

## CHAPTER 151

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**INSURANCE**

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**HOUSE BILL 04-1232**

BY REPRESENTATIVE(S) Spradley, Briggs, Decker, Fairbank, Hall, Hoppe, King, McCluskey, Paccione, Rippy, Rose, Tochtrop, White, Wiens, Williams T., Brophy, Butcher, Carroll, Coleman, Crane, Garcia, Harvey, Hefley, Jahn, Madden, Marshall, McFadyen, Salazar, Weddig, Welker, and Williams S.;  
also SENATOR(S) Kester, Entz, Hanna, Isgar, Jones, and May R.

**AN ACT****CONCERNING GUIDELINES FOR WHEN ENHANCED MOTOR VEHICLE INSURANCE COVERAGE IS OFFERED.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** Part 6 of article 4 of title 10, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**10-4-636. Suitability of insurance products offered.** (1) (a) AN INSURER OR PRODUCER OFFERING MOTOR VEHICLE COVERAGE PURSUANT TO THIS PART 6 SHALL NOT AUTOMATICALLY ADD OPTIONAL OR ENHANCED COVERAGES THAT WILL RESULT IN AN INCREASED PREMIUM TO AN INSURED'S POLICY WITHOUT THE EXPRESS CONSENT OF THE INSURED. SUCH CONSENT MAY BE IN THE SAME MEDIUM IN WHICH THE POLICY IS OFFERED. THE INSURER OR PRODUCER, FOR THREE YEARS, SHALL MAINTAIN ADEQUATE EVIDENCE OF THE INSURED'S CONSENT AND SUCH EVIDENCE SHALL BE SUBJECT TO REVIEW BY THE COMMISSIONER. THE INSURER OR PRODUCER SHALL RECORD:

(I) WHETHER OPTIONAL OR ENHANCED COVERAGE ADDED FOR AN INCREASED PREMIUM TO AN INSURED'S POLICY WAS REQUESTED BY THE INSURED OR WAS RECOMMENDED BY THE INSURER OR PRODUCER AND CONSENTED TO BY THE INSURED; AND

(II) TO THE EXTENT PRACTICABLE, AN EXPLANATION OF WHY SUCH COVERAGE WAS CHANGED.

(b) FOR THE PURPOSES OF THIS SECTION, "ADEQUATE EVIDENCE" MEANS:

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*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(I) WRITTEN NOTES OR OTHER MEMORIALIZATIONS OF ANY ORAL OR WRITTEN COMMUNICATION WITH THE INSURED KEPT WITHIN THE NORMAL COURSE OF BUSINESS; OR

(II) A DECLARATION PAGE INDICATING WHICH COVERAGES ARE NOT MANDATORY AFTER PAYMENT OF THE PREMIUM IS MADE UNLESS THE INSURED DISPUTES SUCH COVERAGE WITHIN A REASONABLE TIME.

(c) THIS SECTION SHALL NOT APPLY TO CHANGES IN COVERAGES MANDATED BY LAW OR TO AMENDED POLICY FORMS THAT ARE CHANGED AT RENEWAL.

(2) THE COMMISSIONER MAY PROMULGATE RULES TO ADDRESS THE SUITABILITY OF COVERAGES FOR INSUREDS, INCLUDING, BUT NOT LIMITED TO, ADMINISTRATIVE REMEDIES AGAINST AN INSURER OR PRODUCER FOR AUTOMATICALLY ADDING OPTIONAL OR ENHANCED COVERAGES THAT INCREASE THE INSURED'S PREMIUM WITHOUT THE INSURED'S CONSENT, WHICH ADDITIONS MAY INCLUDE, BUT ARE NOT LIMITED TO, REMEDIES FOR VIOLATIONS OF SECTION 10-3-1104 (1) (j).

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION FOR DAMAGES BY AN INSURED.

**SECTION 2. Effective date - applicability.** This act shall take effect July 1, 2004, and shall apply to policies of motor vehicle insurance offered on or after the effective date of this act.

**SECTION 3. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 13, 2004