S T A T E O F N E W Y O R K

2772

2009-2010 Regular Sessions

I N S E N A T E

March 2, 2009

Introduced by Sen. ESPADA -- 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 entitlement to first party benefits

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

Section 1. Paragraph 2 of subsection (b) of section 5103 of the insurance law is amended to read as follows:

(2) Is injured as a result of operating a motor vehicle while in an intoxicated condition or while his ability to operate such vehicle is impaired by the use of a drug within the meaning of section eleven hundred ninety-two of the vehicle and traffic law, PROVIDED, HOWEVER THAT AN INSURER MAY NOT EXCLUDE FROM THE COVERAGE REQUIRED BY SUBSECTION (A) OF THIS SECTION BASIC ECONOMIC LOSS AS DEFINED IN PARAGRAPH ONE OF SUBSECTION (A) OF SECTION FIVE THOUSAND ONE HUNDRED TWO OF THIS ARTICLE. NOTWITHSTANDING ANY OTHER LAW, WHERE THE COVERED PERSON IS FOUND TO HAVE VIOLATED SECTION ELEVEN HUNDRED NINETY-TWO OF THE VEHICLE AND TRAFFIC LAW, THE INSURER HAS A CAUSE OF ACTION FOR THE AMOUNT OF FIRST PARTY BENEFITS PAID OR PAYABLE ON BEHALF OF SUCH COVERED PERSON AGAINST SUCH COVERED PERSON.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law, and shall apply to all policies issued, renewed, modified or altered on or after such effective date.

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

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