

Bulletin 06-02

To: Insurance Producers
From: Merle Scheiber, Director
RE: Certificate of Insurance
Date: February 15, 2006

The Division of Insurance has become aware of concerns on the part of insurance agents who have received requests to alter or modify certain portions of the Accord 25-5 form (certificate of insurance). One such request that insurance agents have received is to alter the provision concerning notice provisions of the policy. Certificates of insurance whether using an Accord form or some other form of certificate of insurance can not provide false information. SDCL 58-11-29 prohibits making any false or fraudulent statement on a certificate of insurance. That statute is as follows:

“Binders or other contracts for temporary insurance may be made orally or in writing, and shall be deemed to include all the usual terms of the policy as to which the binder was given together with such applicable endorsements as are designated in the binder, except as superseded by the clear and express terms of the binder. Any insurance producer or surplus lines broker who knowingly makes any false or fraudulent material statement on a binder, certificate of insurance, or other document offered as proof of insurance is guilty of a Class 1 misdemeanor for each offense.”

Therefore, an insurance agent may not issue a certificate of insurance that does not accurately represent the terms or conditions of the policy without authority from the insurer to alter the terms or conditions of that policy. Any requests to include a notice provision that binds the carrier when such provision is not contained in the policy would not be in compliance with SDCL 58-11-29.

Anyone with any questions or concerns is encouraged to contact Andrew Fergel, General Counsel for the Division of Insurance.