

FLORIDA

DEPARTMENT OF INSURANCE Division of Insurer Services

RULE TITLE:

RULE NO.:

**Required Preinsurance Inspection of
Private-Passenger Motor-Vehicles**

4ER90-5

SPECIFIC REASONS FOR FINDING AN IMMEDIATE DANGER TO THE PUBLIC HEALTH, SAFETY AND WELFARE:

The Department finds an immediate danger to the public health, safety and welfare in that the legislature enacted Chapter 90119, in particular section 41, requiring preinspection of private passenger motor vehicles effective October 1, 1990. The Department has been diligently working to draft and implement this section, however it has been unable to meet this deadline.

The new law requires the Department develop procedures, forms and notices as needed to implement the statute. Such procedures are needed immediately to provide uniformity and consistency among insurers and to provide uniformity in the type of notice consumer insureds receive.

REASONS FOR CONCLUDING THAT THE PROCEDURE USED IS FAIR UNDER THE CIRCUMSTANCES:

An emergency rule is fair under the circumstances as the best method to provide acceptable interim procedures, forms and notice of the preinsurance inspection requirement and the penalty of suspension of motor vehicle insurance coverage for failure to comply.

4ER90-5 Required preinsurance inspection of private passenger motor vehicles.

(1) Private passenger motor vehicle insurers providing physical damage coverage, including collision or comprehensive coverage, shall comply with .Section 627.744 Florida- Statutes regarding preinsurance inspections requirements. Certain preinsurance inspections are excluded as prescribed by Section 627.744 (2) - (a) - (h), Florida Statutes. If a vehicle which has been previously inspected by an insurer transfers to another insurer under common *ownership* with the original insurer, a re-inspection of the vehicle will not be required. The preinsurance inspection form shall be transferred to the new insurer and retained with its policyholder records.

The original insurer will retain a copy of the preinsurance inspection form as provided in section (5) below. The counties with an estimated population in 1988 over 500,000 were Duval, Palm Beach, Broward, Dade, Orange Hillsborough, and Pinellas.

(2) "Private passenger motor vehicle" shall be defined as in Section 627.732(1)(a).

(3) The inspection shall be performed at no specific cost or charge to the applicant.

(4) The inspection shall be recorded on form D14-507 entitled "Florida Motor Vehicle Preinsurance Inspection Form." An insurer may, however, use its own form(s) and any additional information deemed necessary by the insurer as long as the form(s) used by each insurer has all the information as contained in form DI4-507. The insurer may also attach photographs of the inspected vehicle evidencing whether there is pre-existing damage to the vehicle. Form DI4-507 is adopted and incorporated by reference.

(5) The pre insurance inspection form or a copy ,thereof shall be retained by the insurer with the insured's policy records at the insurer's home office, regional office, or district office. When the insurer is a surplus lines company, these records shall be kept in the Florida office of the surplus lines agent for that insurer. The original signed preinsurance inspection form shall be maintained by the insurer/surplus lines agent and shall be made available to the Department upon request.

(6) The preinsurance inspection form must be completed by a person or organization authorized by the insurer other than the applicant or insured. Such person or organization may

be an employee of the insurer, the agent/producer or employee thereof, or an inspection service including employees thereof. The competency and trustworthiness of the person or organization authorized by the insurer to conduct preinspections shall be the responsibility of the insurer.

(7) in addition to the inspection form, the preinsurance inspection shall include at least (a), (b), or (c) as follows which will be for the purpose of positively identifying the vehicle to be insured:

- (a) The taking of a physical imprint of the vehicle identification number (VIN) of the motor vehicle by a representative of the insurer other than the applicant or insured. A physical imprint is defined as a tracing or a mold of the actual VIN label (normally located on the dash) of the motor vehicle and seen through the windshield from the outside looking into the vehicle. The taking of a physical imprint shall be made by physical contact with the motor vehicle.

- (b) The taking of a close-up photograph of the VIN label (where such VIN label is usually located on the dash of the vehicle) or the photographing of the Environmental Protection Agency/Federal Certification (EPA) sticker (usually found on the operator's side door jamb). Such close-up photograph shall be taken by a representative of the insurer other than the applicant or insured. The photograph must be of a sufficient clarity and quality that the information contained on the dash VIN label or the EPA sticker including the VIN is legible and easily readable. The VIN recorded on the preinsurance inspection form shall be obtained from a location on the vehicle other than the location being photographed.

- (c) The attesting to the authenticity of the VIN by both the insured and the insurer's representative who shall not be the insured. If this option is selected, each inspector must individually observe the VIN (usually imprinted on a label on the dash) of the vehicle and record same on form DI4-507. Each inspector must also individually observe and attest to the VIN as displayed on the EPA sticker (usually affixed to the operator side door jamb), and the VIN as recorded on the vehicle registration form. Such attestation shall be accomplished by signing the statement appearing on the space provided on the vehicle inspection form. If discrepancies are noted such as a missing VIN, a defaced VIN, or an inconsistency in the VINs; such discrepancies shall be noted on the motor vehicle preinsurance inspection form.

(8) An insurer may defer an *inspection* for seven (7) calendar days following (a) the effective date of coverage for a new policy or (b) the actual notice to the insurer or its agent of additional or replacement vehicle(s) to an existing policy, if an inspection at the time of the request for coverage would create a serious inconvenience for the applicant. The applicant shall be notified of the requirement for the inspection by a form which contains substantially the information in Form DI4-505 or Form DI4-508. Failure to obtain the inspection within such time period shall result in suspension of the insurance coverage immediately following the time period, which consequences shall be disclosed to the applicant on form DI4-506. Such suspension shall continue until the inspection is effected. Whenever physical damage coverage is suspended for more than 14 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. Form DI4-505, DI4-506, and DI4-508 are adopted and incorporated by reference.

(9) Form DI4-505, Form DI4-506, Form DI4-507, and Form DI4508 may be obtained by writing to the Bureau of Property and Casualty. Forms and Market Conduct Review 312A Larson Building, Tallahassee, Florida 32399-0300. The effective date of this emergency rule is October 1, 1990.

Specific Authority 62.4.308(1), FS. and 627.744 (5), as created in Section 41, Chapter 90-119, Laws of Florida. Law Implemented 627.744 as created in Section 41, Chapter 90-119, Laws of Florida.

History-New

THIS RULE TAKES EFFECT UPON BEING FILED WITH THE SECRETARY OF STATE UNLESS A LATER TIME AND DATE IS SPECIFIED IN THE RULE. THE EFFECTIVE DATE IS OCTOBER 1, 1990.

**CERTIFICATION OF
DEPARTMENT OF INSURANCE AND TREASURER
EMERGENCY RULES
FILED WITH THE DEPARTMENT OF STATE**

I do hereby certify that an immediate danger to the public health, safety or welfare requires an emergency action and that the attached rule is necessitated by the immediate danger. I further certify that the procedures used in the promulgation of this emergency rule were fair under the circumstances-and that the rule otherwise complies with subsection 120.54(9), Florida Statutes. The adoption of this rule was authorized by the head of the agency and this rule is hereby adopted upon its filing with the Department of State:

	Specific Rulemaking	Law Being Implemented or
<u>Rule No.</u>	<u>Authority</u>	<u>Made Specific</u>
4ER90-5	624.308 FS. 627.744 FS.	627.744 FS.

Under the provision of paragraph 120.54 (9) (d), this rule takes effect upon filing unless a later, time and date, not to exceed 20 days from filing, is set out below:

Effective: October 1, 1990

TOM GALLAGHER
Treasurer and
Insurance Commissioner

Number of pages certified

**STATEMENT OF THE DEPARTMENT'S REASONS
THE PROCEDURE IS FAIR
UNDER THE CIRCUMSTANCES**

The Department of Insurance believes that adopting an emergency rule is the fairest method to provide notice, uniformity, and consistency in the procedures and practices of implementing the newly required preinsurance inspection of private passenger motor vehicles. The effective date of the act did not allow the Department sufficient time to develop and implement the forms and procedures for preinsurance inspection. The statute requires insurers perform certain functions on particular forms to be prescribed by the Department:- The insurer, being that it is subject by statute to regular examination, seeks a clear direction and mandate on implementation prior to the statutes' effective date. Therefore, the Department believes an emergency rule to provide such direction is the fairest way to address this need.

**CERTIFICATION OF FORMS
INCORPORATED BY REFERENCE
AND FILED WITH THE SECRETARY OF STATE
BY THE DEPARTMENT OF INSURANCE**

Pursuant to Rule 1S-1.005, Rules of the Department of State, I do hereby certify that attached are true and correct copies of the following forms, incorporated by reference in Rule 4ER90-5:

DEPARTMENT OF INSURANCE


TOM GALLAGHER

Treasurer and
Insurance Commissioner

Number of Pages Certified

Date

**STATEMENT OF FACTS FINDING IN
IMMEDIATE DANGER TO THE PUBLIC
HEALTH, SAFETY OR WELFARE**

The Department of Insurance hereby states that the following circumstances constitute an immediate danger to the public health, safety or welfare:

During the 1990 legislative session, the Legislature for the first time required inspection of private passenger automobiles prior to insurers providing physical damage, including collision or comprehensive coverage. This requirement becomes effective on October 1, 1990. No specific procedures exist for identifying non-exempted counties, the style and format of the required preinsurance inspection form, the retention by insurers of copies of the preinsurance inspection form, clearly identifying the insurer's responsibility for proper completion of the form, the methods of properly identifying a vehicle and the methodology of deferring inspection for additional or replacement vehicles. Further, there are no existing forms to accomplish inspection, inspection deferments or insurance suspensions.

The purpose of physical damage coverages is to assure payment to the insured for damage to or total loss of his automobile. The purpose of requiring preinsurance inspection was to stem the escalating incidences of fraudulent private passenger automobile damage and theft claims in certain areas of the State of Florida and thereby assure the stability of physical damage insurance rates. If interim procedures to implement preinsurance inspections are not immediately implemented then the insuring public and insurers will suffer great public harm as the result of delays in employing uniform procedures for inspecting automobiles and properly suspending and reinstating coverages. Additionally, diverse, conflicting and unfair procedures may occur, as each insurer would determine what the procedural means of the inspection process would be. It is essential to provide for a uniform set of procedures that would apply to all affected persons equally in order to insure against discriminatory or inadequate practices.

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