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

1700--B

Cal. No. 746

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 -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in the order of third reading

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:

Section 1. Section 2335 of the insurance law, subsection (c) as added by chapter 747 of the laws of 1990 and as relettered by chapter 152 of the laws of 1998, is amended to read as follows:

S 2335. Motor vehicle liability insurance rates; prohibition of surcharges for certain ACCIDENTS AND traffic infractions. No insurer authorized to transact or transacting business in this state, or controlling or controlled by or under common control by or with an insurer authorized to transact or transacting business in this state, which sells a policy providing motor vehicle liability insurance coverage in this state shall increase the policy premium in connection with the insurance permitted or required by this chapter solely because the insured or any other person who customarily operates an automobile covered by the policy:

(a) HAS HAD AN ACCIDENT THAT DOES NOT RESULT IN AGGREGATE DAMAGE TO PROPERTY IN EXCESS OF TWO THOUSAND DOLLARS, PROVIDED THAT ANY POLICY SURCHARGE SHALL BE PERMISSIBLE FOR ANY ACCIDENT WHICH RESULTS IN BODILY INJURY OR IF THE INSURED HAS MORE THAN ONE ACCIDENT IN THE MERIT RATING EXPERIENCE PERIOD. NOTHING IN THIS SUBSECTION SHALL CHANGE THE DOLLAR AMOUNT OF THE ACCIDENT REPORTING THRESHOLD REQUIRED UNDER PARAGRAPH ONE

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

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OF SUBDIVISION (A) OF SECTION SIX HUNDRED FIVE OF THE VEHICLE AND TRAFFIC LAW.

(B) has been found guilty of a traffic infraction under any of the provisions of the vehicle and traffic law provided, however, that this provision shall not apply to a conviction for a violation which occurred during the thirty-six month period ending on the last day of the fourth month preceding the month of the effective date of the policy if such conviction consisted of:

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

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

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

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

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

(6) homicide or assault arising out of the use or operation of a motor vehicle, or criminal negligence in the use or operation of a motor vehicle resulting in the injury or death of another person, or use or operation of a motor vehicle directly or indirectly in the commission of a felony;

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

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

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

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

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

(12) knowingly permitting or authorizing an unlicensed driver to operate a motor vehicle insured under the policy;

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

(14) two or more moving violations of any other provision of the vehicle and traffic law;

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

[(c)] (D) with respect to a non-commercial private passenger automobile insurance policy, has had an accident while operating a commercial vehicle in the course of employment and in the discharge of the employee's duties at the time of the accident, unless the accident is determined to have been caused by the intentional action or gross negligence of the insured.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law provided that the amendments to section 2335 of the insurance law made by section one of this act shall expire on the same date as such section expires; and provided, further, that this act shall only apply to policies entered into, modified, or renewed on or after such effective date.