

4847--B

2011-2012 Regular Sessions

I N   S E N A T E

April 27, 2011

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Introduced by Sens. KLEIN, CARLUCCI, SAVINO, SQUADRON, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

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

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

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

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

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

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

55 S 5. Section 170.15 of the penal law is amended to read as follows:

56 S 170.15 Forgery in the first degree.

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

4 1. TEN OR MORE WRITTEN INSTRUMENTS; OR

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

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

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

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

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

16 S 175.50 OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR  
17 REGISTRATION.

18 A PERSON IS GUILTY OF OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE  
19 INSURANCE OR REGISTRATION WHEN KNOWING THAT ANY DOCUMENT HE OR SHE FILES  
20 WITH THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURER PROVIDING LIABILITY  
21 INSURANCE FOR A MOTOR VEHICLE CONTAINS A FALSE STATEMENT OR FALSE INFOR-  
22 MATION WITH REGARD TO WHERE HE OR SHE RESIDES OR WHERE HIS OR HER MOTOR  
23 VEHICLE IS GARAGED AND OPERATED.

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

26 S 7. Subdivision 1 of section 176.05 of the penal law, as amended by  
27 chapter 211 of the laws of 2011, is amended to read as follows:

28 1. any written statement as part of, or in support of, an application  
29 for the issuance of, or the rating of a commercial insurance policy, or  
30 certificate or evidence of self insurance for commercial OR PERSONAL  
31 insurance or commercial OR PERSONAL self insurance, or a claim for  
32 payment or other benefit pursuant to an insurance policy or self insur-  
33 ance program for commercial or personal insurance that he or she knows  
34 to:

35 (a) contain materially false information concerning any fact material  
36 thereto; or

37 (b) conceal, for the purpose of misleading, information concerning any  
38 fact material thereto; or

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

41 S 176.15 Insurance fraud in the fourth degree.

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

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

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

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

55 S 9. The vehicle and traffic law is amended by adding a new section  
56 201-a to read as follows:

1 S 201-A. ACCESS TO INFORMATION. THE DEPARTMENT SHALL ALLOW LAW  
2 ENFORCEMENT PERSONNEL ACCESS TO ANY INDIVIDUAL'S STREET ADDRESS PROVIDED  
3 PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF SECTION FOUR HUNDRED ONE  
4 AND SUBDIVISION ONE OF SECTION FIVE HUNDRED TWO OF THIS CHAPTER.

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

8 b. Every owner of a motor vehicle which shall be operated or driven  
9 upon the public highways of this state shall, except as otherwise  
10 expressly provided, cause to be presented, by mail or otherwise, to the  
11 office or a branch office of the commissioner, or to any agent of the  
12 commissioner, constituted as provided in this chapter, an application  
13 for registration addressed to the commissioner, and on a blank to be  
14 prepared under the direction of and furnished by the commissioner for  
15 that purpose, containing: (a) a brief description of the motor vehicle  
16 to be registered, including the name and factory number of such vehicle,  
17 and such other facts as the commissioner shall require; (b) the weight  
18 of the vehicle upon which the registration fee is based if the fee is  
19 based on weight; (c) the name and residence, including county of the  
20 owner of such motor vehicle, PROVIDED THAT IF THE APPLICANT USES A POST  
21 OFFICE BOX WHEN PROVIDING A RESIDENCE ADDRESS, SUCH APPLICANT SHALL ALSO  
22 PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE RESIDES; (d) provided  
23 that, if such motor vehicle is used or to be used as an omnibus, the  
24 applicant also shall so certify, and in the case of an omnibus also  
25 certify as to the seating capacity, and if the omnibus is to be operated  
26 wholly within a municipality pursuant to a franchise other than a fran-  
27 chise express or implied in articles of incorporation upon certain  
28 streets designated in such franchise, those facts shall also be certi-  
29 fied, and a certified copy of such franchise furnished to the commis-  
30 sioner; (e) provided, that, if such motor vehicle is an altered livery,  
31 the applicant shall so furnish a certified copy of the length of the  
32 center panel of such vehicle, provided, however, that the commissioner  
33 shall require such proof, as he OR SHE may determine is necessary, in  
34 the application for registration and provided further, if the center  
35 panel of such vehicle exceeds one hundred inches, the commissioner shall  
36 require proof that such vehicle is in compliance with all applicable  
37 federal and state motor vehicle safety standards; and (f) such addi-  
38 tional facts or evidence as the commissioner may require in connection  
39 with the application for registration. Every owner of a trailer shall  
40 also make application for the registration thereof in the manner herein  
41 provided for an application to register a motor vehicle, but shall  
42 contain a statement showing the manufacturer's number or other identifi-  
43 cation satisfactory to the commissioner and no number plate for a trail-  
44 er issued under the provisions of subdivision three of section four  
45 hundred two of this [chapter] ARTICLE shall be transferred to or used  
46 upon any other trailer than the one for which number plate is issued.  
47 The commissioner shall require proof, in the application for registra-  
48 tion, or otherwise, as such commissioner may determine, that the motor  
49 vehicle for which registration is applied for is equipped with lights  
50 conforming in all respects to the requirements of this chapter, and no  
51 motor vehicle shall be registered unless it shall appear by such proofs  
52 that such motor vehicle is equipped with proper lights as aforesaid. The  
53 said application shall contain or be accompanied by such evidence of the  
54 ownership of the motor vehicle described in the application as may be  
55 required by the commissioner or his OR HER agent and which, with respect  
56 to new vehicles, shall include, unless otherwise specifically provided

1 by the commissioner, the manufacturer's statement of origin. Applica-  
2 tions received by an agent of the commissioner shall be forwarded to the  
3 commissioner as he OR SHE shall direct for filing. No application for  
4 registration shall be accepted unless the applicant is at least sixteen  
5 years of age AND HAS SIGNED SUCH APPLICATION ATTESTING TO THE TRUTH AND  
6 VERACITY OF THE FACTS STATED THEREIN.

7 S 11. Subdivision 1 of section 502 of the vehicle and traffic law, as  
8 amended by section 1 of part D of chapter 58 of the laws of 2012, is  
9 amended to read as follows:

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

44 S 12. This act shall take effect immediately.