

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

3 INDEMNITY BONDS OR INSURANCE POLICIES ON RENTAL VEHICLES

4 AND

5 VEHICLES

6 TRANSPORTING PASSENGERS FOR HIRE

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

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

18 (I) THE CORPORATE SURETY BOND OR A POLICY OF INSURANCE REQUIRED BY
19 THIS SECTION SHALL BE CONDITIONED UPON THE FOLLOWING LIABILITY FOR
20 DAMAGES FOR AND INCIDENT TO DEATH OR INJURIES TO PERSONS: FOR EACH
21 MOTORCYCLE AND FOR EACH MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT
22 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.

LBD03219-01-1

1 LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF
2 THREE HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH
3 MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN EIGHT NOR MORE
4 THAN TWELVE PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM
5 LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF
6 FIVE HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR
7 VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN THIRTEEN NOR MORE
8 THAN TWENTY PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM
9 LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF
10 EIGHT HUNDRED THOUSAND DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH
11 MOTOR VEHICLE HAVING A SEATING CAPACITY OF NOT LESS THAN TWENTY-ONE NOR
12 MORE THAN THIRTY PASSENGERS, A BOND OR INSURANCE POLICY WITH A MINIMUM
13 LIABILITY OF ONE HUNDRED THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF ONE
14 MILLION DOLLARS FOR BODILY INJURY OR DEATH; FOR EACH MOTOR VEHICLE
15 HAVING A SEATING CAPACITY OF MORE THAN THIRTY PASSENGERS, A BOND OR
16 INSURANCE POLICY WITH A MINIMUM LIABILITY OF ONE HUNDRED THOUSAND
17 DOLLARS AND A MAXIMUM LIABILITY OF ONE MILLION TWO HUNDRED FIFTY THOU-
18 SAND DOLLARS FOR BODILY INJURY OR DEATH; AND

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

28 (B) A PERSON, FIRM, ASSOCIATION OR CORPORATION ENGAGED IN THE BUSINESS
29 OF RENTING OR LEASING TRUCKS, AS DEFINED IN THIS CHAPTER, SHALL, IN
30 RESPECT TO TRUCKS RENTED OR LEASED FOR LESS THAN ONE YEAR, BE SUBJECT TO
31 THE PROVISIONS OF THIS SECTION IN THE SAME MANNER AND TO THE SAME EXTENT
32 AS IF SUCH PERSON, FIRM, ASSOCIATION OR CORPORATION WERE ENGAGED IN THE
33 BUSINESS OF CARRYING OR TRANSPORTING PASSENGERS FOR HIRE, EXCEPT THAT
34 THE CORPORATE SURETY BOND OR A POLICY OF INSURANCE REQUIRED BY THIS
35 SECTION SHALL BE CONDITIONED UPON A MINIMUM LIABILITY OF THREE HUNDRED
36 THOUSAND DOLLARS AND A MAXIMUM LIABILITY OF FIVE HUNDRED THOUSAND
37 DOLLARS; AND SUCH PERSON, FIRM, ASSOCIATION OR CORPORATION SHALL ALSO
38 FILE WITH THE COMMISSIONER FOR EACH SUCH TRUCK EVIDENCE, IN SUCH FORM AS
39 THE COMMISSIONER MAY PRESCRIBE, OF AN EXCESS LIABILITY POLICY OF INSUR-
40 ANCE, APPROVED AS TO FORM BY THE SUPERINTENDENT OF INSURANCE IN A COMPA-
41 NY AUTHORIZED TO DO BUSINESS IN THE STATE, APPROVED BY THE SUPERINTEN-
42 DENT AS TO SOLVENCY AND RESPONSIBILITY, PROVIDING EXCESS LIABILITY
43 COVERAGE IN THE AMOUNT OF TWO MILLION DOLLARS FOR EACH TRUCK AND COVER-
44 ING THE SAME RISKS AS THE UNDERLYING POLICY.

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

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

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

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

29 (E) THE BANKRUPTCY OR INSOLVENCY OF THE OPERATOR OR PERMISSIVE USER OF
30 A LEASED OR RENTED MOTOR VEHICLE OR MOTORCYCLE SHALL NOT INURE TO THE
31 BENEFIT OF THE OWNER OF THE MOTOR VEHICLE OR MOTORCYCLE WHO OR WHICH
32 SHALL NEVERTHELESS REMAIN LIABLE UNDER THIS SUBDIVISION FOR NONCOMPLI-
33 ANCE WITH THIS SECTION.

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

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

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