](#) (09/23/2024) North Carolina Commercial Automobile Rules And Loss Cost Change In Effective Date In Response To Former S.B. 319
- [LI-CA-2024-241](#) (08/19/2024) North Carolina Former S.B. 319 Regarding Underinsured Motorist Coverage Update Provided
- [LI-CA-2024-189](#) (07/22/2024) North Carolina Former S.B. 319 Regarding Underinsured Motorist Coverage Under Review
- [LI-CA-2024-097](#) (04/08/2024) North Carolina Commercial Automobile Underinsured Motorists Loss Costs To Be Implemented
- [LI-CA-2024-096](#) (04/08/2024) North Carolina Revised Commercial Automobile Rule 300. To Be Implemented
- [LI-CA-2024-095](#) (04/08/2024) North Carolina Changes And Uninsured Motorists Coverage Endorsements To Be Implemented
- [LI-CL-2024-016](#) (03/12/2024) Commercial Lines Revised Lead Time Requirements Listing

ATTACHMENT(S)

Amendment to Filing CA-2023-OUM1

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CONTACT INFORMATION

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Amendment to North Carolina Filing CA-2023-OUM1

About This Filing

This amendment is being made in response to 2023 N.C. Sess. Laws 2024-29 (former S.B. 319).

Amended Form

We are amending CA 21 16 01 25, North Carolina Uninsured Motorists Coverage

We have used a format of ~~striking-through~~ deletions, underlining additions and inserting a revision bar in the left margin to indicate changes from the version initially submitted to the North Carolina Department of Insurance to the new version.

Related Filing(s)

- ◆ CA-2023-RUM1 (Rules)
- ◆ CA-2024-OUM2 (Rules)
- ◆ CA-2023-RUMLC (Loss Costs)

Background

In part, 2023 N.C. Sess. Laws 2023-133 (former S.B. 452) updated the proof of financial responsibility requirements under N.C. GEN. STAT. §20-279.1(11) and amended N.C. GEN. STAT. §20-279.21(b)(4) to rewrite various provisions for underinsured motorist coverage.

In filing CA-2023-OUM1, in response to former S.B. 452, we:

- ◆ Revised CA 01 26 to update the financial responsibility limits.
- ◆ Revised CA 21 16 to:
 - Reflect the only permissive offset for Uninsured Motorist Coverage is Workers' Compensation Coverage.
 - Provide that for an underinsured motor vehicle, the available coverage is the amount of uninsured motorists coverage which exceeds the policy's Covered Autos Liability Coverage bodily injury liability limits.

- Updated the definition of an underinsured motor vehicle.

The North Carolina Department of Insurance approved ISO Filing Number CA-2023-OUM1 for an effective date of January 1, 2025.

In part, 2023 N.C. Sess. Laws 2024-29 (former S.B. 319):

- ◆ Amends N.C. GEN STAT § 20-279.21(b)(4), which is rewritten as follows:

...(4) Shall, in addition to the coverages set forth in subdivisions (2) and (3) of this subsection, provide underinsured motorist coverage, ~~to be used only with a policy that is written at limits that exceed those prescribed by subdivision (2) of this subsection coverage.~~ The limits of such underinsured motorist bodily injury coverage shall be equal to the highest limits of bodily injury liability coverage for any one vehicle insured under the policy; provided, however, that (i) the limits shall not exceed one million dollars (\$1,000,000) per person and one million dollars (\$1,000,000) per accident regardless of whether the highest limits of bodily injury liability coverage for any one vehicle insured under the policy exceed those limits, (ii) a named insured may purchase greater or lesser limits, ~~except that the limits shall exceed the bodily injury liability limits required pursuant to subdivision (2) of this subsection,~~

The amount of underinsured motorist coverage applicable to any claim for benefits under this subdivision shall not be reduced by a setoff or credit against any coverage, including liability insurance, except for workers' compensation coverage to the extent provided for in subsection (e) of this section. If a claimant is an insured under the underinsured motorist coverage on separate or additional policies, the total amount of underinsured motorist coverage applicable to the claimant is the sum of the limits of the claimant's underinsured motorist coverages as determined by combining the highest limit available under each policy, and shall not be reduced by a setoff against any coverage, including liability insurance, except for workers' compensation coverage to the extent provided for in subsection (e) of this section. The previous sentence shall apply only to insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2).

The above changes become effective July 1, 2025 and apply to policies issued or renewed on or after that date.

Additionally, Section 8.(c) of 2023 N.C. Sess. Laws 2024-29 amends Section 12(i) of 2023 N.C. Sess. Laws 2023-133, which is rewritten as follows: "This section becomes effective ~~January 1, 2025,~~ July 1, 2025, and applies to policies issued or renewed on or after that date." This change in effective date, in part, applies with respect to the revised financial responsibility requirements under N.C. GEN. STAT. §20-279.1(11), which were previously revised under 2023 N.C. Sess. Laws 2023-133.

Explanation of Changes

In response to 2023 N.C. Sess. Laws ____ (former S.B. 319), we are:

- ◆ Amending CA 21 16 to:
 - Update the Schedule to remove the checkbox for the definition of “uninsured motor vehicle” to not apply, as the coverages are combined.
 - Introduce an Other Insurance provision under Paragraph **E.1.a.** that applies when the policy provides insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2). Paragraph **E.1.a.** provides that “the maximum recovery under all Coverage Forms or policies combined for the same ‘accident’ shall be the sum of the highest applicable limit for any one vehicle under each Coverage Form or policy providing this coverage”.
 - Update the Other Insurance provision under Paragraph **E.1.b.** to indicate that the current wording applies if Paragraph **E.1.a.** does not apply.
 - Introduce Paragraph **4. Two or More Coverage Form or Policies Issued By Us** condition to provide that this condition does not apply to Uninsured Motorists Coverage, if the policy provides insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2).
- ◆ Changing the effective date of this filing to July 1, 2025.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NORTH CAROLINA UNINSURED MOTORISTS COVERAGE

For a covered "auto" licensed or garaged in, or "auto dealer operations" conducted in, North Carolina, this endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured:

Endorsement Effective Date:

SCHEDULE

Limit Of Insurance: \$

Each "Accident"

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The definition of "uninsured motor vehicle" in this endorsement applies in its entirety unless an "X" is entered below:

☐ If an "X" is entered in this box, Paragraph b. of the definition of "uninsured motor vehicle" does not apply.

A. Coverage

1. We will pay all sums the "insured" is legally entitled to recover as compensatory damages from the owner or driver of:
- a. An "uninsured motor vehicle" because of "bodily injury" sustained by the "insured" and caused by an "accident"; and

b. An "uninsured motor vehicle", as defined in Paragraphs a. and c. of the definition of "uninsured motor vehicle", because of "property damage" caused by an "accident".

The owner's or driver's liability for these damages must result from the ownership, maintenance or use of the "uninsured motor vehicle".

2. With respect to damages resulting from an "accident" with a vehicle described in Paragraph b. of the definition of "uninsured motor vehicle", we will pay under this coverage only if Paragraph a. or b. below applies:
- a. The limits of any applicable liability bonds or policies have been exhausted by payment of judgments or settlements; or

b. A tentative settlement has been made between an "insured" and the insurer of a vehicle described in Paragraph b. of the definition of "uninsured motor vehicle" and we:

(1) Have been given prompt written notice of such tentative settlement; and

(2) Advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

3. Any judgment for damages arising out of a "suit" brought without sending us a copy of the summons, complaint or other process against an uninsured motorist is not binding on us.

B. Who Is An Insured

If the Named Insured is designated in the Declarations as:

1. An individual, then the following are "insureds":
 - a. The Named Insured and any "family members".
 - b. Anyone else "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - c. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
2. A partnership, limited liability company, corporation or any other form of organization, then the following are "insureds":
 - a. Anyone "occupying" a covered "auto" or a temporary substitute for a covered "auto". The covered "auto" must be out of service because of its breakdown, repair, servicing, "loss" or destruction.
 - b. Anyone for damages he or she is entitled to recover because of "bodily injury" sustained by another "insured".
 - c. The Named Insured for "property damage" only.

C. Exclusions

This coverage does not apply to:

1. Any claim settled by the "insured" or any legal representative of the "insured" without our consent. However, this exclusion does not apply to a settlement made with the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" in accordance with the procedure described in Paragraph **A.2.b.**
2. The direct or indirect benefit of any insurer or self-insurer under any workers' compensation, disability benefits or similar law.

3. The direct or indirect benefit of any insurer of property.
4. An "auto" or property contained in the "auto" other than a covered "auto".
5. The first \$100 of the amount of "property damage" to the property of each "insured" as the result of any one "accident".
6. Anyone using a vehicle without a reasonable belief that the person is entitled to do so.
7. Punitive or exemplary damages.
8. "Bodily injury" or "property damage" arising directly or indirectly out of:
 - a. War, including undeclared or civil war;
 - b. Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
 - c. Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

D. Limit Of Insurance

1. Regardless of the number of covered "autos", "insureds", premiums paid, claims made or vehicles involved in the "accident", the most we will pay for all damages resulting from any one "accident" is the limit of Uninsured Motorists Coverage shown in the Declarations. However:
 - a. The damages sustained by the "insured" for "bodily injury" will be reduced by all sums paid or payable because of the "bodily injury" under any workers' compensation law.
 - b. If a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" is insured under Covered Autos Liability Coverage of this policy, the available Uninsured Motorists Coverage is that amount of Uninsured Motorists Coverage under this policy which exceeds this policy's Covered Autos Liability Coverage bodily injury liability limits.
2. No one will be entitled to receive duplicate payments for the same elements of "loss" under this Coverage Form and any Liability Coverage form or Medical Payments Coverage endorsement attached to this Coverage Part.

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We will not make a duplicate payment under this coverage for any element of "loss" for which payment has been made by or for anyone who is legally responsible.

We will not pay for any element of "loss" if a person is entitled to receive payment for the same element of "loss" under any disability benefits or similar law, exclusive of workers' compensation and nonoccupational disability benefits.

E. Changes In Conditions

The Conditions are changed for Uninsured Motorists Coverage as follows:

1. **Other Insurance** in the Auto Dealers and Business Auto Coverage Forms and **Other Insurance – Primary And Excess Insurance Provisions** in the Motor Carrier Coverage Form are replaced by the following:

If there is other applicable insurance available under one or more policies or provisions of coverage:

- a. If this policy provides insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2), then the maximum recovery under all Coverage Forms or policies combined for the same "accident" shall be the sum of the highest applicable limit for any one vehicle under each Coverage Form or policy providing this coverage.
- b. If Paragraph a. does not apply, then tThe maximum recovery under all Coverage Forms or policies combined may equal but not exceed the highest applicable limit for any one vehicle under any Coverage Form or policy providing coverage on either a primary or excess basis.
- bc. Any insurance we provide with respect to a vehicle:
 - (1) The Named Insured does not own; or
 - (2) Owned by the Named Insured or, if the Named Insured is an individual, any "family member", that is not a covered "auto" for Uninsured Motorists Coverage under this Coverage Form;

shall be excess over any other collectible uninsured motorists insurance providing coverage on a primary basis.

ed. If the coverage under this Coverage Form is provided:

- (1) On a primary basis, we will pay only our share of the loss that must be paid under insurance providing coverage on a primary basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on a primary basis.
- (2) On an excess basis, we will pay only our share of the loss that must be paid under insurance providing coverage on an excess basis. Our share is the proportion that our limit of liability bears to the total of all applicable limits of liability for coverage on an excess basis.

2. **Duties In The Event Of Accident, Claim, Suit Or Loss** in the Business Auto and Motor Carrier Coverage Forms and **Duties In The Event Of Accident, Claim, Offense, Suit, Loss Or Acts, Errors Or Omissions** in the Auto Dealers Coverage Form are changed by adding the following:

- a. Promptly notify the police if a hit-and-run driver is involved.
- b. Promptly send us copies of the legal papers if a "suit" is brought. A "suit" may not be brought against anyone legally responsible for the use of any "auto" involved in the "accident" until 60 days after an "insured" notifies us or our agent of his or her belief that the prospective defendant is an uninsured motorist.
- c. Any person who intends to pursue recovery against the owner or operator of an "uninsured motor vehicle", as described in Paragraph b. of the definition of "uninsured motor vehicle", for damages beyond those paid or payable under this policy shall give us:
 - (1) Notice of such intent; and
 - (2) The opportunity to participate, at our expense, in the prosecution of such claim.

- d. A person seeking coverage from an insurer, owner or operator of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" must also promptly notify us in writing of a tentative settlement between the "insured" and the insurer and allow us to advance payment to that "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification to preserve our rights against the insurer, owner or operator of such vehicle.

3. Transfer Of Rights Of Recovery Against Others To Us is changed as follows:

- a. If we make any payment on the Named Insured's behalf, we are entitled to recover what we paid from other parties. The Named Insured must transfer rights of recovery against others to us. The Named Insured must do everything necessary to secure these rights and do nothing to jeopardize them.

However, our rights under this paragraph do not apply with respect to vehicles described in Paragraphs **F.4.a., c. and d.** of the definition of "uninsured motor vehicle". For these vehicles, if we make any payment and the Named Insured recovers from another party, that Named Insured must hold the proceeds in trust for us and pay us back the amounts we have paid.

- b. Our rights do not apply under this provision with respect to damages caused by an "accident" with a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle" if we:

- (1) Have been given prompt written notice of a tentative settlement between an "insured" and the insurer of a vehicle described in Paragraph **b.** of the definition of "uninsured motor vehicle"; and
- (2) Fail to advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification.

If we advance payment to the "insured" in an amount equal to the tentative settlement within 30 days after receipt of notification:

- (1) That payment will be separate from any amount the "insured" is entitled to recover under the provisions of Underinsured Motor Vehicle Coverage; and
- (2) We also have a right to recover the advanced payment.

4. The following is added to the Two Or More Coverage Forms Or Policies Issued By Us Condition:

If this policy provides insurance on nonfleet private passenger motor vehicles as described in G.S. 58-40-10(1) and (2), then this provision does not apply to Uninsured Motorists Coverage.

45. The following condition is added:

Arbitration

- a. If we and an "insured" disagree whether the "insured" is legally entitled to recover damages from the owner or driver of an "uninsured motor vehicle" or do not agree as to the amount of damages that are recoverable by that "insured", then the matter may be arbitrated. However, disputes concerning coverage under this endorsement may not be arbitrated. The "insured" may make a written demand for arbitration. In this event, each party will select an arbitrator. The two arbitrators will select a third. If they cannot agree within 30 days, either may request that selection be made by a judge of a court having jurisdiction. Each party will pay the expenses it incurs and bear the expenses of the third arbitrator equally.
- b. Unless both parties agree otherwise, arbitration will take place in the county in which the "insured" lives. Local rules of law as to arbitration procedure and evidence will apply. A decision agreed to by two of the arbitrators will be binding.
- c. If the "insured" elects not to arbitrate, our liability will be determined only in an action against us. In any action against us, except an action to determine whether a vehicle is an "uninsured motor vehicle", we may require the "insured" to join the owner or driver of the vehicle as a party defendant.

If the "insured" elects arbitration to determine the amount of "property damage", then the Appraisal For Property Damage Condition does not apply.

F. Additional Definitions

As used in this endorsement:

- 1. "Family member" means a person related to an individual Named Insured by blood, marriage or adoption who is a resident of such Named Insured's household, including a ward or foster child.
- 2. "Occupying" means in, upon, getting in, on, out or off.

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3. "Property damage" means injury to or destruction of the property of an "insured".
4. "Uninsured motor vehicle" means a land motor vehicle or "trailer":
 - a. For which neither a bond or policy nor cash or securities on file with the North Carolina Commissioner of Motor Vehicles provides at least the amounts required by the North Carolina Motor Vehicle Safety and Responsibility Act.
 - b. That is an underinsured motor vehicle. An underinsured motor vehicle is a land motor vehicle or "trailer" for which the sum of all bodily injury liability bonds or policies at the time of an "accident" provides at least the amounts required by the North Carolina Motor Vehicle Safety and Responsibility Act, and:
 - (1) Is less than the total damages sustained by an "insured"; or;
 - (2) The total limit of liability available has been exhausted and the total amount actually paid from the exhaustion of the total limit of insurance available at the time of the "accident" is less than the total damages sustained by an "insured".
 - c. For which the insuring or bonding company denies coverage or is or becomes insolvent.

- d. That is a hit-and-run vehicle causing "bodily injury" to an "insured" and neither the driver nor owner can be identified. The vehicle must hit an "insured", a covered "auto" or a vehicle an "insured" is "occupying".

However, "uninsured motor vehicle" does not include any vehicle:

- a. Owned or operated by a self-insurer under any applicable motor vehicle law, except a self-insurer who is or becomes insolvent and cannot provide the amounts required by that motor vehicle law.
- b. Owned by:
 - (1) The United States of America;
 - (2) Canada;
 - (3) A state; or
 - (4) An agency, except vehicles owned by political subdivisions of (1), (2) or (3) above.
- c. Designed for use mainly off public roads while not on public roads.

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