



THE SURPLUS LINE ASSOCIATION
OF CALIFORNIA

388 MARKET STREET
SAN FRANCISCO, CA 94111

ARTHUR D. FREEMAN, JR.
MANAGER

JAMES S. PUGH
ASSISTANT MANAGER

TELEPHONE
(415) 434-4900
FAX
(415) 434-3716
TELEX
988719 SLACA

August 30, 1990

Bulletin #452

BULLETIN TO ALL MEMBERS:

Re: Exportability of Private Passenger Minimum Liability Coverage
Required by Vehicle Code Section 16056.

We have been requested by the Department of Insurance to advise our Surplus Line brokers and Special Lines Surplus Line brokers about the exportability of private passenger minimum liability coverage. Enclosed is a copy of a letter from the Department of Insurance dated August 29, 1990. Further, please note the Department has instructed this Association to reject any filing with an inception date of September 15, 1990 and report the placing broker to the Department.

Very truly yours,

A. D. Freeman, Jr.
Manager

ADF:jkv

Enclosure

DEPARTMENT OF INSURANCE

100 VAN NESS AVENUE
SAN FRANCISCO, CA 94102



August 29, 1990

Mr. Art Freeman
Surplus Line Association
388 Market Street, Suite 1150
San Francisco, CA 94111

SUBJECT: Exportability of Private Passenger Automobile Minimum Liability
Coverage Required by Vehicle Code Section 16056

Dear Mr. Freeman:

This letter is written to clarify Insurance Code §1763 after the passage of Proposition 103 and recent California Automobile Assigned Risk ("CAARP") developments. The Insurance Code provides that insurance cannot be procured on a surplus line basis if it is already procurable from the admitted market. Insurance Code §1861.02(b)(1) enacted by Proposition 103 mandates that an insurer shall not refuse to offer and sell a Good Driver Discount policy to any person who meets the standards set forth for such drivers. All admitted insurers writing automobile liability insurance must write good driver discount policies. Since all such insurers must write this coverage, it is therefore procurable.

The specific coverage referred to as a Good Driver Discount policy was defined by the Commissioner in Regulation 2632.14.1, File No. ER6. Regulation 2632.14.1 states that such policy shall contain the automobile minimum liability limits of coverage required by Vehicle Code Section 16056 (copy attached) (hereinafter referred to as minimum liability limits or minimum liability coverage). Good driver private passenger automobile minimum liability coverage is therefore not exportable because it is mandated by law to be written by all admitted insurers writing automobile liability insurance in California.

As for all other drivers, CAARP ensures that they will obtain private passenger automobile minimum liability coverage if rejected by the admitted market (with limited exceptions; see California Code of Regulations Section 2430). Insurance Code §11622 states that CAARP will provide adequate protection against liability as required by law. CAARP provides the private passenger automobile minimum liability coverage required by Vehicle Code Section 16056. Therefore, private passenger automobile minimum liability coverage is not exportable because it is procurable through CAARP.

Based on the above, coverage for private passenger automobile minimum liability limits alone would clearly not be exportable. In addition, the minimum liability limits portion of any private passenger automobile coverage cannot be exported because that part is procurable from the admitted market. Insurance Code Section 1763 states that only "such part of the insurance as cannot be so procured may be procured from nonadmitted insurers."

Mr. Art Freeman
August 29, 1990
Page 2

Practically speaking, this means that a surplus line broker cannot export coverage for private passenger automobile minimum liability limits by combining such coverage with comprehensive and/or collision coverage because the minimum liability limits portion is available. Similarly, private passenger automobile coverage for liability limits higher than, but including, minimum liability limits cannot be exported because the minimum liability limits portion is available. The broker must break up the coverage and place the minimum liability limits in the admitted market. Such breakup and division is not an artificial division and is in accord with California Code of Regulations Sections 2136, 2155, 2156 and 2166. The exportability of coverages other than minimum liability coverage is determined as always on availability per Insurance Code Section 1763.

We also wish to remind your members that exportation of any risk, automobile liability or otherwise, for a lower rate is strictly prohibited by Insurance Code §1763.

Please advise your membership on this exportability issue. Furthermore, we instruct you to reject any filing with an inception date on or after September 15, 1990 which places private passenger automobile minimum liability coverage in a nonadmitted carrier. The Association should report the placing broker on such filing to the Department so that we may take appropriate action. Any surplus line broker which places private passenger automobile minimum liability coverage in a nonadmitted carrier in violation of Insurance Code Section 1763 is guilty of a misdemeanor (Insurance Code §1760.5(d)) and can be punished under Insurance Code Section 1764.7(f) by suspension or revocation of his/her license.

If you have any questions, please contact me.

Sincerely,



FERMIN J. RAMOS
Assistant Commissioner and Chief Counsel
(415) 557-1765

FJR:lsh

cc: Commissioner Gillespie
Ray Bacon
Patricia Staggs
Carol A. Fistler

§ 16056. Requirements of policy or bond

(a) No policy or bond shall be effective under Section 16054 unless issued by an insurance company or surety company authorized to do business in this state, except as provided in subdivision (b) of this section, nor unless the policy or bond is subject, if the accident has resulted in bodily injury or death, to a limit, exclusive of interest and costs, of not less than fifteen thousand dollars (\$15,000) because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, to a limit of not less than thirty thousand dollars (\$30,000) because of bodily injury to or death of two or more persons in any one accident, and, if the accident has resulted in injury to, or destruction of property, to a limit of not less than five thousand dollars (\$5,000) because of injury to or destruction of property of others in any one accident.

(b) No policy or bond shall be effective under Section 16054 with respect to any vehicle which was not registered in this state or was a vehicle which was registered elsewhere than in this state at the effective date of the policy or bond or the most recent renewal thereof, unless the insurance company or surety company issuing the policy or bond is authorized to do business in this state, or if the company is not authorized to do business in this state, unless it executes a power of attorney authorizing the department to accept service on its behalf of notice or process in any action upon the policy or bond arising out of an accident mentioned in subdivision (a).

(Added by Stats.1974, c. 1409, p. 3099, § 8.)