

SPECIAL REPORT

EXCLUSION OF DRIVERS UNDER A MICHIGAN AUTOMOBILE INSURANCE POLICY

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Insurance companies often exclude drivers from personal and commercial insurance policies. The insurance companies will typically use an ISO type form indicating the following:

We will not be liable for any accidents or losses while the covered auto was driven by: _____.

The problem with this language is that it does not meet the requirements of MCLA 500.3009 as indicated below.

THE INSURANCE CODE OF 1950 (EXCERPT)
Act 218 of 1956

500.3009 Motor vehicle liability policy; minimum coverage; exclusion of named person; notice; documentary evidence of deleted coverages.

Sec. 3009.

(1)An automobile liability or motor vehicle liability policy insuring against loss resulting from liability imposed by law for property damage, bodily injury, or death suffered by any person arising out of the ownership, maintenance, or use of a motor vehicle shall not be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless the liability coverage is subject to a limit, exclusive of interest and costs, of not less than \$20,000.00 because of bodily injury to or death of 1 person in any 1 accident, and subject to that limit for 1 person, to a limit of not less than \$40,000.00 because bodily injury to or death of 2 or more persons in any 1 accident,

and to a limit of not less than \$10,000.00 because of injury to or destruction of property of others in any incident.

(2) If authorized by the insured, automobile liability or motor vehicle liability coverage may be excluded when a vehicle is operated by a named person. Such exclusion shall not be valid unless the following notice is on the face of the policy or the declarations page or certificate of the policy and on the certificate of insurance:

Warning – when a named excluded person operates a vehicle all liability coverage is void – no one is insured. Owners of the vehicle and others legally responsible for the acts of the named excluded person remain fully personally liable.

(3) If an insurer deletes coverage from an automobile policy, the insurer shall send documentary evidence of the deletion to the insured.

Note the language in paragraph (2):

Such exclusion shall not be valid unless the following notice is on the face of the policy or the declarations page or certificate of the policy and on the certificate of insurance:

Warning – when a named excluded person operates a vehicle all liability coverage is void – no one is insured. Owners of the vehicle and others legally responsible for the acts of the named excluded person remain fully personally liable.

Also note the requirement in paragraph (3):

(3) If an insurer deletes coverage from an automobile policy, the insurer shall send documentary evidence of the deletion to the insured.

In looking at the definitions under a business automobile coverage form, there is a distinction between “insured” and “named insured.” Taken literally, the statute requires that you send documentary evidence to the person who has been excluded at a minimum. From what I can see, insurance companies are not complying with the provisions of the statute pertaining to driver exclusions, and the named driver exclusion is not valid.

SUMMARY

In order for the exclusion to be valid, there must be the statutory notice indicated on the face of the policy, the declarations page or the certificate of the policy and on the certificate of insurance. Furthermore, documentary evidence of the deletion shall be sent to the “insured.”

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