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COMMISSIONER



STATE OF DELAWARE
DEPARTMENT OF INSURANCE

AUTO BULLETIN NO. 31

TO: ALL INSURERS WRITING AUTOMOBILE INSURANCE COVERAGE IN DELAWARE, AND THEIR BROKERS AND AGENTS

RE: AUTO INSURANCE FOR ARMED SERVICE MEMBERS – CHARGING A “PATRIOT PENALTY” IS ILLEGAL IN DELAWARE

DATED: February 18, 2020

This Bulletin reminds automobile insurers, brokers and agents that since June 30, 2008, it has been illegal in Delaware to charge a higher premium for automobile insurance to a member of the armed services or that member's spouse due to a break in coverage that is caused by overseas deployment (the “Patriot penalty”). This protection is codified in the Delaware Insurance Code at 18 *Del. C.* § 3917, “Military deployment as a factor in automobile insurance rates,” which provides:

(a) An insurer shall not use a lapse in an insured's automobile insurance coverage as a factor in determining a new automobile insurance policy rate if the lapse was due to the cancellation or nonrenewal of the policy by the insurer, or by the insured's failure to pay the policy renewal premium, during or within 48 hours of the insured's deployment outside the continental United States as a member of the military, military reserve, or National Guard. An insurer may require the insured to provide reasonable documentation to verify the insured's deployment.

(b) The spouse of an insured protected by subsection (a) of this section shall be similarly protected if that spouse accompanies the insured on the deployment.

Section 3917 was added to the Insurance Code “in response to the discovery that a member of the military who was deployed in Iraq for over a year and who had cancelled his car insurance policy while he was gone, was faced with much higher car insurance premiums when he came back because of that break in his coverage.” See S.B. 27 Synopsis, 144th General Assembly (2007 - 2008).

Additionally, 18 *Del. C.* § 8305, “Use of credit information in personal insurance,” requires insurers that use credit information in rating to “provide reasonable exceptions to insurer's rates, classifications, company or tier placement on the basis of . . . military deployment overseas.” See 18 *Del. C.* § 8305(a)(7).

Accordingly, assessing a “Patriot penalty” is illegal in Delaware and is punishable to the full extent allowed under the Delaware Insurance Code.

Questions concerning Auto Bulletin No. 31 should be emailed to consumer@delaware.gov.

This Bulletin shall be effective immediately and shall remain in effect unless withdrawn or superseded by subsequent law, regulation or bulletin.

Trinidad Navarro
Delaware Insurance Commissioner

NOTE: This Bulletin is intended solely for informational purposes. It is not intended to set forth legal rights, duties, or privileges, nor is it intended to provide legal advice. Readers should consult applicable statutes and rules and contact the Delaware Department of Insurance if additional information is needed.

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