

STATE OF NEBRASKA

DEPARTMENT OF INSURANCE

Ann M. Frohman

Director



Dave Heineman
Governor

October 1, 2010
CB-124

BULLETIN

SUBJECT: Use of On-Board Sensors for Automobile Rating

Numerous aspects of driving behavior can be measured by on-board sensors, including time, location, mileage, acceleration and braking. As these measurements can be useful in the determination of insurance rates and the Department is beginning to see rate filings involving these devices, the purpose of this bulletin is to address issues related to those filings.

The standards set forth in this bulletin apply to both commercial and personal lines. As Nebraska is a “file-and-use” state, it is not anticipated that the Department will challenge insurers with regard to the judgmental selection of reasonable rating factors, as long as the filing is complete. The biggest issue with these filings to date has been the submission of incomplete filings.

The ability of an insurer to implement a submission on a file-and-use basis applies only if a filing is complete. Filings must provide descriptions and definitions of the driving information that is utilized and a complete filing of the algorithms.

Use of a third-party vendor does not relieve the insurer from the requirement of clear definitions as well as complete formulae and procedures that produce the rates. If an insurer chooses to use a score from a vendor, the Department must still be given every aspect of the variables and algorithms used by the vendor to develop these scores.

If a vendor uses specifications provided by the insurer, there will typically be no need for the vendor to correspond with the Department. If, however, the vendor uses a proprietary scoring system that it does not wish to disclose to the insurer, the Department will accept documentation directly from the vendor. Under current law, most vendors would not be considered “advisory organizations,” and this discussion presumes that the vendor is not licensed as an advisory organization.

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For the Department to accept a “filing” from a vendor, there must be written authorization and a statement from the insurer that it agrees that it is not relieved of any responsibility for the honesty and competency of the vendor. The statement must also state that the insurer and vendor will not change a scoring system without a prior filing with the Department.

As of the date of this bulletin, the use of these devices and the information for insurance rating is relatively new. The Department has received requests that it not disclose the filings as a trade secret. If the insurer asserts that the algorithms are a trade secret, the Department recommends that insurers have the algorithms and related information shown separately from the rest of their rating manual. The publically available portion of the rating manual should show that these devices are part of the rating and should include eligibility rules to the extent applicable. The actual calculation of the factor or tier determination can be included in the portion of the manual where confidentiality is desired. This is similar to the use of credit scoring, where eligibility and tier factors are shown in the publically available portion of the filing, but where the selection of the tier is contained in the section of the filing that is held confidential.

The subject of trade secrets and its relation to Nebraska’s public records law is beyond the scope of this bulletin. However, the Department requires specific identification of the part of a filing where trade secret protection is requested and an explanation of why trade secret protection is warranted. Materials that obviously do not qualify, such as materials that have been publically filed elsewhere, are of common knowledge, or are distributed to agents, will not be considered a trade secret by the Department.

Questions concerning this notice may be directed to the Legal Division at 402-471-2201.



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