

CHAPTER 32. MOTOR CARRIER INSURANCE

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Authority

The provisions of this Chapter 32 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d), unless otherwise noted.

Source

The provisions of this Chapter 32 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217, unless otherwise noted.

Subchapter A. GENERAL

- Sec. 32.1. Definitions.
- 32.2. Insurance forms and procedures.

§ 32.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Self-insurer—A common or contract carrier by motor vehicle which adjusts and is ultimately liable for payment of all or part of its bodily injury, property or cargo damage claims resulting from the operation, maintenance or use of a motor vehicle in certificated service.

Authority

The provisions of this § 32.1 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.1 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial page (120469).

§ 32.2. Insurance forms and procedures.

(a) *Forms for certificates of insurance and others.* Endorsements for policies of insurance and surety bonds, certificates of insurance, applications to qualify as a self-insurer, or for approval of other securities or agreements, and notices of cancellation shall be in the form prescribed and approved by the Commission.

(b) *Surety bonds and certificates in effect continuously.* Surety bonds and certificates of insurance shall specify that coverage will remain in effect continuously until terminated, except under one of the following:

- (1) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates.
- (2) Urgent circumstances, when special permission is obtained from the Commission.
- (c) *Filing and copies.* Certificates of insurance, surety bonds and notices of cancellation shall be filed with the Commission in triplicate. An approved copy will be returned to sender if a self-addressed, stamped envelope is enclosed with the filing.
- (d) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the individual, partnership, corporation or other party to whom the certificate, permit or license is, or is to be issued. In the case of a partnership, all partners shall be named.
- (e) *Cancellation notice.* Except as provided in subsection (f), surety bonds, certificates of insurance and other securities or agreements may not be cancelled or withdrawn until after 30 days' notice in writing has been issued by the insurance company, surety, motor carrier, broker or other party, to the Commission at its office in Harrisburg, Pennsylvania. The period of 30 days begins from the date the notice is actually received at the office of the Commission.
- (f) *Termination by replacement.* Certificates of insurance of surety bonds which have been accepted by the Commission under this chapter may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under the certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, if the replacement certificate, bond or other security is acceptable to the Commission under this chapter.
- (g) *Refusal to accept, or revocation by the Commission of surety bonds.* The Commission may refuse to accept or may revoke its acceptance of a surety bond, certificate of insurance or other securities or agreements if, in its judgment, the security does not comply with this chapter or fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of a certificate of insurance, surety bond or other security does not relieve the motor carrier from compliance with this chapter.
- (h) *Compliance.* Failure to maintain evidence of insurance on file with the Commission in accordance with this chapter shall cause the immediate suspension of the rights and privileges conferred by a certificate of public convenience or permit held by the motor carrier. The Commission may establish rules under which suspended rights and privileges may be temporarily reinstated pending compliance with this chapter.

Authority

The provisions of this § 32.2 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.2 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial pages (120469) to (120471).

Subchapter B. INSURANCE REQUIREMENTS

Sec.

- 32.11. Passenger carrier insurance.
- 32.12. Property carrier insurance.
- 32.13. Cargo liability insurance.
- 32.14. Air carrier insurance.
- 32.15. Applications to self-insure.
- 32.16. Standards for adjustment and payment of claims.

§ 32.11. Passenger carrier insurance.

(a) A common carrier or contract carrier of passengers may not engage in intrastate commerce and a certificate or permit will not be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure) until there has been filed with and approved by the Commission a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service.

(b) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting fewer than 16 passengers shall be in an amount not less than \$35,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. The \$35,000 minimum coverage is split coverage in the amounts of \$15,000 bodily injury per person, \$30,000 bodily injury per accident and \$5,000 property damage per accident. This coverage shall include first party medical benefits in the amount of \$25,000 and first party wage loss benefits in the amount of \$10,000 for passengers and pedestrians. Except as to the required amount of coverage, these benefits shall conform to 75 Pa.C.S. §§ 1701—1799.7 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the driver of certificated vehicles shall meet the requirements of 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting 16 to 28 passengers shall be in an amount not less than \$1 million to cover liability for bodily injury,

death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(d) The liability insurance maintained by a common or contract carrier of passengers on each motor vehicle capable of transporting more than 28 passengers shall be in an amount not less than \$5 million to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of liability coverage, this coverage shall meet the requirements of 75 Pa.C.S. §§ 1701—1799.7.

(e) The limits in subsections (b)—(d) do not include the insurance of cargo.

Authority

The provisions of this § 32.11 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d); amended under 66 Pa.C.S. §§ 501 and 512; and section 612 of The Administrative Code of 1929 (71 P. S. § 232).

Source

The provisions of this § 32.11 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726; amended January 20, 1989, effective January 21, 1989, 19 Pa.B. 240; amended July 7, 2000, effective July 8, 2000, 30 Pa.B. 3439. Immediately preceding text appears at serial pages (220189) to (220190).

Notes of Decisions

Extent of Coverage

Taxi passenger who was injured in accident with hit-and-run driver was covered under taxicab owner's automobile policy even though taxicab was not listed as schedule vehicle; Pennsylvania statute and regulations require coverage on each and every vehicle used by a motor carrier in its authorized service, and vehicle lists utilized by insurer cannot be used to defeat coverage for all vehicles used by carrier. *Love-Digg v. Tirath*, 911, 541—542 (Pa. Super. 2006).

This regulation does not impose on the coach company's insurance carrier a requirement of maintaining coverage for every vehicle driven by that company. That duty is on the common or contract carrier of passengers. *Lebanon Coach Co. v. Carolina Casualty Insurance Co.*, 675 A.2d 279 (Pa. Super. 1996), appeal denied 687 A.2d 378 (Pa. 1997).

Ownership

This regulation does not require a bus operator under contract to provide insurance coverage for a bus that it does not own and did not register. Only the vehicle's owner or registrant is responsible for maintaining financial responsibility. Therefore, although the bus involved in the child's accident was operated by a coach company, financial responsibility for the child's injuries rested with the county which owned the bus. *Lebanon Coach Co. v. Carolina Casualty Insurance Co.*, 675 A.2d 279 (Pa. Super. 1996).

Cross References

This section cited in 52 Pa. Code § 29.101 (relating to operation of leased equipment); 52 Pa. Code § 29.315 (relating to alternative forms of compensation); 52 Pa. Code § 41.21 (relating to insurance coverage for common or contract carriers of less than 16 passengers—statement of policy).

§ 32.12. Property carrier insurance.

(a) No common carrier or contract carrier of property may engage in intrastate commerce and no certificate will be issued, or remain in force, except as provided in § 32.15 (relating to applications to self-insure), until there has been filed with and approved by the Commission, a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of per-

sons, or the loss or damage to property of others resulting from the operation, maintenance or use of a motor vehicle in the insured authorized service. The liability of the insurance company on each motor vehicle operated in common or contract carrier service shall be in amounts not less than \$300,000 per accident.

(b) The limitations in subsection (a) do not include insurance to cover damage to cargo.

(c) Insurance coverage of motor carriers of property shall meet the requirements of 75 Pa.C.S. §§ 1701—1798 (relating to Motor Vehicle Financial Responsibility Law).

Authority

The provisions of this § 32.12 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.12 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial page (120472).

Cross References

This section cited in 52 Pa. Code § 32.13 (relating to cargo liability insurance).

Notes of Decision

Extent of Coverage

Taxi passenger who was injured in accident with hit-and-run driver was covered under taxicab owner's automobile policy even though taxicab was not listed as schedule vehicle; Pennsylvania statute and regulations require coverage on each and every vehicle used by a motor carrier in its authorized service, and vehicle lists utilized by insurer cannot be used to defeat coverage for all vehicles used by carrier. *Love-Digg v. Tirath*, 911, 541—542 (Pa. Super. 2006).

Public Policy

Where the activity only involved intrastate commerce, State regulations apply rather than those of the I.C.C. Where the legislature has established minimum liability coverage in its regulations, it cannot be said that it is against public policy to uphold those limits. *Lincoln General Insurance Co. v. Liberty Mutual Insurance Co.*, 804 A.2d 661 (Pa. Super. 2002), appeal denied, 820 A.2d 162 (Pa. 2003).

§ 32.13. Cargo liability insurance.

(a) A common carrier of property by motor vehicle shall file with the Commission, in addition to the public liability and property damage certificate of insurance required by § 32.12 (relating to property carrier insurance), certificates of insurance in an amount satisfactory to the Commission, but not less than \$5,000 to provide payment for loss or damage to cargo carried on a motor vehicle. No motor vehicle may be operated unless the insurance policy or other approved method of protection is in effect at the time of operation. This section may not be modified or abrogated by tariff filings. The Commission may approve another method of cargo protection in specific cases.

(b) Requirements for cargo insurance do not apply to dump trucks or vehicles limited to the transportation of coal, earth, crushed stone, amesite and similar construction materials, or vehicles which are used for the transportation of property, the value of one load being not more than \$500. This subsection applies only if an affidavit stating that the vehicle is limited to the type of transportation described in this subsection is first filed with the Commission.

Authority

The provisions of this § 32.12 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.13 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial pages (120472) to (120473).

§ 32.14. Air carrier insurance.

(a) No common carrier by air may engage in intrastate commerce, and no certificate may issue or authorize the operations until there is filed with and approved by the Commission a certificate of insurance issued by an insurer approved or authorized to do business in this Commonwealth, or a certificate of insurance issued by an eligible surplus lines insurer and designated under the act of January 24, 1966 (P. L. (1965) 1509, No. 531) (40 P. S. §§ 1006.1—1006.19), referred to the Surplus Lines Insurance Law, in amounts not less than the following limits:

(1) For bodily injury to or death of one passenger, aboard the aircraft, \$75,000; with a minimum coverage for each occurrence of \$75,000 multiplied by 75% of the number of passenger seats in the aircraft for each occurrence.

(2) For bodily injury to or death of persons, excluding passengers, \$75,000 for each person in each occurrence; with a minimum coverage for each occurrence of \$300,000.

(3) For loss or damage to property owned by other than the insured, a minimum coverage of \$100,000 for each occurrence.

(4) Notwithstanding the provisions of paragraphs (1)—(3), a common carrier may be insured for a single limit of liability for each occurrence. In this event, coverage shall be equal to or greater than the combined required minimums for bodily injury, property damage or passenger liability as prescribed by this section.

(b) In the case of a single limit of liability, a common carrier may be insured by a combination of primary and excess policies. The policies shall have combined coverage equal to or greater than the required minimum for bodily injury to nonpassengers, property damage, or both, or passenger liability as prescribed in subsection (a)(1)—(3).

Authority

The provisions of this § 32.14 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.14 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial pages (120473) to (120474).

§ 32.15. Applications to self-insure.

(a) A common or contract carrier by motor vehicle may file an application with the Commission to act as self-insurer of all or part of its bodily injury, property damage or cargo damage claims. In support of its application, the applicant shall submit a true and accurate statement of its financial condition which establishes its capability to satisfy its insurance obligations as they become due, a self-insurance plan which includes adequate security to protect the public and a description of its safety program including its past accident record. An interstate carrier shall submit the approval of the Interstate Commerce Commission of its proposed self-insurance plan with its application. A self-insurance applicant shall agree in the application to grant the Commission authority to rescind approval of self-insurer status, without hearing, if the Commission determines that the public interest demands it.

(b) In reviewing self-insurance applications the Commission will examine the following factors in determining whether approval will be granted:

(1) The net worth of the motor carrier in relationship to the size of its operation and the nature and extent of its request for self-insurer status. The evidence shall demonstrate the carrier's financial capability to adjust and pay insurance obligations as they become due before approval will be granted.

(2) The organization of the carrier's proposed self-insurance program including the adequacy of security to protect the public. Security may be in the form, but is not limited to, one or more of the following:

- (i) Reserves.
- (ii) Sinking funds.
- (iii) Third party financial guarantees.
- (iv) Parent company or affiliate sureties.
- (v) Excess insurance coverage.
- (vi) Other similar arrangements.

(3) The effectiveness of the motor carrier's safety program. The Commission will look closely at the average number and average cost of accident losses over the past 3 years in determining whether self-insurance is feasible.

(c) Commission approval of a self-insurance application may be made conditional on revisions in the applicant's proposed self-insurance plan or safety program as well as requirements of periodic financial filings with the Commission.

(d) Commission approval of self-insurance status is subject to the issuance of a self-insurance certificate to the motor carrier by the Department of Transportation as required by 67 Pa. Code § 223.5 (relating to certificate) for vehicles registered in this Commonwealth.

Authority

The provisions of this § 32.15 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.15 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial pages (120474) to (120475).

Cross References

This section cited in 52 Pa. Code § 32.11 (relating to passenger carrier insurance); and 52 Pa. Code § 32.12 (relating to property carrier insurance).

§ 32.16. Standards for adjustment and payment of claims.

Common or contract carriers by motor vehicle who are responsible to the public for adjustment or payment of bodily injury, property damage or cargo damage claims, or both, shall comply with fair claims settlement and compromise practices. The following practices are prohibited:

- (1) Misrepresenting pertinent facts relating to claims at issue.
- (2) Failing to acknowledge and act promptly upon written or oral communications with respect to insurance claims.
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims.
- (4) Refusing to pay claims without conducting a reasonable investigation based upon available information.
- (5) Failing to affirm or deny responsibility for claims within a reasonable time after proof of loss statements have been completed and communicated to the carrier or its representative.
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the carrier's liability has become reasonably clear.
- (7) Compelling persons to institute litigation to recover amounts due by offering substantially less than the amounts due and ultimately recovered in actions brought by those persons.
- (8) Making claim payments to claimants not accompanied by a statement defining which payments are being made.
- (9) Making known to claimants a policy of appealing from arbitration awards in favor of claimants to induce or compel them to accept settlements or compromises less than the amount awarded in arbitration.
- (10) Delaying the investigation or payment of claims by requiring a physician to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.
- (11) Failing to promptly provide a reasonable explanation in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

Authority

The provisions of this § 32.16 issued under the Public Utility Code, 66 Pa.C.S. §§ 501, 512 and 1103(d).

Source

The provisions of this § 32.16 adopted July 31, 1987, effective August 1, 1987, 17 Pa.B. 3217; corrected November 20, 1987, effective August 1, 1987, 17 Pa.B. 4726. Immediately preceding text appears at serial pages (120475) to (120476).

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