

4847

2011-2012 Regular Sessions

I N   S E N A T E

April 27, 2011

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

AN ACT to amend the insurance law, the penal law, and the vehicle and traffic law, in relation to insurance fraud

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

1     Section 1. Section 401 of the insurance law is amended by adding a new  
2     subsection (d) to read as follows:  
3     (D) THE SUPERINTENDENT SHALL HAVE BROAD AUTHORITY PURSUANT TO THIS  
4     CHAPTER TO INVESTIGATE FRAUDULENT ACTIVITIES WITH REGARD TO MOTOR VEHI-  
5     CLE DRIVERS THAT OPERATE AUTOMOBILES WITH NO INSURANCE COVERAGE, AND  
6     MOTOR VEHICLE INSUREDS WHO MISREPRESENT THE PRINCIPAL PLACE WHERE  
7     INSURED MOTOR VEHICLES ARE GARAGED AND OPERATED. OPERATING MOTOR VEHI-  
8     CLES WITHOUT PROPER INSURANCE IN VIOLATION OF ARTICLE SIX OF THE VEHICLE  
9     AND TRAFFIC LAW IS A SIGNIFICANT DANGER TO THE PUBLIC BECAUSE DRIVERS  
10    ARE UNABLE TO COMPENSATE INDIVIDUALS FOR PERSONAL INJURIES, DEATH AND  
11    PROPERTY DAMAGE THEY INFLICT UPON OTHERS. FURTHERMORE, MOTOR VEHICLE  
12    INSUREDS WHO MISREPRESENT THE PRINCIPAL PLACE WHERE SUCH VEHICLES ARE  
13    GARAGED AND OPERATED IMPROPERLY SHIFT THEIR HIGH LIABILITY EXPOSURE  
14    COSTS TO OTHER MOTOR VEHICLE INSUREDS THAT DO NOT FACE SUCH HIGH LIABIL-  
15    ITY RISK AND INSURANCE PREMIUM COSTS.  
16    S 2. Subsection (a) of section 405 of the insurance law, as amended by  
17    section 7 of part A of chapter 62 of the laws of 2011, is amended to  
18    read as follows:  
19    (a) Any person licensed or registered pursuant to the provisions of  
20    this chapter, and any person engaged in the business of insurance or  
21    life settlement in this state who is exempted from compliance with the  
22    licensing requirements of this chapter, including the state insurance  
23    fund of this state, who has reason to believe that an insurance trans-  
24    action or life settlement act may be fraudulent, or has knowledge that a  
25    fraudulent insurance transaction or fraudulent life settlement act is

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

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1 about to take place, or has taken place shall, within thirty days after  
2 determination by such person that the transaction appears to be fraudu-  
3 lent, send to the superintendent on a form prescribed by the superinten-  
4 dent, the information requested by the form and such additional informa-  
5 tion relative to the factual circumstances of the transaction and the  
6 parties involved as the superintendent may require. The superintendent  
7 shall accept reports of suspected fraudulent insurance transactions or  
8 fraudulent life settlement acts from any self insurer, including but not  
9 limited to self insurers providing health insurance coverage or those  
10 defined in section fifty of the workers' compensation law, and shall  
11 treat such reports as any other received pursuant to this section. THE  
12 SUPERINTENDENT SHALL ACCEPT REPORTS OF SUSPECTED FRAUDULENT INSURANCE  
13 TRANSACTIONS FROM ANY SELF INSURER INCLUDING, BUT NOT LIMITED TO, SELF  
14 INSURERS PROVIDING HEALTH INSURANCE COVERAGE, THOSE PROVIDING MOTOR  
15 VEHICLE LIABILITY INSURANCE OR THOSE DEFINED IN SECTION FIFTY OF THE  
16 WORKERS' COMPENSATION LAW, AND SHALL TREAT SUCH REPORTS AS ANY OTHER  
17 RECEIVED PURSUANT TO THIS SECTION.

18 S 3. Section 2133 of the insurance law, as amended by chapter 77 of  
19 the laws of 1994, is amended to read as follows:

20 S 2133. [Forged] FALSE INSURANCE DOCUMENTS AND FORGED insurance iden-  
21 tification cards. Any insurance company, insurance agent, insurance  
22 broker or other person who or which, personally or by the action of an  
23 employee or agent, KNOWINGLY possesses, transfers or uses: (A) ANY DOCU-  
24 MENT WHICH PURPORTS TO EVINCE INSURANCE COVERAGE WHEN SUCH COVERAGE IS  
25 NOT IN EFFECT OR IS IN EFFECT AT LIMITS LESS THAN THOSE STATED IN THE  
26 DOCUMENT; OR (B) a forged insurance identification card for a motor  
27 vehicle, having knowledge, personally or through such employee or agent,  
28 of the fact that such insurance identification card, when issued, did  
29 not actually represent an owner's policy of liability insurance or a  
30 financial security bond issued by an insurance company licensed to do  
31 business in this state covering the motor vehicle identified on such  
32 card, shall be liable for payment to the people of this state of a civil  
33 penalty in a sum not exceeding one thousand dollars for the first such  
34 violation and a sum not exceeding five thousand dollars for each subse-  
35 quent violation. For the purposes of this section the term "forged  
36 insurance identification card" means a written insurance identification  
37 card which has been falsely made, completed or altered, and the term  
38 "falsely made, completed or altered" shall have the same meaning as set  
39 forth in section 170.00 of the penal law.

40 S 4. Subdivision 5 of section 170.10 of the penal law is amended and  
41 a new subdivision 6 is added to read as follows:

42 5. A prescription of a duly licensed physician or other person author-  
43 ized to issue the same for any drug or any instrument or device used in  
44 the taking or administering of drugs for which a prescription is  
45 required by law[.]; OR

46 6. A CERTIFICATE OF INSURANCE OR AN INSURANCE IDENTIFICATION CARD, AS  
47 DEFINED IN SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW.

48 S 5. Section 170.15 of the penal law is amended to read as follows:  
49 S 170.15 Forgery in the first degree.

50 A person is guilty of forgery in the first degree when, with intent to  
51 defraud, deceive or injure another, he OR SHE falsely makes, completes  
52 or alters [a]:

53 1. TEN OR MORE WRITTEN INSTRUMENTS; OR

54 2. A written instrument which is or purports to be, or which is calcu-  
55 lated to become or to represent if completed:

1 [1.] (A) Part of an issue of money, stamps, securities or other valu-  
2 able instruments issued by a government or governmental instrumentality;  
3 or

4 [2.] (B) Part of an issue of stock, bonds or other instruments repres-  
5 enting interests in or claims against a corporate or other organization  
6 or its property.

7 Forgery in the first degree is a class C felony.

8 S 6. The penal law is amended by adding a new section 175.50 to read  
9 as follows:

10 S 175.50 OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR  
11 REGISTRATION.

12 A PERSON IS GUILTY OF OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE  
13 INSURANCE OR REGISTRATION WHEN KNOWING THAT ANY DOCUMENT HE OR SHE FILES  
14 WITH THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURER PROVIDING LIABILITY  
15 INSURANCE FOR A MOTOR VEHICLE CONTAINS A FALSE STATEMENT OR FALSE INFOR-  
16 MATION WITH REGARD TO WHERE HE OR SHE RESIDES OR WHERE HIS OR HER MOTOR  
17 VEHICLE IS GARAGED AND OPERATED.

18 OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR REGISTRA-  
19 TION IS A CLASS E FELONY.

20 S 7. Subdivision 1 of section 176.05 of the penal law, as amended by  
21 chapter 635 of the laws of 1996 and as designated by chapter 2 of the  
22 laws of 1998, is amended to read as follows:

23 1. A fraudulent insurance act is committed by any person who, knowing-  
24 ly and with intent to defraud presents, causes to be presented, or  
25 prepares with knowledge or belief that it will be presented to or by an  
26 insurer, self insurer, or purported insurer, or purported self insurer,  
27 or any agent thereof, any written statement as part of, or in support  
28 of, an application for the issuance of, or the rating of a commercial  
29 insurance policy, or certificate or evidence of self insurance for  
30 commercial OR PERSONAL insurance or commercial OR PERSONAL self insur-  
31 ance, or a claim for payment or other benefit pursuant to an insurance  
32 policy or self insurance program for commercial or personal insurance  
33 which he knows to: (i) contain materially false information concerning  
34 any fact material thereto; or (ii) conceal, for the purpose of mislead-  
35 ing, information concerning any fact material thereto.

36 S 8. Section 176.15 of the penal law, as amended by chapter 515 of the  
37 laws of 1986, is amended to read as follows:

38 S 176.15 Insurance fraud in the fourth degree.

39 A person is guilty of insurance fraud in the fourth degree when he  
40 [commits] OR SHE:

41 1. COMMITS a fraudulent insurance act and thereby wrongfully takes,  
42 obtains or withholds, or attempts to wrongfully take, obtain or withhold  
43 property with a value in excess of one thousand dollars; OR

44 2. OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY, WHEN SUCH MOTOR VEHI-  
45 CLE IS INSURED BY A POLICY ISSUED UNDER THE LAWS OF ANOTHER STATE, WHEN  
46 SUCH PERSON MAINTAINS HIS OR HER PRINCIPAL RESIDENCE IN THIS STATE OR  
47 SUCH MOTOR VEHICLE IS PRINCIPALLY GARAGED IN THIS STATE, AND SUCH INSUR-  
48 ANCE POLICY WAS ISSUED UPON ANY WRITTEN OR ORAL STATEMENT BY SUCH PERSON  
49 THAT HE OR SHE PRINCIPALLY RESIDES IN SUCH OTHER STATE OR THAT SUCH  
50 MOTOR VEHICLE IS PRINCIPALLY GARAGED IN SUCH OTHER STATE.

51 Insurance fraud in the fourth degree is a class E felony.

52 S 9. The vehicle and traffic law is amended by adding a new section  
53 201-a to read as follows:

54 S 201-A. ACCESS TO INFORMATION. THE DEPARTMENT SHALL ALLOW LAW  
55 ENFORCEMENT PERSONNEL ACCESS TO ANY INDIVIDUAL'S STREET ADDRESS PROVIDED

PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF SECTION FOUR HUNDRED ONE AND SUBDIVISION ONE OF SECTION FIVE HUNDRED TWO OF THIS CHAPTER.

S 10. Paragraph b of subdivision 1 of section 401 of the vehicle and traffic law, as amended by chapter 222 of the laws of 1996, is amended to read as follows:

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle, PROVIDED THAT IF THE APPLICANT USES A POST OFFICE BOX WHEN PROVIDING A RESIDENCE ADDRESS, SUCH APPLICANT SHALL ALSO PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE RESIDES; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; (e) provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he OR SHE may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f) such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this [chapter] ARTICLE shall be transferred to or used upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be required by the commissioner or his OR HER agent and which, with respect to new vehicles, shall include, unless otherwise specifically provided by the commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the

1 commissioner as he OR SHE shall direct for filing. No application for  
2 registration shall be accepted unless the applicant is at least sixteen  
3 years of age AND HAS SIGNED SUCH APPLICATION ATTESTING TO THE TRUTH AND  
4 VERACITY OF THE FACTS STATED THEREIN.

5 S 11. Subdivision 1 of section 502 of the vehicle and traffic law, as  
6 amended by section 2 of part CC of chapter 58 of the laws of 2011, is  
7 amended to read as follows:

8 1. Application for license. Application for a driver's license shall  
9 be made to the commissioner. The fee prescribed by law may be submitted  
10 with such application. The applicant shall furnish such proof of identi-  
11 ty, age, ADDRESS OF HIS OR HER RESIDENCE and fitness as may be required  
12 by the commissioner. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE, THE  
13 APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE RESIDES.  
14 EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO THE TRUTH  
15 AND VERACITY OF THE FACTS STATED THEREIN. The commissioner may also  
16 provide that the application procedure shall include the taking of a  
17 photo image or images of the applicant in accordance with rules and  
18 regulations prescribed by the commissioner. In addition, the commission-  
19 er also shall require that the applicant provide his or her social secu-  
20 rity number and provide space on the application so that the applicant  
21 may register in the New York state organ and tissue donor registry under  
22 section forty-three hundred ten of the public health law. In addition,  
23 an applicant for a commercial driver's license who will operate a  
24 commercial motor vehicle in interstate commerce shall certify that such  
25 applicant meets the requirements to operate a commercial motor vehicle,  
26 as set forth in public law 99-570, title XII, and title 49 of the code  
27 of federal regulations, and all regulations promulgated by the United  
28 States secretary of transportation under the hazardous materials trans-  
29 portation act. In addition, an applicant for a commercial driver's  
30 license shall submit a medical certificate at such intervals as required  
31 by the federal motor carrier safety improvement act of 1999 and Part  
32 383.71(h) of title 49 of the code of federal regulations relating to  
33 medical certification and in a manner prescribed by the commissioner.  
34 For purposes of this section and sections five hundred three and five  
35 hundred ten-a of this title, the term "medical certificate" shall mean a  
36 form substantially in compliance with the form set forth in Part  
37 391.43(h) of title 49 of the code of federal regulations. Upon a deter-  
38 mination that the holder of a commercial driver's license has made any  
39 false statement, with respect to the application for such license, the  
40 commissioner shall revoke such license.

41 S 12. This act shall take effect on the same date and in the same  
42 manner as part A of chapter 62 of the laws of 2011 takes effect, as  
43 provided in subdivision (a) of section 114 of such part, provided that  
44 sections nine, ten and eleven of this act shall take effect on the same  
45 date and in the same manner as section 2 of part CC of chapter 58 of the  
46 laws of 2011 takes effect.