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

1305

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GANTT, GABRYSZAK -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to minimum insurance requirements for rental vehicles and vehicles for hire

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

Section 1. The article heading of article 8 of the vehicle and traffic law, is amended to read as follows:

INDEMNITY BONDS OR INSURANCE POLICIES ON RENTAL VEHICLES
AND
VEHICLES
TRANSPORTING PASSENGERS FOR HIRE

S 2. Subdivision 3 of section 370 of the vehicle and traffic law, as amended by chapter 232 of the laws of 2001, is amended to read as follows:

3. (A) A person, firm, association or corporation engaged in the business of renting or leasing rental vehicles to be operated upon the public highways for carrying passengers shall be subject to the provisions of this section in the same manner and to the same extent as if such person, firm, association or corporation were actually engaged in the business of carrying or transporting passengers for hire, EXCEPT IN RESPECT TO SUCH VEHICLES RENTED OR LEASED FOR LESS THAN ONE YEAR, IN WHICH CASE:

(I) THE CORPORATE SURETY BOND OR A POLICY OF INSURANCE REQUIRED BY THIS SECTION SHALL BE CONDITIONED UPON THE FOLLOWING LIABILITY FOR DAMAGES FOR AND INCIDENT TO DEATH OR INJURIES TO PERSONS: FOR EACH MOTORCYCLE AND FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT MORE THAN SEVEN PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM

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

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LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF THREE HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN EIGHT NOR MORE THAN TWELVE PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF FIVE HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN THIRTEEN NOR MORE THAN TWENTY PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF EIGHT HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN TWENTY-ONE NOR MORE THAN THIRTY PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF ONE MILLION DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF MORE THAN THIRTY PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF ONE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; AND

(II) SUCH PERSON, FIRM, ASSOCIATION OR CORPORATION SHALL ALSO FILE WITH THE COMMISSIONER FOR EACH MOTOR VEHICLE OR MOTORCYCLE INTENDED TO BE SO OPERATED EVIDENCE, IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE, OF AN EXCESS LIABILITY POLICY OF INSURANCE, APPROVED AS TO FORM BY THE SUPERINTENDENT OF INSURANCE IN A COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, APPROVED BY THE SUPERINTENDENT AS TO SOLVENCY AND RESPONSIBILITY, PROVIDING EXCESS LIABILITY COVERAGE IN THE AMOUNT OF ONE MILLION DOLLARS FOR EACH VEHICLE AND COVERING THE SAME RISKS AS THE UNDERLYING POLICY.

(B) A PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS OF RENTING OR LEASING TRUCKS, AS DEFINED IN THIS CHAPTER, SHALL, IN RESPECT TO TRUCKS RENTED OR LEASED FOR LESS THAN ONE YEAR, BE SUBJECT TO THE PROVISIONS OF THIS SECTION IN THE SAME MANNER AND TO THE SAME EXTENT AS IF SUCH PERSON, FIRM, ASSOCIATION OR CORPORATION WERE ENGAGED IN THE BUSINESS OF CARRYING OR TRANSPORTING PASSENGERS FOR HIRE, EXCEPT THAT THE CORPORATE SURETY BOND OR A POLICY OF INSURANCE REQUIRED BY THIS SECTION SHALL BE CONDITIONED UPON A MINIMUM LIABILITY OF THREE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF FIVE HUNDRED THOUSAND DOLLARS; AND SUCH PERSON, FIRM, ASSOCIATION OR CORPORATION SHALL ALSO FILE WITH THE COMMISSIONER FOR EACH SUCH TRUCK EVIDENCE, IN SUCH FORM AS THE COMMISSIONER MAY PRESCRIBE, OF AN EXCESS LIABILITY POLICY OF INSURANCE, APPROVED AS TO FORM BY THE SUPERINTENDENT OF INSURANCE IN A COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, APPROVED BY THE SUPERINTENDENT AS TO SOLVENCY AND RESPONSIBILITY, PROVIDING EXCESS LIABILITY COVERAGE IN THE AMOUNT OF TWO MILLION DOLLARS FOR EACH TRUCK AND COVERING THE SAME RISKS AS THE UNDERLYING POLICY.

(C) Notwithstanding the provisions of subdivision one of this section, a person, firm, association or corporation engaged in the business of renting or leasing motor vehicles, having registered in this state more than twenty-five motor vehicles subject to the provisions of this section and who qualifies as hereinafter provided, may file a certificate of self-insurance. The commissioner [of motor vehicles] in his discretion may, upon the application of such a person, firm, association or corporation issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicle. Upon due notice and hearing, the

commissioner may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.

As a condition to the issuance of a certificate of self-insurance under this subdivision the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen OF THIS TITLE. As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law.

(D) ANY PERSON, FIRM, ASSOCIATION OR CORPORATION OWNING A MOTOR VEHICLE OR MOTORCYCLE AS TO WHICH A BOND OR POLICY OF INSURANCE IS REQUIRED BY THIS SUBDIVISION AND PERMITTING THE MOTOR VEHICLE OR MOTORCYCLE TO BE OPERATED UNDER A LEASE OR RENTAL AGREEMENT WHILE SUCH A BOND OR POLICY, OR EVIDENCE THEREOF AS REQUIRED BY THIS SECTION, IS NOT ON FILE WITH THE COMMISSIONER, AND IN FULL FORCE AND EFFECT SHALL BE (I) GUILTY OF A MISDEMEANOR; AND (II) LIABLE TO THIRD PERSONS FOR ALL DAMAGES ARISING OUT OF THE USE OR OPERATION OF THE VEHICLE TO THE SAME EXTENT AS THE OPERATOR OR PERMISSIVE USER.

(E) THE BANKRUPTCY OR INSOLVENCY OF THE OPERATOR OR PERMISSIVE USER OF A LEASED OR RENTED MOTOR VEHICLE OR MOTORCYCLE SHALL NOT INURE TO THE BENEFIT OF THE OWNER OF THE MOTOR VEHICLE OR MOTORCYCLE WHO OR WHICH SHALL NEVERTHELESS REMAIN LIABLE UNDER THIS SUBDIVISION FOR NONCOMPLIANCE WITH THIS SECTION.

S 3. Paragraph 6 of subsection (a) of section 3426 of the insurance law, as amended by chapter 235 of the laws of 1989, is amended to read as follows:

(6) "Excess liability policy" means a policy of commercial risk, public entity or professional liability insurance, including a commercial umbrella policy, when written over one or more underlying liability policies that provide with respect to the same risk coverage of at least five hundred thousand dollars in the aggregate, EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION THREE OF SECTION THREE HUNDRED SEVENTY OF THE VEHICLE AND TRAFFIC LAW.

S 4. This act shall take effect on the one hundred eightieth day after it shall have become a law.