

1700

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to prohibiting surcharges for certain automobile accidents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 2335 of the insurance law, subsection (c) as added
2 by chapter 747 of the laws of 1990 and as relettered by chapter 152 of
3 the laws of 1998, is amended to read as follows:
4 S 2335. Motor vehicle liability insurance rates; prohibition of
5 surcharges for certain ACCIDENTS AND traffic infractions. No insurer
6 authorized to transact or transacting business in this state, or
7 controlling or controlled by or under common control by or with an
8 insurer authorized to transact or transacting business in this state,
9 which sells a policy providing motor vehicle liability insurance cover-
10 age in this state shall increase the policy premium in connection with
11 the insurance permitted or required by this chapter solely because the
12 insured or any other person who customarily operates an automobile
13 covered by the policy:
14 (a) HAS HAD AN ACCIDENT THAT DOES NOT RESULT IN AGGREGATE DAMAGE TO
15 PROPERTY IN EXCESS OF TWO TIMES THE DOLLAR AMOUNT OF THE ACCIDENT
16 REPORTING THRESHOLD OF THE DEPARTMENT OF MOTOR VEHICLES AS PROVIDED FOR
17 IN PARAGRAPH ONE OF SUBDIVISION (A) OF SECTION SIX HUNDRED FIVE OF THE
18 VEHICLE AND TRAFFIC LAW.
19 (B) has been found guilty of a traffic infraction under any of the
20 provisions of the vehicle and traffic law provided, however, that this
21 provision shall not apply to a conviction for a violation which occurred
22 during the thirty-six month period ending on the last day of the fourth
23 month preceding the month of the effective date of the policy if such
24 conviction consisted of:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (1) operating a motor vehicle at a speed of more than fifteen miles
2 per hour in excess of the legal limit;

3 (2) operating a motor vehicle in excess of the speed limit, or in a
4 reckless manner, where injury or death results therefrom;

5 (3) operating a motor vehicle in excess of the speed limit, or reck-
6 less driving, or any combination thereof, on three or more occasions;

7 (4) operating a motor vehicle while intoxicated or impaired by the
8 consumption of alcohol;

9 (5) operating a motor vehicle while impaired by the use of a drug,
10 within the meaning of section one thousand one hundred ninety-two of the
11 vehicle and traffic law;

12 (6) homicide or assault arising out of the use or operation of a motor
13 vehicle, or criminal negligence in the use or operation of a motor vehi-
14 cle resulting in the injury or death of another person, or use or opera-
15 tion of a motor vehicle directly or indirectly in the commission of a
16 felony;

17 (7) operating a motor vehicle while seeking to avoid apprehension or
18 arrest by a law enforcement officer;

19 (8) filing or attempting to file a false or fraudulent automobile
20 insurance claim, or knowingly aiding or abetting in the filing or
21 attempted filing of any such claim;

22 (9) leaving the scene of an incident without reporting;

23 (10) filing a false document with the department of motor vehicles, or
24 using a license or registration obtained by filing a false document with
25 the department of motor vehicles;

26 (11) operating a motor vehicle in a race or speed test;

27 (12) knowingly permitting or authorizing an unlicensed driver to oper-
28 ate a motor vehicle insured under the policy;

29 (13) operating a motor vehicle insured under the policy without a
30 valid license or registration in effect, except when the person
31 convicted had possessed a valid license or registration which had
32 expired and was subsequently renewed, or during a period of revocation
33 or suspension thereof, or in violation of the limitations applicable to
34 a license issued pursuant to article twenty-one or article twenty-one-a
35 of the vehicle and traffic law; or

36 (14) two or more moving violations of any other provision of the vehi-
37 cle and traffic law;

38 [(b)] (C) has had a temporary suspension of a driver's license pending
39 a hearing, prosecution or investigation or an indefinite suspension of a
40 driver's license which is issued because of the failure of the person
41 suspended to perform an act, which suspension will be terminated by the
42 performance of the act by the person suspended, or has had more than one
43 such temporary or indefinite suspension arising out of the same incident
44 issued against him or her, provided that the foregoing provisions of
45 this section shall not apply if such suspension or suspensions has or
46 have not been terminated on or before the effective date of the policy;
47 or

48 [(c)] (D) with respect to a non-commercial private passenger automo-
49 bile insurance policy, has had an accident while operating a commercial
50 vehicle in the course of employment and in the discharge of the employ-
51 ee's duties at the time of the accident, unless the accident is deter-
52 mined to have been caused by the intentional action or gross negligence
53 of the insured.

54 S. 2. This act shall take effect immediately provided that the amend-
55 ments to section 2335 of the insurance law made by section one of this
56 act shall expire on the same date as such section expires.