

New York State

**MANDATORY UNDERWRITING INSPECTION REQUIREMENTS FOR
PRIVATE
PASSENGER AUTOMOBILES**

PART 67: (Regulation 79)

(Statutory authority: Insurance Law, §§ 21, 63, 167.d, 201, 301, 3411, 5303)

Section

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Historical Note

Part (§§ 67.0-67.8) filed Oct. 7, 1977: repealed. new filed April 15, 1982 eff. June 1, 1982.

Section 67.0 Preamble

- (a) Section 167-d, now Section 3411 of the Insurance Law, which was added by chapter 892 of the Laws of 1977, contains inspection requirements applicable to the issuance and renewal of automobile physical damage coverage effective, on and after December 1, 1977.
- (b) It shall be the responsibility of every insurer which issues and delivers automobile physical damage insurance in this State and of the New York automobile insurance plan ("the plan") to establish and maintain inspection procedures which fully comply with Section 3411, as implemented by the provisions of this Part. On or before December 1, 1977, each such insurer and the plan shall file with the Superintendent of Insurance, for his review, a statement describing in detail its plan of operation for establishing and adequately maintaining an inspection system. Any amendments to the plan of operation shall take effect upon filing with the superintendent. Failure to adhere to the provisions of Section 3411 and this Part shall subject the violator to the penalty provisions of the Insurance Law, including Section 3411(n).

Historical Note

Sec. filed Oct 7, 1977: repealed. new filed April 15, 1982: amd. filed Jan. 31. 1986 eff. Feb 1. 1986. Amended (a) and (b)

67.1 Definitions

The following shall govern the construction of the terms used in this Part:

- (a) Private passenger automobile shall be defined as all owned or leased 4-wheeled motor vehicles including: station wagons, jeep-type vehicles, pick-up trucks, panel trucks, delivery sedans and vans, except vehicles weighing more than 6,500 pounds unloaded. This definition shall apply solely to the mandatory inspection requirement for private passenger automobiles contained in Section 3411 of the Insurance Law.
- (b) Insured means the named insured (as defined in the policy) or an applicant for automobile physical damage insurance.
- (c) Automobile physical damage insurance means a policy providing one or more of the following insurance coverages:
 - (i) collision;
 - (i) comprehensive;
 - (i) fire or theft
- (d) Nonowned automobile means a private passenger automobile in the possession of the insured or being operated by the insured which is neither owned by nor

furnished for the regular use of either the named insured or any relative (as defined in the policy), other than a temporary substitute automobile.

- (e) Temporary substitute automobile means any private passenger automobile, not owned by the named insured, while temporarily used with the permission of the owner as a substitute for the owned automobile, when the latter is withdrawn from normal use because of breakdown, repair, servicing, loss or destruction.
- (f) Certificate of mailing means a notice by regular mail, with a certificate of mailing, properly endorsed by the United States Postal Service.
- (g) Inspection service means any person or legal entity registered with the Insurance Department to perform the inspections required by this Part. Such inspections service shall maintain a record of the name, address and signature of all persons authorized by such service to perform the required inspection prior to such person performing any inspection pursuant to this Part.
- (h) Authorized representative means, in this State, any person, legal entity or inspection service, other than the insured, licensed or registered in any capacity by the New York Insurance Department or, outside of this State, any person or legal entity, other than the insured, licensed or registered by the insurance department of the state in which the inspection will be conducted. All authorized representatives must be designated in writing by the insurer. The competency and trustworthiness of the authorized representative in the conduct of the inspection provided for in this Part shall be the responsibility of the insurer.
- (i) Book of business means all automobile insurance written by one producer with one insurer.

Historical Note

Sec. filed Oct 7, 1977: amd. filed June 26, 1980: repealed. new filed April 15, 1982: amd. filed Jan. 31, 1986 eff. Feb.1, 1986. Amended (a).

67.2 Mandatory inspection requirements for private passenger automobiles insured under a new policy or endorsement or insured as an additional or replacement vehicle effective, on or after December 1, 1977.

- (a) No new policy or endorsement insuring a private passenger automobile shall be issued in this State to provide coverage for automobile physical damage unless the insurer has inspected the automobile.
- (b) Automobile physical damage coverage shall not be effective on an additional or replacement private passenger automobile until the insurer has inspected the automobile.

Historical Note

Sec. filed Oct 7, 1977: repealed. new filed April 15, 1982 eff. June 1, 1982.

67.3 Waivers of mandatory inspection

- (a) An insurer shall waive or dispense with a mandatory inspection of:
 - (1) a temporary substitute automobile; and
 - (2) an automobile, which is leased for less than six months, provided the insurer receives the lease or rental agreement containing a description of the leased automobile including its condition. Payment of a physical damage loss shall be conditioned upon receipt of the lease or rental agreement.

- (b) An insurer may waive or dispense with a mandatory inspection under any of the following circumstances:
 - (1) During calendar year 1982, all 1975 and older model year vehicles. On January 1, 1983, and on each January 1st thereafter, the applicable model year shall be moved forward by one year. For example: in 1982 an insurer must inspect 1976 and newer model year vehicles and in 1983 an insurer must inspect 1977 and newer model year vehicles. An insurer may, in its filed plan of operation, elect to inspect specific vehicles included within this waiver. Such exceptions to this optional waiver must be based on underwriting criteria uniformly applied.
 - (2) Where a new, unused automobile is purchased or leased from a franchised automobile dealership and the insurer is provided with either a copy of the bill of sale which contains a full description of such automobile, including all options and accessories, or a copy of the lease or MV-50 form, provided by the Department of Motor Vehicles, which establishes transfer of ownership from the dealer to the customer and a copy of the window sticker or advanced dealer shipping notice (invoice) showing the itemized options and equipment in addition to the total retail price of the vehicle on which will be added any dealer installed options installed on the vehicle at the time of sale or lease. The physical damage coverage on such new, unused automobile shall not be suspended during the term of the policy due to the insured's failure to provide the required document(s). Payment of a claim shall be conditioned upon receipt of the insurer of such document(s) and no physical damage loss occurring after the effective date of coverage shall be payable until the document(s) are provided to the insurer. If the above document(s) are not submitted by the insured 60 days prior to the annual renewal date, the insurer upon renewal of the automobile physical damage insurance must require a physical

inspection, pursuant to the provisions of Section 67.7, of this Part.

- (3) For an additional and/or replacement vehicle, where the named insured has been continuously insured for automobile insurance, with the same insurer, or affiliate, for four or more policy years. An insurer may, in its filed plan of operation, elect to inspect specified vehicles included within this waiver. Such exceptions to this optional waiver must be based on underwriting criteria uniformly applied.
- (4) Where a nonowned automobile is insured under a policy providing automobile physical damage insurance issued by an insurer, which has inspected such automobile in accordance with the provisions of this Part.
- (5) Where the insured automobile is insured under a commercially rated policy, which insures five or more motor vehicles.
- (6) Where a producer is transferring a book of business from one insurer to other insurer(s).
- (7) When an individual insured's coverage is being transferred by an independent insurance agent (as defined in Section 2101(b) of the Insurance Law) to a new insurer and said agent provides the new insurer with a copy of the inspection report completed on behalf of the previous insurer, provided the independent agent represents both insurers, and the insured vehicle was physically inspected by the previous insurer.
- (8) When one insurer has agreed to accept the majority of another insurer's book of automobile physical damage insurance written in New York State and an individual insured has elected to transfer coverage to the new insurer from the previous insurer, which had inspected the insured automobile in accordance with the provisions of this Part, provided that the previous insurer supplies the new insurer with a copy of the inspection report that was completed on its behalf.
- (9) Where an individual insured's coverage is being voluntarily written by an insurer in accordance with a program, approved by the superintendent, that is designed to reduce the number of persons insured pursuant to the provisions of Article 53 of the Insurance Law, provided that the insured vehicle was physically inspected by the insurer assigned by the New York Automobile Insurance Plan (NYAIP) and that such insurer supplies the new insurer with a copy of the inspection report that was completed on its behalf. Such coverage must be effective with the new insurer immediately after the termination of the coverage with the insurer assigned by the NYAIP.

- (10) Where an insurer has agreed to write an individual insured's coverage, which is otherwise terminating with another insurer under common control or ownership with the terminating insurer and where the terminating insurer had inspected the insured motor vehicle in accordance with the provisions of this Part.
- (c) If a mandatory inspection is waived pursuant to paragraph (7), (8), (9) or (10) of this subdivision and if the new insurer does not receive a copy of the inspection report 60 days prior to the first annual renewal date, the insurer, upon renewal of the automobile physical damage insurance, must be a physical inspection pursuant to the provisions of Section 67.7 of this Part.

Historical Note

Sec. filed Oct. 7, 1977. amd. filed Jan. 31, 1978: repealed. new filed April 15, 1982: amd. filed March 17, 1988 eff. April 15, 1988. Amended (b). Amended January 21, 1997, eff. February 5, 1997, added par. 8,9, 10 and (c).

67.4 Deferral of mandatory inspections: standards for deferrals.

- (a) Upon an insured's request for coverage for automobile physical damage insurance on an additional or replacement vehicle the insurer shall provide coverage immediately and shall defer the mandatory inspection for the five calendar days following the effective date of coverage, if the insurer is required, pursuant to Section 3425 of the Insurance Law, to provide automobile physical damage coverage on an additional or replacement automobile.
- (b) An insurer may defer the mandatory inspection under any of the following circumstances:
- (1) On new business for five calendar days following the effective date of coverage.
 - (2) On replacement vehicles, an insurer may provide the same type of level of physical damage coverage, which covered the replaced automobile, without a request for coverage by the insured. Such automatic coverage prior to the insured's request for coverage shall be for a period of three days, including the day on which the automobile is acquired. The three-day period shall be extended by one day for each Saturday, Sunday, or any New York State legal holiday falling within the period. The insurer's election shall apply only to automobiles replacing covered automobiles which were insured by the insurer for physical damage coverage for at least the 12-month period preceding the replacement date and must apply to all private passenger automobile insurance, including New York automobile insurance plan policies, written by such insurer. An insurer,

which makes an election pursuant to this clause, shall file an appropriate policy endorsement with the superintendent and furnish a copy of such endorsement to all of its insureds that have physical damage coverage.

- (c) (1) For inspection of new business for which the five-day deferral has been granted, and for additions and replacements, to an existing policy, unless the inspection and the inspection report form are completed immediately upon the request for coverage, an insurer shall either immediately confirm physical damage coverage and remind the insured of the inspection requirement on a prescribed confirmation letter or immediately obtain the prescribed acknowledgements signed by the insured (applicant). Insurers must use the prescribed CONFIRMATION OF PHYSICAL DAMAGE COVERAGE--NOTICE OF MANDATORY PHOTO INSPECTION REQUIREMENT letter (NYS APD form B), with a copy thereof to the producer of record, or the prescribed ACKNOWLEDGEMENT OF REQUIREMENT FOR PHOTO INSPECTION (NYS APD form D), contained in Section 67.11 of this Part. A copy of the notice (form B) addressed to the insured, and Certificate of Mailing thereof, or the completed acknowledgement (form D) shall be retained by the insurer in the insured's policy record. The insurer shall, at the time coverage is effected, furnish the insured with an inspection site where the inspection can be conducted during the five calendar day period. The location of an inspection site or sites and the consequences of the insured's failure to obtain a timely inspection shall be furnished immediately to the insured either in person or by telephone. Documentation of such verbal notice, including name of the person giving the notice and the identity of the sites(s) provided must be contained in the insured's policy record.
- (2) When an insurer does not grant a deferral for new business as permitted by Section 67.4(b)(1) of this Part, it shall arrange for the inspection to take place within five calendar days after the request for coverage. The insurer shall, at the time coverage requested, furnish the insured with an inspection site where the inspection can be conducted during the five calendar day period. The location of an inspection site or sites and the consequences of the insured's failure to obtain a timely inspection shall be furnished immediately to the insured either in person or by telephone. Documentation of such verbal notice, including the name of the person giving the notice and the identity of the site(s) provided must be contained in the insured's policy record.

Historical Note

Sec. filed Oct. 7, 1977: amds. filed Dec. 30, 1977; Jan 31, 1978: March 3, 1980: repealed. new filed April 15, 1982 amd. filed Jan. 31, 1986 eff. Feb. 1, 1986. Amended (a).

67.5 Standards for inspection

- (a) Inspections required or permitted pursuant to this Part shall be made by a designated authorized representative of the insurer at a time and place reasonably convenient to the insured. A reasonably convenient time shall include, in addition to customary business hours, sufficient early morning, evening and weekend hours. In a city with a population of 100,000 or more and in Westchester County, Nassau County, Suffolk County and New York City, a reasonably convenient place shall not be more than 10 miles from the place where the automobile is principally garaged. In all other areas, a reasonably convenient place shall not be more than 25 miles from the place where the automobile is principally garaged.
- (b) If the insured acquires an additional or replacement automobile outside of New York State, and such automobile will be located outside New York State until after the expiration of the deferral period permitted by this Part, the insurer shall arrange to conduct the inspection by an authorized representative during the deferral period at a place which shall not be more than 50 miles from the temporary location.
- (c) (1) Any inspection authorization forms issued by the insurer to the insured, for presentation to the inspector, shall not contain the vehicle identification number (VIN) of the vehicle to be inspected.

(2) The inspection shall be recorded on the prescribed AUTOMOBILE INSURANCE INSPECTION REPORT (NYS APD form A), contained in Section 67.11 of this Part. Two color photographs, taken as directed on the inspection report, shall be attached thereto. In addition, a color photograph must be attached showing a close-up (using a special camera attachment if necessary), of the Environmental Protection Agency (EPA) sticker, located on the driver's side doorjamb. The photograph must be of sufficient clarity that the information contained on the EPA sticker is legible. The inspection may take additional photographs showing any damaged areas, which shall also be attached to the report. The report and photographs shall be retained by the insurer in the insured's policy record for six year from the date of inspection, except as provided in subdivision (f) of this section. A copy of the report, without photographs, shall be given to the insured by the insurer.
- (d) There shall be no charge to the insured for the cost of any inspection.
- (e) The competency and trustworthiness of the inspector in the conduct of the inspections provided for in this Part shall be the responsibility of the insurer.
- (f) An insurer shall utilize authorized representatives or inspection services, who shall:

- (1) verify the accuracy, completeness and signature of the inspector for each inspection report in writing;
 - (2) utilize sequentially numbered inspection reports and maintain a control system on such reports;
 - (3) retain and supply to an insurer, upon request, a copy of any inspection report which was completed within three years of the date of inspection and;
 - (4) provide an optional service, on an additional fee basis, to insurers whereby the inspection reports, including photos, are retained by the authorized representative or inspection service. In addition, the authorized representative or inspection service shall:
 - i. maintain original inspection reports and photographs in such a manner as to facilitate rapid retrieval, and for at least six years from the date of inspection; and
 - ii. upon the request of an insurer, mail or deliver the inspection report to the insurer so that it is received within two business days of such request.
- (g) (1) The inspection report shall be used by the insurer to document previous damage, prior condition, options and mileage of the automobile pursuant to the standards for settlement of automobile physical damage claims prescribed in Section 216.7 of this Title.
- (2) A copy of the inspection report and photographs must be utilized and made a part of the insurer's claim file, in the settlement of all unrecovered theft claims. The inspection report must be part of the claim file regardless of whether or not the loss payment is reduced based on the information contained therein. Such inspection report must come from the insured's policy record.

Historical Note

Sec. filed Oct. 7, 1977: amds. filed: Jan 31, 1978: June 26, 1980: repealed. new filed April 15, 1982. amds. filed: Jan. 31, 1986: March 17, 1988 eff. April 15, 1988. Amended (c)(2).

67.6 Standards for suspensions

- (a) If the mandatory inspection is not conducted prior to the expiration of the five calendar day deferral period specified in Section 67.4 of this Part, automobile physical damage coverage on the automobile shall be suspended at 12:01 a.m., of the day following the fifth calendar day, and such suspension shall continue until

the inspection is effected. The insurer, however, must inspect the automobile and reinstate coverage for automobile physical damage if the insured thereafter requests an inspection. Any such reinstatement shall be effective at the time of the inspection and, for the purpose of Section 167-a or 167-aa of the Insurance Law shall not be considered new business.

- (b) Whenever automobile physical damage coverage is suspended, the insurer shall, between the 20th and 30th calendar day after the effective date of such suspension, mail to the insured, the producer of record, and any lien holders a prescribed CONFIRMATION OF SUSPENSION OF PHYSICAL DAMAGE COVERAGE (NYS APD form C contained in Section 67.11 of this Part). The insurer shall obtain a certificate of mailing of the confirmation to the insured. Whenever there is a suspension of physical damage coverage for more than 10 days, the insurer shall make a pro rata premium adjustment (return premium or credit) which shall be mailed to the insured no later than 45 days after the effective date of the suspension.
- (c) If the automobile is not inspected pursuant to this Part due to the fault of the insurer, or the insurer fails to give the oral notice required by Section 67.4(c) of this Part or mail or deliver the CONFIRMATION OF PHYSICAL DAMAGE COVERAGE—NOTICE OF MANDATORY PHOTO INSPECTION REQUIREMENT (NYS APD form B) or obtain the ACKNOWLEDGEMENT OF REQUIREMENTS FOR PHOTO INSPECTION (NYS APD form D), contained in Section 67.11 of this Part, physical damage coverage on the automobile shall not lapse. The failure of the insurer to act promptly does not relieve it of its obligation to inspect. An insurer's failure to comply with the provisions of subdivision (b) of this section does not restore physical damage coverage, but shall subject the insurer to a penalty pursuant to Section 3411(n) of the Insurance Law.

Historical Note

Sec. filed Oct. 7, 1977: repealed. new filed April 15, 1982: amd. filed Jan. 31, 1986 eff. Feb. 1, 1986. Amended (c).

67.7 Renewal inspection – standards.

- (a) After the mandatory inspection is conducted pursuant to Section 67.2 of this Part, the insurer may require that the insured automobile be reinspected as a condition of any or all, subsequent annual renewals of automobile physical damage coverage.
- (b) Deferral of renewal inspection. An insurer shall continue coverage for automobile physical damage for 30 calendar days after the renewal date if it requires a renewal inspection pursuant to subdivision (a) of this section.

- (c) Whenever a renewal is conditioned upon inspection, the insurer shall mail or deliver a written notice of the inspection requirement to the insured at least 33 days prior to the renewal date. The insured's policy record shall reflect the mailing of such notice. If the insured has not responded to the notice of inspection, the insurer shall at least 10 days prior to the expiration of the above 30-day deferral period, mail a second notice of inspection to the insured, to the producer of record, and any lien holders, restating that failure to have the automobile inspected prior to the expiration of the deferral period will result in suspension of physical damage coverage. A certificate of mailing of the second notice to the insured shall be retained by the insurer. The insurer shall assist the insured in arranging a convenient appointment for the required inspection. The written notice of the inspection requirement shall clearly inform the insured that failure to comply with the inspection requirement will result in the suspension of automobile physical damage coverage. The notice shall also state that a copy of the inspection report will be given to the insured.
- (d) If the insured automobile required to be inspected upon renewal is temporarily located outside of New York State when the required notice of inspection is mailed to the insured, and such automobile will continue to be located outside New York State until the expiration of the deferral period permitted by this Part, the insurer shall arrange to conduct the inspection by an authorized representative before the expiration of the deferral period at a place which shall not be more than 50 miles from the temporary location.
- (e) Suspension of coverage. If the insured fails to have the insured automobile inspected before the expiration of the 30 day calendar deferral period prescribed in subdivision (b) of this section, physical damage coverage on the insured automobile shall be suspended effective at 12:01 a.m. on the day following the last day of the deferral and the suspension shall continue until such inspection is effected. The insurer, however, must reinstate coverage for automobile physical damage if the insured thereafter completes the inspection. Any such reinstatement shall be effective at the time of the inspection and, for the purposes of Section 3425 of the Insurance Law, shall not be considered new business.
- (f) If the insurer fails to mail or deliver the initial written notice of inspection to the insured in the manner specified in the subdivision (c) of this section, it shall, nevertheless, give written notice of the inspection requirement, and automobile physical damage coverage shall continue without the required inspection past the renewal date for up to 33 days from the date of the delayed notice.
- (g) An insurer shall make every effort to conduct a renewal inspection permitted by this Part in advance of the normal inspection period for such risk, in order to mitigate any hardship to the insured, which would otherwise result.

- (h) If an automobile is not inspected pursuant to this Part due to the fault of the insurer, physical damage coverage on the automobile shall not lapse.
- (i) The provisions of Section 67.5(a), (c)-(g) and 67.6(b) of this Part shall also be applicable to renewal inspections.

Historical Note

Sec. filed Oct. 7, 1977; repealed, new filed April 15, 1982; amd. filed Jan. 31, 1986 eff. Feb. 1, 1986. Amended (e).

67.8 Standards for inspection of assignments by the New York automobile insurance plan.

The standards for conducting inspections contained in this Part shall be applicable to new assignments by the plan effective, on or after December 1, 1977, except that the five-calendar-day deferral period for new business provided by Section 67.4(b)(1) of this Part shall be mandatory and not permissive. The plan shall have the same rights and obligations as an insurer to arrange for and complete inspections required by Section 3411 of the Insurance Law and this Part. The plan shall forward the completed prescribed AUTOMOBILE INSURANCE INSPECTION REPORT to the designated insurer, which shall accept and be bound by such inspection. However, the inspection requirement may be waived by the plan only for new, unused vehicles purchased from an authorized dealer in accordance with Section 67.3(b)(2) of this Part.

Historical Note

Sec. filed Oct. 7, 1977; repealed. new filed: Jan. 31, 1978: April 15, 1982: amds. filed: Jan. 31, 1986; March 17, 1988 eff. April 15, 1988.

67.9 Required amendatory endorsements.

- (a) For all policies providing automobile physical damage coverage issued or renewed to be effective, on and after December 1, 1977, insurers may adopt any one of the following procedures:
 - (1) amend the policy by adding thereto the endorsements as set out in subdivisions (c) and (d) of this section, which are hereby deemed approved upon filing with the Insurance Department.
 - (2) submit for Insurance Department approval the insurer's own substantively similar endorsements; or

- (3) submit for Insurance Department approval the insurer's basic policy form incorporating the substance of the endorsement set out in subdivision (c) of this section.
- (b) An insurer, which adopts any of the above procedures, may subsequently submit filings under any of the other procedures.
- (c) New York mandatory inspection endorsement for physical damage coverage. Notwithstanding any conflicting provisions contained in the automobile physical damage coverage of this policy, it is agreed that the following conditions are added:
 - (1) The company or its authorized representative has the right to inspect any private passenger automobile, including a nonowned automobile, insured or intended to be insured under this policy before physical damage coverage shall be effective, except to the extent that this right is prescribed and limited by New York State Insurance Department Regulation No. 79 (11 NYCRR Part 67) implementing Section 3411 of the New York Insurance Law.
 - (2) During the term of the policy coverage for an additional or replacement private passenger automobile shall not become effective until the insured notifies the company and requests coverage for the automobile.
 - (3) When an inspection is required by the company the insured shall cooperate and make the automobile available for inspection.
- (d) New York mandatory automobile repairs endorsement for physical damage. It is agreed that payment of a physical damage loss shall not be conditioned upon the repair of the automobile. However, the company shall be entitled to the following:
 - (1) a completed "Certificate of Automobile Repairs" as prescribed by the New York State Insurance Department;
 - (2) if the automobile is repaired, an itemized repair invoice prepared by the automobile repairer; and
 - (3) an inspection of the automobile, whether or not the automobile is repaired.

Historical Note

Sec. filed Jan. 31, 1978: repealed. new filed April 15, 1982; amd. filed Jan. 31, 1986 eff. Feb. 1, 1986. Amended (c) (1).

67.10 Permissible premium adjustments

- a) The Insurance Department has determined that it is reasonable for insurers to give premium reductions when an inspection made pursuant to this Part discloses that previous damage or prior condition of the automobile would result in a reduction in the amount payable for settlement of an automobile physical damage claim in the event of a total loss. Insurers may file revised premium rates, which would be effective under such circumstances, to reduce their fire, theft or comprehensive premium rates as follows:

Diminution of Value	Reduction Permitted
Under \$500	None
\$501-750	5%
\$751-1,000	7-1/2%
\$1,001 or more	10%

- b) The Insurance Department will approve rate filing containing the foregoing reductions. Insurers may offer greater reductions than those shown above, upon filing such proposed reductions for department review.