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STATE CORPORATION COMMISSION
BUREAU OF INSURANCE

May 9, 1977

1977-7

TO: ALL COMPANIES LICENSED TO WRITE MOTOR VEHICLE INSURANCE
IN VIRGINIA

RE: Assignment of Driving Record Points

Section 38.1-279.33 of the Code of Virginia provides that "...An insurer shall not charge points under the Safe Driver Insurance Plan to its insured as a result of a motor vehicle accident unless the accident was caused in whole or in part by the fault of its insured." (emphasis supplied)

As set forth in my letter concerning this subject dated May 9, 1975, the term "Safe Driver Insurance Plan," includes all rating plans, by whatever name, including those utilized by the Virginia Automobile Insurance Plan, where the premium for a policy is either increased or decreased due to a motor vehicle accident.

In reviewing a number of the "Safe Driver Insurance Plans" filed with this office, it has been discovered that many fail to provide that points will not be charged as a result of a motor vehicle accident unless the accident was caused in whole or in part by the fault of the insured. Such a statement regarding fault must be included in each such Plan filed with this office.

Accordingly, each company licensed to write motor vehicle insurance in Virginia is directed to advise this office, in writing, whether or not it utilizes a "Safe Driver Insurance Plan" in rating its Virginia insureds.

Further, each company that does utilize such a Plan is directed to review its Plan regarding "fault of the insured," and to file changes therein, as appropriate. If the company determines that such a change is not required, this office must be advised of the reason(s) therefor. The information requested herein, and in the preceding paragraph, must be received in this office no later than June 15, 1977.

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With regard to the procedures utilized by this office in enforcing the provisions of §38.1-279.33 regarding the assignment of points because of accident involvement, please be advised of the following:

1. The burden of proof in the assignment of point(s) rests with the company and, before assignment, the company should have sufficient information in its file to substantiate its position.
2. When an insured requests a review by this office of the point(s) assigned, where he feels he was not wholly or partially at fault in causing the accident, we immediately contact the company by letter requesting specific data needed in order that we may have all of the facts relating to the accident(s) which substantiates the action taken by the company. It is imperative that each company furnish completely the information requested in our letter.

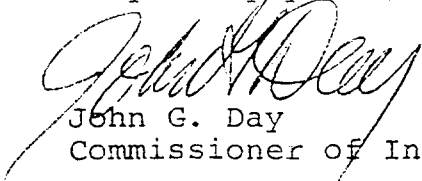
Any information furnished subsequent to our ruling will not be considered, except in the most unusual circumstances.

3. Any company that fails to send the required notice of point assignment to a policyholder may be subject to a maximum fine of \$1,000 for each offense. A copy of the notice sent to the policyholder, properly identified, should be maintained by the company.

The required notice, which must give a brief explanation of why the point(s) has been assigned, must be given whenever the company either makes a determination that a point will be assessed or when the company notifies the policyholder of a change in his premium due to point(s) assignment.

Should you have any questions concerning this matter, kindly communicate same to this office in writing.

Very truly yours,



John G. Day
Commissioner of Insurance

JGD:dbh