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

10136

I N A S S E M B L Y

May 9, 2012

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

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to increasing the minimum insurance coverage requirements for automobiles registered and/or operated within the state of New York

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

Section 1. Paragraph (a) of subdivision 4 and subdivision 7 of section 311 of the vehicle and traffic law, paragraph (a) of subdivision 4 as amended by chapter 305 of the laws of 1995 and subdivision 7 as amended by chapter 805 of the laws of 1984, are amended to read as follows:

(a) Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the superintendent at least ninety days prior to effective date of this act. The superintendent before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this state and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies as defined in section three hundred forty-five of this chapter, issued within this state at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this article shall prohibit any insurer from affording coverage under an owner's policy of liability insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and costs, with respect to each such motor vehicle except a tow truck, of [twenty-five] ONE HUNDRED thousand dollars because of bodily injuries to and [fifty]

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

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THREE HUNDRED thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of [fifty] THREE HUNDRED thousand dollars because of bodily injury to and [one] FIVE hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of [ten] TWENTY-FIVE thousand dollars because of injury to or destruction of property of others in any one accident provided, however, that such policy need not be for a period coterminous with the registration period of the vehicle insured. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of at least three hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. Any insurer authorized to issue an owner's policy of liability insurance as provided for in this article may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this article shall apply to such binders, renewal endorsements or evidences of renewal. Every such policy issued insuring private passenger vehicles and every renewal policy, renewal endorsement, or other evidence of renewal issued shall have attached thereto a rating information form which clearly specifies and defines the rating classification assigned thereto, including any applicable merit rating plan; and

7. The term "financial security deposit" shall mean for each motor vehicle the deposit with the commissioner of [twenty-five] ONE HUNDRED thousand dollars in cash, or securities, such as may legally be purchased by savings banks or trust funds, of a market value of [twenty-five] ONE HUNDRED thousand dollars and an additional deposit in an amount determined by the commissioner to be sufficient to satisfy the requirements of article fifty-one of the insurance law.

S 2. Paragraph 3 of subdivision (b) of section 345 of the vehicle and traffic law, as amended by chapter 305 of the laws of 1995, is amended to read as follows:

(3) Shall insure the insured or such other person against loss from the liability imposed by law for damages, including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of such motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and cost, with respect to each such motor vehicle, except a tow truck, of [twenty-five] ONE HUNDRED thousand dollars because of bodily injury to or [fifty] THREE HUNDRED thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of [fifty] THREE HUNDRED thousand dollars because of bodily injury to or [one] FIVE hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of [ten] TWENTY-FIVE thousand dollars because of injury to or destruction of property of others in any one accident. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of three hundred thousand dollars because of bodily injury of death to one or more persons or because of injury or destruction of property of

others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured.

S 3. Paragraph 1 of subsection (f) of section 3420 of the insurance law, as amended by chapter 305 of the laws of 1995, is amended to read as follows:

(1) No policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of a motor vehicle by the insured shall be issued or delivered by any authorized insurer upon any motor vehicle then principally garaged or principally used in this state unless it contains a provision whereby the insurer agrees that it will pay to the insured, as defined in such provision, subject to the terms and conditions set forth therein to be prescribed by the board of directors of the Motor Vehicle Accident Indemnification Corporation and approved by the superintendent, all sums, not exceeding a maximum amount or limit of [twenty-five] ONE HUNDRED thousand dollars exclusive of interest and costs, on account of injury to and all sums, not exceeding a maximum amount or limit of [fifty] THREE HUNDRED thousand dollars exclusive of interest and costs, on account of death of one person, in any one accident, and the maximum amount or limit, subject to such limit for any one person so injured of [fifty] THREE HUNDRED thousand dollars or so killed of [one] FIVE hundred thousand dollars, exclusive of interest and costs, on account of injury to, or death of, more than one person in any one accident, which the insured or his legal representative shall be entitled to recover as damages from an owner or operator of an uninsured motor vehicle, unidentified motor vehicle which leaves the scene of an accident, a motor vehicle registered in this state as to which at the time of the accident there was not in effect a policy of liability insurance, a stolen vehicle, a motor vehicle operated without permission of the owner, an insured motor vehicle where the insurer disclaims liability or denies coverage or an unregistered vehicle because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident occurring in this state and arising out of the ownership, maintenance or use of such motor vehicle. No payment for non-economic loss shall be made under such policy provision to a covered person unless such person has incurred a serious injury, as such terms are defined in section five thousand one hundred two of this chapter. Such policy shall not duplicate any element of basic economic loss provided for under article fifty-one of this chapter. No payments of first party benefits for basic economic loss made pursuant to such article shall diminish the obligations of the insurer under this policy provision for the payment of non-economic loss and economic loss in excess of basic economic loss. Notwithstanding any inconsistent provisions of section three thousand four hundred twenty-five of this article, any such policy which does not contain the aforesaid provisions shall be construed as if such provisions were embodied therein.

S 4. Subsection (a) of section 5210 of the insurance law, as amended by chapter 305 of the laws of 1995, is amended to read as follows:

(a) When any qualified person who has complied with all the applicable requirements of this article recovers a final judgment in a court against a financially irresponsible motorist, for injury to, or death of, any person arising out of the ownership, maintenance or use of the uninsured motor vehicle in this state, which remains unpaid, and all appeals have been concluded or the time for commencing them has expired,

the judgment creditor may file a verified petition in the court in which the judgment was entered and, upon ten days' written notice to the corporation apply to the court for an order directing payment by the corporation of the amount unpaid on the judgment. However, there shall be no right of recovery by a covered person from the corporation for non-economic loss unless such person has incurred a serious injury, as such terms are defined in section five thousand one hundred two of this chapter. Such judgment exclusive of interest and costs shall not exceed:

(1) [twenty-five] ONE HUNDRED thousand dollars on account of injury to one person in any one accident, and

(2) [fifty] THREE HUNDRED thousand dollars on account of death to one person in any one accident, and

(3) [fifty] THREE HUNDRED thousand dollars on account of injury to more than one person in any one accident subject to the limit of twenty-five thousand dollars for any one person, and

(4) [one] FIVE hundred thousand dollars on account of death to more than one person in any one accident subject to the limit of fifty thousand dollars for any one person.

S 5. This act shall take effect on the one hundred eightieth day after is shall have become a law.