

Chapter Ins 3

CASUALTY INSURANCE

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|----------|--|----------|---|
| Ins 3.01 | Accumulation benefit riders attached to health and accident policies | Ins 3.05 | Automobile policies, policy provisions |
| Ins 3.02 | Automobile fleets, vehicles not included in | Ins 3.06 | Automobile policies, endorsements invalid |
| Ins 3.03 | Automobile policies, coverage extended | Ins 3.07 | Rules in Chapter 4, FIRE AND ALLIED LINES INSURANCE, applicable to casualty insurance |
| Ins 3.04 | Dividends not deducted from premiums in computing loss reserves | | |

Ins 3.08 Automobiles of accident and sickness insurance

Ins 3.01 Accumulation benefit riders attached to health and accident policies. Except where such rider is used only on a policy replacing the company's own policy, and so recites, no rider providing for accumulations of benefits will be approved for use upon any policy of health and accident insurance, whether it is proposed to issue such rider with or without an additional premium. Such rider operates as an aid to twisting the policies of another company in such manner as to make its use a direct encouragement of this practice.

Ins 3.02 Automobile fleets, vehicles not included in. Individually owned motor vehicles cannot be included or covered by fleet rates. The determining factor for inclusion under fleet coverage must be ownership and not management or use.

Ins 3.03 Automobile policies, coverage extended. In accordance with the opinion of the attorney-general dated June 17, 1930, [19 Atty. Gen. 309] it is held to be unlawful to issue an automobile liability and property damage policy, other than a policy covering a public automobile garage or an automobile repair shop, sales agency, service station and/or the agents or employes thereof, to which is attached a "Named Driver" or "Owner Driven Only" endorsement or any other form of endorsement which would limit the protection contrary to the provisions of section 204.30(3), Wis. Stats., which makes the omnibus coverage provision mandatory for all companies.

Ins 3.04 Dividends not deducted from premiums in computing loss reserves. Premiums returned to policyholders as dividends may not be deducted from the earned premiums in computing loss reserves under section 204.28, Wis. Stats.

Ins 3.05 Automobile policies, policy provisions. (1) All automobile liability policies issued or delivered in the state of Wisconsin are subject to provisions of sections 204.30, 204.34, 85.93, and 260.11, Wis. Stats.

(2) (a) Many policies now being issued in this state do not contain the provisions required by these statutes, or contain provisions which are inconsistent therewith, such as "no action" clauses postponing the right to bring an action directly against the insurer, or provisions denying coverage to an additional insured on account of injury to a fellow employe of the same employer.

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7

(b) So that the public may be protected, it will be necessary that each company doing an automobile liability insurance business in Wisconsin subscribe to the agreement below over signature of an officer of the company.

Agreement

This is to certify that the undersigned company will construe its automobile liability insurance policies as conforming to the applicable statutes and will adhere to the statutory provisions in handling claims and will notify its agents, adjusters, and attorneys accordingly.

(c) The use of any policy not strictly complying with the statutes by a company not certifying as herein provided will be considered a deliberate and intentional violation of the Wisconsin Statutes.

Ins 3.06 Automobile policies, endorsements invalid. (1) All automobile liability policies, including endorsements attached thereto, issued or delivered in the state of Wisconsin are subject to provisions of sections 204.30 and 204.34, Wis. Stats.

Sections 204.34 (1) and 204.30 (3), Wis. Stats., prohibit the issuance of any automobile liability insurance policy which excludes from the coverage:

Persons who are of an age authorized by law to drive.

Motor vehicles if used for unlawful purposes.

Persons under the influence of intoxicating liquors or narcotics.

Motor vehicles when engaged in transportation of liquor in violation of law.

Motor vehicles operated in a reckless manner.

The Named Insured.

Persons and organizations responsible for the operation of the automobile, if the automobile is used for the purposes and in the manner described in the policy, and if the automobile is operated or used with proper permission.

Companies, therefore, are prohibited, by virtue of the above described statutes, from contracting with the insured for less coverage than that demanded by the statutes. All endorsements which conflict with the foregoing requirement are invalid and, therefore, unenforceable.

Note: You may wish to refer to Olander vs. Klapprote, 263 Wis. 463, 57 N.W. 2nd 734.

(2) Some companies, in the general exclusions, exclude coverage with respect to any obligation arising from injuries suffered by any person who is the named insured. The Wisconsin Supreme Court has declared this to be a valid limitation upon coverage, hence the statements contained in this rule are not to be construed as attacking the validity of such exclusions.

(3) (a) The final effect is that all reimbursement provisions which have limitations in violation of the statutes should be discontinued. The most widely used reimbursement endorsements are the "More Automobiles Than Operators" and the "Named Driver."

(b) The reimbursement clause included in the policy in connection with insurance with respect to financial responsibility laws is authorized by reason of sections 85.09 (21)(h) and 85.09 (23) (a), Wis. Stats., and is not in conflict with the statutes first above described.