

8420

2015-2016 Regular Sessions

I N A S S E M B L Y

October 9, 2015

Introduced by M. of A. ORTIZ, LUPARDO -- read once and referred to the
Committee on Insurance

AN ACT to amend the insurance law, in relation to making comprehensive
motor vehicle insurance reparations applicable to motorcycles

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

1 Section 1. Subsection (f) of section 5102 of the insurance law is
2 amended to read as follows:

3 (f) "Motor vehicle" means a motor vehicle as defined in section three
4 hundred eleven of the vehicle and traffic law and also includes fire and
5 police vehicles, AND MOTORCYCLES. It shall not include any motor vehi-
6 cle not required to carry financial security pursuant to article six,
7 eight or forty-eight-A of the vehicle and traffic law [or a motorcycle,
8 as defined in subsection (m) hereof].

9 S 2. Subsections (a) and (f) of section 5103 of the insurance law,
10 subsection (f) as amended by chapter 402 of the laws of 1986, are
11 amended to read as follows:

12 (a) Every owner's policy of liability insurance issued on a motor
13 vehicle in satisfaction of the requirements of article six or eight of
14 the vehicle and traffic law shall also provide for; every owner who
15 maintains another form of financial security on a motor vehicle in
16 satisfaction of the requirements of such articles shall be liable for;
17 and every owner of a motor vehicle required to be subject to the
18 provisions of this article by subdivision two of section three hundred
19 twenty-one of the vehicle and traffic law shall be liable for; the
20 payment of first party benefits to:

21 (1) Persons, other than occupants of another motor vehicle [or a
22 motorcycle], for loss arising out of the use or operation in this state
23 of such motor vehicle. In the case of occupants of a bus other than
24 operators, owners, and employees of the owner or operator of the bus,
25 the coverage for first party benefits shall be afforded under the policy

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

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1 or policies, if any, providing first party benefits to the injured
2 person and members of his OR HER household for loss arising out of the
3 use or operation of any motor vehicle of such household. In the event
4 there is no such policy, first party benefits shall be provided by the
5 insurer of such bus.

6 (2) The named insured and members of his OR HER household[, other than
7 occupants of a motorcycle,] for loss arising out of the use or operation
8 of (i) an uninsured motor vehicle [or motorcycle], within the United
9 States, its territories or possessions, or Canada; and (ii) an insured
10 motor vehicle [or motorcycle] outside of this state and within the
11 United States, its territories or possessions, or Canada.

12 (3) Any New York resident who is neither the owner of a motor vehicle
13 with respect to which coverage for first party benefits is required by
14 this article nor, as a member of a household, is entitled to first party
15 benefits under paragraph two of this subsection, for loss arising out of
16 the use or operation of the insured or self-insured motor vehicle
17 outside of this state and within the United States, its territories or
18 possessions, or Canada.

19 (4) The estate of any covered person, other than an occupant of another
20 motor vehicle [or a motorcycle], a death benefit in the amount of two
21 thousand dollars for the death of such person arising out of the use or
22 operation of such motor vehicle which is in addition to any first party
23 benefits for basic economic loss.

24 (f) Every owner's policy of liability insurance issued on [a motorcycle or]
25 an all terrain vehicle in satisfaction of the requirements of
26 [article six or eight of the vehicle and traffic law or] section twenty-
27 four hundred seven of [such] THE VEHICLE AND TRAFFIC law shall also
28 provide for; every owner who maintains another form of financial security
29 on [a motorcycle or] an all terrain vehicle in satisfaction of the
30 requirements of such [articles or] section shall be liable for; and
31 every owner of [a motorcycle or] an all terrain vehicle required to be
32 subject to the provisions of this article by subdivision two of section
33 three hundred twenty-one of such law shall be liable for; the payment of
34 first party benefits to persons, other than the occupants of such
35 [motorcycle or] all terrain vehicle, another [motorcycle or] all terrain
36 vehicle, or any motor vehicle, for loss arising out of the use or operation
37 of the [motorcycle or] all terrain vehicle within this state. Every
38 insurer and self-insurer may exclude from the coverage required by this
39 subsection a person who intentionally causes his OR HER own injury or is
40 injured while committing an act which would constitute a felony or while
41 seeking to avoid lawful apprehension or arrest by a law enforcement
42 officer.

43 S 3. Subsections (a) and (b) of section 5104 of the insurance law are
44 amended to read as follows:

45 (a) Notwithstanding any other law, in any action by or on behalf of a
46 covered person against another covered person for personal injuries
47 arising out of negligence in the use or operation of a motor vehicle in
48 this state, there shall be no right of recovery for non-economic loss,
49 except in the case of a serious injury, or for basic economic loss. [The
50 owner, operator or occupant of a motorcycle which has in effect the
51 financial security required by article six or eight of the vehicle and
52 traffic law, or which is referred to in subdivision two of section three
53 hundred twenty-one of such law, shall not be subject to an action by or
54 on behalf of a covered person for recovery for non-economic loss, except
55 in the case of a serious injury, or for basic economic loss.]

1 (b) In any action by or on behalf of a covered person, against a non-
2 covered person, where damages for personal injuries arising out of the
3 use or operation of a motor vehicle [or a motorcycle] may be recovered,
4 an insurer which paid or is liable for first party benefits on account
5 of such injuries has a lien against any recovery to the extent of bene-
6 fits paid or payable by it to the covered person. No such action may be
7 compromised by the covered person except with the written consent of the
8 insurer, or with the approval of the court, or where the amount of such
9 settlement exceeds fifty thousand dollars. The failure of such person to
10 commence such action within two years after accrual gives the insurer a
11 cause of action for the amount of first party benefits paid or payable
12 against any person who may be liable to the covered person for his OR
13 HER personal injuries. The insurer's cause of action shall be in addi-
14 tion to the cause of action of the covered person except that in any
15 action subsequently commenced by the covered person for such injuries,
16 the amount of his OR HER basic economic loss shall not be recoverable.
17 S 4. This act shall take effect January 1, 2017.