

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:

1 Section 1. Paragraph (a) of subdivision 4 and subdivision 7 of section  
2 311 of the vehicle and traffic law, paragraph (a) of subdivision 4 as  
3 amended by chapter 305 of the laws of 1995 and subdivision 7 as amended  
4 by chapter 805 of the laws of 1984, are amended to read as follows:  
5 (a) Affording coverage as defined in the minimum provisions prescribed  
6 in a regulation which shall be promulgated by the superintendent at  
7 least ninety days prior to effective date of this act. The superinten-  
8 dent before promulgating such regulations or any amendment thereof,  
9 shall consult with all insurers licensed to write automobile liability  
10 insurance in this state and shall not prescribe minimum provisions which  
11 fail to reflect the provisions of automobile liability insurance poli-  
12 cies, other than motor vehicle liability policies as defined in section  
13 three hundred forty-five of this chapter, issued within this state at  
14 the date of such regulation or amendment thereof. Nothing contained in  
15 such regulation or in this article shall prohibit any insurer from  
16 affording coverage under an owner's policy of liability insurance more  
17 liberal than that required by said minimum provisions. Every such  
18 owner's policy of liability insurance shall provide insurance subject to  
19 said regulation against loss from the liability imposed by law for  
20 damages, including damages for care and loss of services, because of  
21 bodily injury to or death of any person and injury to or destruction of  
22 property arising out of the ownership, maintenance, use, or operation of  
23 a specific motor vehicle or motor vehicles within the state of New York,  
24 or elsewhere in the United States in North America or the Dominion of  
25 Canada, subject to a limit, exclusive of interest and costs, with  
26 respect to each such motor vehicle except a tow truck, of [twenty-five]  
27 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.

1 THREE HUNDRED thousand dollars because of death of one person in any one  
2 accident and, subject to said limit for one person, to a limit of  
3 [fifty] THREE HUNDRED thousand dollars because of bodily injury to and  
4 [one] FIVE hundred thousand dollars because of death of two or more  
5 persons in any one accident, and to a limit of [ten] TWENTY-FIVE thou-  
6 sand dollars because of injury to or destruction of property of others  
7 in any one accident provided, however, that such policy need not be for  
8 a period coterminous with the registration period of the vehicle  
9 insured. The limit, exclusive of interest and costs, with respect to a  
10 tow truck shall be a combined single limit of at least three hundred  
11 thousand dollars because of bodily injury or death to one or more  
12 persons or because of injury or destruction of property of others in any  
13 one accident, and to a limit of twenty-five thousand dollars because of  
14 damage to a vehicle in the care, custody and control of the insured. Any  
15 insurer authorized to issue an owner's policy of liability insurance as  
16 provided for in this article may, pending the issue of such a policy,  
17 make an agreement, to be known as a binder, or may, in lieu of such a  
18 policy, issue a renewal endorsement or evidence of renewal of an exist-  
19 ing policy; each of which shall be construed to provide indemnity or  
20 protection in like manner and to the same extent as such a policy. The  
21 provisions of this article shall apply to such binders, renewal endorse-  
22 ments or evidences of renewal. Every such policy issued insuring private  
23 passenger vehicles and every renewal policy, renewal endorsement, or  
24 other evidence of renewal issued shall have attached thereto a rating  
25 information form which clearly specifies and defines the rating classi-  
26 fication assigned thereto, including any applicable merit rating plan;  
27 and

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

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

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

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

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

7 (1) No policy insuring against loss resulting from liability imposed  
8 by law for bodily injury or death suffered by any natural person arising  
9 out of the ownership, maintenance and use of a motor vehicle by the  
10 insured shall be issued or delivered by any authorized insurer upon any  
11 motor vehicle then principally garaged or principally used in this state  
12 unless it contains a provision whereby the insurer agrees that it will  
13 pay to the insured, as defined in such provision, subject to the terms  
14 and conditions set forth therein to be prescribed by the board of direc-  
15 tors of the Motor Vehicle Accident Indemnification Corporation and  
16 approved by the superintendent, all sums, not exceeding a maximum amount  
17 or limit of [twenty-five] ONE HUNDRED thousand dollars exclusive of  
18 interest and costs, on account of injury to and all sums, not exceeding  
19 a maximum amount or limit of [fifty] THREE HUNDRED thousand dollars  
20 exclusive of interest and costs, on account of death of one person, in  
21 any one accident, and the maximum amount or limit, subject to such limit  
22 for any one person so injured of [fifty] THREE HUNDRED thousand dollars  
23 or so killed of [one] FIVE hundred thousand dollars, exclusive of inter-  
24 est and costs, on account of injury to, or death of, more than one  
25 person in any one accident, which the insured or his legal represen-  
26 tative shall be entitled to recover as damages from an owner or operator  
27 of an uninsured motor vehicle, unidentified motor vehicle which leaves  
28 the scene of an accident, a motor vehicle registered in this state as to  
29 which at the time of the accident there was not in effect a policy of  
30 liability insurance, a stolen vehicle, a motor vehicle operated without  
31 permission of the owner, an insured motor vehicle where the insurer  
32 disclaims liability or denies coverage or an unregistered vehicle  
33 because of bodily injury, sickness or disease, including death resulting  
34 therefrom, sustained by the insured, caused by accident occurring in  
35 this state and arising out of the ownership, maintenance or use of such  
36 motor vehicle. No payment for non-economic loss shall be made under such  
37 policy provision to a covered person unless such person has incurred a  
38 serious injury, as such terms are defined in section five thousand one  
39 hundred two of this chapter. Such policy shall not duplicate any element  
40 of basic economic loss provided for under article fifty-one of this  
41 chapter. No payments of first party benefits for basic economic loss  
42 made pursuant to such article shall diminish the obligations of the  
43 insurer under this policy provision for the payment of non-economic loss  
44 and economic loss in excess of basic economic loss. Notwithstanding any  
45 inconsistent provisions of section three thousand four hundred twenty-  
46 five of this article, any such policy which does not contain the afore-  
47 said provisions shall be construed as if such provisions were embodied  
48 therein.

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

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

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

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

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

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

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

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