

Subchapter A. Automobile Insurance
Division 3. Miscellaneous Interpretations
28 TAC §5.205

INTRODUCTION. The commissioner of insurance adopts amendments to 28 TAC §5.205, concerning the Motor Vehicle Crime Prevention Authority (MVCPA) pass-through fee. The amendments are adopted with changes to the proposed text published in the August 16, 2024, issue of the *Texas Register* (49 TexReg 6146). The section was revised in response to public comment.

REASONED JUSTIFICATION. The amendments to §5.205 are necessary to implement Senate Bill 224, 88th Legislature, 2023, which amended Transportation Code §1006.153 to increase the MVCPA fee amount from \$4 to \$5 to help fund the detection and prevention of catalytic converter thefts. The amendments replace the \$4 fee amount and update the language in the notice that insurers must provide to policyholders when recouping the MVCPA fee.

To provide adequate time for insurers to update the notice as required under subsection (b), the changes made to §5.205 will become effective on April 30, 2025.

Descriptions of the section's adopted amendments follow.

Section 5.205. The amendments to subsection (a) remove the \$4 fee amount. Instead of replacing the \$4 fee amount with the updated \$5 fee, the adopted text states that the insurer must pay the MVCPA fee as set by Transportation Code §1006.153(b). This change removes the need to update the fee amount if it is changed in the statute in the future.

Subsection (b) updates the notice that an insurer must provide to a policyholder when the insurer seeks to recoup the MVCPA fee, adding that the detection and prevention of catalytic converter thefts is an activity that the MVCPA fee helps to fund.

Existing subsections (c) and (d) are removed because they contained instructions for updating and filing the notice that were based on a previous amendment. Insurers should have already made these updates to the notice required under subsection (b), making these subsections unnecessary.

As proposed, a new subsection (c) would have added a requirement that insurers file a new or revised notice with TDI and clarified that insurers did not need to include the actual fee amount in the filed notice. In response to a comment, the commissioner declines to adopt proposed subsection (c). Insurers are not required to file the new or revised notice unless the amended language appears on a policy form, endorsement, or declarations page that must be filed for approval under Insurance Code Chapter 2301.

SUMMARY OF COMMENTS AND AGENCY RESPONSE. TDI provided an opportunity for public comment on the rule proposal for a period that ended on September 16, 2024.

Commenter: TDI received one comment from American Property Casualty Insurance Association opposing the requirement to file another new or revised notice with TDI.

Comment on §5.205

Comment. A commenter says that the addition in subsection (c) requiring insurers to file a new or revised notice with TDI is unnecessary and burdensome and will require substantial costs that will ultimately be shifted to Texas consumers.

Agency Response. Although the updated notice language is important to promote transparency and ensure policyholders are sufficiently informed, TDI agrees to remove

subsection (c). Insurers must still update the notice to reflect the requirements in §5.205 but do not need to file the amended notice with TDI. However, if the notice language appears on a declarations page, policy form, or endorsement, the insurer must file the amended form for approval according to Insurance Code Chapter 2301.

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STATUTORY AUTHORITY. The commissioner adopts the amendments to 28 TAC §5.205 under Transportation Code §1006.153 and Insurance Code §36.001.

Transportation Code §1006.153 provides that an insurer pay to the MVCPA a fee equal to \$5 multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer.

Insurance Code §36.001 provides that the commissioner may adopt any rules necessary and appropriate to implement the powers and duties of TDI under the Insurance Code and other laws of this state.

TEXT.

§5.205. Motor Vehicle Crime Prevention Authority Pass-Through Fee.

(a) Each insurer must pay a fee per "motor vehicle year of insurance" to the Motor Vehicle Crime Prevention Authority, as set by Transportation Code §1006.153(b), concerning Fee Imposed on Insurer. The insurer is authorized to recoup some or all of this fee from the policyholder.

(b) If an insurer recoups the fee from the policyholder under subsection (a) of this section, the insurer must:

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(1) provide the policyholder with a notice using the following or similar language, in at least 10-point type: "Your payment includes a [\$_____] fee per vehicle each year. This fee helps fund (1) auto burglary, theft, and fraud prevention; (2) criminal justice efforts; (3) trauma care and emergency medical services for victims of accidents due to traffic offenses; and (4) the detection and prevention of catalytic converter thefts. By law, this fee funds the Motor Vehicle Crime Prevention Authority.";

(2) include the notice on or with each motor vehicle insurance policy, as defined in 43 TAC §57.48 (relating to Motor Vehicle Years of Insurance Calculations), that is delivered, issued for delivery, or renewed in this state, including those policies issued through the Texas Automobile Insurance Plan Association; and

(3) if the notice language required by paragraph (1) of this subsection is provided somewhere other than the declarations page, renewal certificate, or billing, also include the following or similar language on the declarations page of the policy, renewal certificate, or billing: "Motor Vehicle Crime Prevention Authority Fee [\$_____] (See enclosed explanation)."

CERTIFICATION. The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Issued at Austin, Texas, on _____.


Signed by:
Jessica Barta
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Jessica Barta, General Counsel
Texas Department of Insurance

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The amendments to 28 TAC §5.205 are adopted.

Signed by:

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Cassie Brown
Commissioner of Insurance

Commissioner's Order No. 2025-9112