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Revised bulletin on the definition of "Fleet"

FSRA is actively reviewing all FSCO regulatory direction, including but not limited to forms, guidelines and FAQs.

Until FSRA issues new regulatory direction, all existing regulatory direction remains in force.



Bulletin

No. A-12/00
- Auto
Property & Casualty

To the attention of all insurance companies licensed to transact automobile insurance in Ontario

In 1998, the Financial Services Commission of Ontario (FSCO) issued Bulletin No. A-11/98 about the definition of a fleet. As a result of the publication of that bulletin, FSCO has received a number of inquiries. This Bulletin supersedes the earlier bulletin and provides clarification on the fleet definition.

Regulation 664

The following terminology, commonly referred to as the fleet definition, is found in both section 4 and section 15 of Regulation 664, as amended:

contracts of automobile insurance that insure groups of at least five vehicles that are under common ownership or management and that are used for business, commercial or public purposes

Section 4 of Regulation 664 exempts insurers from the minimum period of notice of cancellation or variation under section 236 of the *Insurance Act* (the Act) for contracts of automobile insurance that satisfy the fleet definition.

Section 15 of Regulation 664 exempts insurers from having to comply with the rate and risk classification approval process under sections 410 to 417 of the Act for contracts of automobile insurance that satisfy the fleet definition.

Leasing situations

One area where there has been inconsistent application by the industry of the exemption for fleets in

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section 15, concerns leased vehicles. This was not specifically addressed in Bulletin No. A-11/98, though it has been the subject of various bulletins dating back to 1960. Given that long-term leasing of private passenger automobiles has become much more prevalent in the last ten years, there is a need at this time to reinforce the treatment of leased vehicles in relation to fleet discounts and/or rates.

The position of the Ontario insurance regulator has been and remains that in the majority of situations, a fleet rate is not available for two or more vehicles owned and registered in the name of the same person where the owner is engaged in the business of long-term leasing unless the vehicles are leased to the same lessee. This view is based on recognition that individual lessees should be treated in the same manner as all other individual car owners. For many, leasing is merely an alternative to buying. Lessees of vehicles are entitled to the same regulatory protection as owners of vehicles. Moreover, the fleet concept implies that there is some common control of vehicles or affinity between the vehicles in a group. Aside from some groups of leased commercial vehicles, individual lessees have no such affinity or common management.

A valid fleet could be created by a lessee of vehicles, provided there are five or more vehicles, whether owned or leased, that are used by the lessee for business, commercial or public purposes.

Common Management

One of the elements in the fleet definition is common management. Common management is an element that is required in order for a group of vehicles to be considered a fleet, if they are not commonly owned or where they are owned by a leasing company.

There has been some misunderstanding about the meaning of this term. It refers to the fact that the owner or manager has a measure of control over the vehicles. A fleet is typically a discrete risk exposure whose experience and characteristics can be monitored and rated, and is affected by the actions of the owner or manager. The vehicles in a fleet are not individually rated as this is inconsistent with a key principle in fleet rating to establish a rate specific to the experience of the fleet. Usually, the manager of a fleet will implement rigorous risk management programs to monitor and improve experience and rating.

Personal Use Vehicles

A contract of insurance that insures a fleet may insure some personal use vehicles, provided the other parts of the definition are satisfied, i.e. there are five or more vehicles that are under common ownership or management and that are used for business, commercial or public purposes. It is not uncommon, for example, for a business to insure as part of the fleet a few personal use vehicles that are owned or leased by the business, and provided for the personal use of the owners or managers.

However, vehicles should not be insured on the same policy as a fleet, where there is no insurable interest in the vehicle by the policyholder. For example, a vehicle personally owned by an employee, or the spouse of an employee of a business, may not be included in the policy insuring the fleet of vehicles owned by the business.

Contact

Should you have any inquiries regarding this Bulletin, please contact your rate analyst in the Automobile Insurance Analysis Division at FSCO.

Dina Palozzi
Chief Executive Officer and
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December 6, 2000

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