

10698

I N A S S E M B L Y

June 15, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gibson) --
read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, the penal law, and the vehicle and
traffic law, in relation to insurance fraud

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

1 Section 1. Section 401 of the insurance law is amended by adding a new
2 subsection (d) to read as follows:
3 (D) THE SUPERINTENDENT SHALL HAVE BROAD AUTHORITY PURSUANT TO THIS
4 CHAPTER TO INVESTIGATE FRAUDULENT ACTIVITIES WITH REGARD TO MOTOR VEHI-
5 CLE DRIVERS THAT OPERATE AUTOMOBILES WITH NO INSURANCE COVERAGE, AND
6 MOTOR VEHICLE INSUREDS WHO MISREPRESENT THE PRINCIPAL PLACE WHERE
7 INSURED MOTOR VEHICLES ARE GARAGED AND OPERATED. OPERATING MOTOR VEHI-
8 CLES WITHOUT PROPER INSURANCE IN VIOLATION OF ARTICLE SIX OF THE VEHICLE
9 AND TRAFFIC LAW IS A SIGNIFICANT DANGER TO THE PUBLIC BECAUSE DRIVERS
10 ARE UNABLE TO COMPENSATE INDIVIDUALS FOR PERSONAL INJURIES, DEATH AND
11 PROPERTY DAMAGE THEY INFLICT UPON OTHERS. FURTHERMORE, MOTOR VEHICLE
12 INSUREDS WHO MISREPRESENT THE PRINCIPAL PLACE WHERE SUCH VEHICLES ARE
13 GARAGED AND OPERATED IMPROPERLY SHIFT THEIR HIGH LIABILITY EXPOSURE
14 COSTS TO OTHER MOTOR VEHICLE INSUREDS THAT DO NOT FACE SUCH HIGH LIABIL-
15 ITY RISK AND INSURANCE PREMIUM COSTS.
16 S 2. Subsection (a) of section 405 of the insurance law, as amended by
17 section 7 of part A of chapter 62 of the laws of 2011, is amended to
18 read as follows:
19 (a) Any person licensed or registered pursuant to the provisions of
20 this chapter, and any person engaged in the business of insurance or
21 life settlement in this state who is exempted from compliance with the
22 licensing requirements of this chapter, including the state insurance
23 fund of this state, who has reason to believe that an insurance trans-
24 action or life settlement act may be fraudulent, or has knowledge that a
25 fraudulent insurance transaction or fraudulent life settlement act is
26 about to take place, or has taken place shall, within thirty days after
27 determination by such person that the transaction appears to be fraudu-
28 lent, send to the superintendent on a form prescribed by the superinten-

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

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1 dent, the information requested by the form and such additional informa-
2 tion relative to the factual circumstances of the transaction and the
3 parties involved as the superintendent may require. The superintendent
4 shall accept reports of suspected fraudulent insurance transactions or
5 fraudulent life settlement acts from any self insurer, including but not
6 limited to self insurers providing health insurance coverage or those
7 defined in section fifty of the workers' compensation law, and shall
8 treat such reports as any other received pursuant to this section. THE
9 SUPERINTENDENT SHALL ACCEPT REPORTS OF SUSPECTED FRAUDULENT INSURANCE
10 TRANSACTIONS FROM ANY SELF INSURER INCLUDING, BUT NOT LIMITED TO, SELF
11 INSURERS PROVIDING HEALTH INSURANCE COVERAGE, THOSE PROVIDING MOTOR
12 VEHICLE LIABILITY INSURANCE OR THOSE DEFINED IN SECTION FIFTY OF THE
13 WORKERS' COMPENSATION LAW, AND SHALL TREAT SUCH REPORTS AS ANY OTHER
14 RECEIVED PURSUANT TO THIS SECTION.

15 S 3. Section 2133 of the insurance law, as amended by chapter 77 of
16 the laws of 1994, is amended to read as follows:

17 S 2133. [Forged] FALSE INSURANCE DOCUMENTS AND FORGED insurance iden-
18 tification cards. Any insurance company, insurance agent, insurance
19 broker or other person who or which, personally or by the action of an
20 employee or agent, KNOWINGLY possesses, transfers or uses: (A) ANY DOCU-
21 MENT WHICH PURPORTS TO EVINCE INSURANCE COVERAGE WHEN SUCH COVERAGE IS
22 NOT IN EFFECT OR IS IN EFFECT AT LIMITS LESS THAN THOSE STATED IN THE
23 DOCUMENT; OR (B) a forged insurance identification card for a motor
24 vehicle, having knowledge, personally or through such employee or agent,
25 of the fact that such insurance identification card, when issued, did
26 not actually represent an owner's policy of liability insurance or a
27 financial security bond issued by an insurance company licensed to do
28 business in this state covering the motor vehicle identified on such
29 card, shall be liable for payment to the people of this state of a civil
30 penalty in a sum not exceeding one thousand dollars for the first such
31 violation and a sum not exceeding five thousand dollars for each subse-
32 quent violation. For the purposes of this section the term "forged
33 insurance identification card" means a written insurance identification
34 card which has been falsely made, completed or altered, and the term
35 "falsely made, completed or altered" shall have the same meaning as set
36 forth in section 170.00 of the penal law.

37 S 4. Subdivision 5 of section 170.10 of the penal law is amended and
38 a new subdivision 6 is added to read as follows:

39 5. A prescription of a duly licensed physician or other person author-
40 ized to issue the same for any drug or any instrument or device used in
41 the taking or administering of drugs for which a prescription is
42 required by law[.]; OR

43 6. A CERTIFICATE OF INSURANCE OR AN INSURANCE IDENTIFICATION CARD, AS
44 DEFINED IN SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW.

45 S 5. Section 170.15 of the penal law is amended to read as follows:

46 S 170.15 Forgery in the first degree.

47 A person is guilty of forgery in the first degree when, with intent to
48 defraud, deceive or injure another, he OR SHE falsely makes, completes
49 or alters [a]:

50 1. TEN OR MORE WRITTEN INSTRUMENTS; OR

51 2. A written instrument which is or purports to be, or which is calcu-
52 lated to become or to represent if completed:

53 [1.] (A) Part of an issue of money, stamps, securities or other valu-
54 able instruments issued by a government or governmental instrumentality;
55 or

[2.] (B) Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.

Forgery in the first degree is a class C felony.

S 6. The penal law is amended by adding a new section 175.50 to read as follows:

S 175.50 OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR REGISTRATION.

A PERSON IS GUILTY OF OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR REGISTRATION WHEN KNOWING THAT ANY DOCUMENT HE OR SHE FILES WITH THE DEPARTMENT OF MOTOR VEHICLES OR AN INSURER PROVIDING LIABILITY INSURANCE FOR A MOTOR VEHICLE CONTAINS A FALSE STATEMENT OR FALSE INFORMATION WITH REGARD TO WHERE HE OR SHE RESIDES OR WHERE HIS OR HER MOTOR VEHICLE IS GARAGED AND OPERATED.

OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR REGISTRATION IS A CLASS E FELONY.

S 7. Subdivision 1 of section 176.05 of the penal law, as amended by chapter 211 of the laws of 2011, is amended to read as follows:

1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial OR PERSONAL insurance or commercial OR PERSONAL self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance that he or she knows to:

(a) contain materially false information concerning any fact material thereto; or

(b) conceal, for the purpose of misleading, information concerning any fact material thereto; or

S 8. Section 176.15 of the penal law, as amended by chapter 515 of the laws of 1986, is amended to read as follows:

S 176.15 Insurance fraud in the fourth degree.

A person is guilty of insurance fraud in the fourth degree when he [commits] OR SHE:

1. COMMITS a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one thousand dollars; OR

2. OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY, WHEN SUCH MOTOR VEHICLE IS INSURED BY A POLICY ISSUED UNDER THE LAWS OF ANOTHER STATE, WHEN SUCH PERSON MAINTAINS HIS OR HER PRINCIPAL RESIDENCE IN THIS STATE OR SUCH MOTOR VEHICLE IS PRINCIPALLY GARAGED IN THIS STATE, AND SUCH INSURANCE POLICY WAS ISSUED UPON ANY WRITTEN OR ORAL STATEMENT BY SUCH PERSON THAT HE OR SHE PRINCIPALLY RESIDES IN SUCH OTHER STATE OR THAT SUCH MOTOR VEHICLE IS PRINCIPALLY GARAGED IN SUCH OTHER STATE.

Insurance fraud in the fourth degree is a class E felony.

S 9. The vehicle and traffic law is amended by adding a new section 201-a to read as follows:

S 201-A. ACCESS TO INFORMATION. THE DEPARTMENT SHALL ALLOW LAW ENFORCEMENT PERSONNEL ACCESS TO ANY INDIVIDUAL'S STREET ADDRESS PROVIDED PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF SECTION FOUR HUNDRED ONE AND SUBDIVISION ONE OF SECTION FIVE HUNDRED TWO OF THIS CHAPTER.

S 10. Paragraph b of subdivision 1 of section 401 of the vehicle and traffic law, as amended by chapter 222 of the laws of 1996, is amended to read as follows:

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise

1 expressly provided, cause to be presented, by mail or otherwise, to the
2 office or a branch office of the commissioner, or to any agent of the
3 commissioner, constituted as provided in this chapter, an application
4 for registration addressed to the commissioner, and on a blank to be
5 prepared under the direction of and furnished by the commissioner for
6 that purpose, containing: (a) a brief description of the motor vehicle
7 to be registered, including the name and factory number of such vehicle,
8 and such other facts as the commissioner shall require; (b) the weight
9 of the vehicle upon which the registration fee is based if the fee is
10 based on weight; (c) the name and residence, including county of the
11 owner of such motor vehicle, PROVIDED THAT IF THE APPLICANT USES A POST
12 OFFICE BOX WHEN PROVIDING A RESIDENCE ADDRESS, SUCH APPLICANT SHALL ALSO
13 PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE RESIDES; (d) provided
14 that, if such motor vehicle is used or to be used as an omnibus, the
15 applicant also shall so certify, and in the case of an omnibus also
16 certify as to the seating capacity, and if the omnibus is to be operated
17 wholly within a municipality pursuant to a franchise other than a fran-
18 chise express or implied in articles of incorporation upon certain
19 streets designated in such franchise, those facts shall also be certi-
20 fied, and a certified copy of such franchise furnished to the commis-
21 sioner; (e) provided, that, if such motor vehicle is an altered livery,
22 the applicant shall so furnish a certified copy of the length of the
23 center panel of such vehicle, provided, however, that the commissioner
24 shall require such proof, as he OR SHE may determine is necessary, in
25 the application for registration and provided further, if the center
26 panel of such vehicle exceeds one hundred inches, the commissioner shall
27 require proof that such vehicle is in compliance with all applicable
28 federal and state motor vehicle safety standards; and (f) such addi-
29 tional facts or evidence as the commissioner may require in connection
30 with the application for registration. Every owner of a trailer shall
31 also make application for the registration thereof in the manner herein
32 provided for an application to register a motor vehicle, but shall
33 contain a statement showing the manufacturer's number or other identifi-
34 cation satisfactory to the commissioner and no number plate for a trail-
35 er issued under the provisions of subdivision three of section four
36 hundred two of this [chapter] ARTICLE shall be transferred to or used
37 upon any other trailer than the one for which number plate is issued.
38 The commissioner shall require proof, in the application for registra-
39 tion, or otherwise, as such commissioner may determine, that the motor
40 vehicle for which registration is applied for is equipped with lights
41 conforming in all respects to the requirements of this chapter, and no
42 motor vehicle shall be registered unless it shall appear by such proofs
43 that such motor vehicle is equipped with proper lights as aforesaid. The
44 said application shall contain or be accompanied by such evidence of the
45 ownership of the motor vehicle described in the application as may be
46 required by the commissioner or his OR HER agent and which, with respect
47 to new vehicles, shall include, unless otherwise specifically provided
48 by the commissioner, the manufacturer's statement of origin. Applica-
49 tions received by an agent of the commissioner shall be forwarded to the
50 commissioner as he OR SHE shall direct for filing. No application for
51 registration shall be accepted unless the applicant is at least sixteen
52 years of age AND HAS SIGNED SUCH APPLICATION ATTESTING TO THE TRUTH AND
53 VERACITY OF THE FACTS STATED THEREIN.

54 S 11. Subdivision 1 of section 502 of the vehicle and traffic law, as
55 amended by section 1 of part D of chapter 58 of the laws of 2012, is
56 amended to read as follows:

1 1. Application for license. Application for a driver's license shall
2 be made to the commissioner. The fee prescribed by law may be submitted
3 with such application. The applicant shall furnish such proof of identi-
4 ty, age, ADDRESS OF HIS OR HER RESIDENCE and fitness as may be required
5 by the commissioner. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE,
6 THE APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE
7 RESIDES. EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO
8 THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN. The commissioner may
9 also provide that the application procedure shall include the taking of
10 a photo image or images of the applicant in accordance with rules and
11 regulations prescribed by the commissioner. In addition, the commission-
12 er also shall require that the applicant provide his or her social secu-
13 rity number and provide space on the application so that the applicant
14 may register in the New York state organ and tissue donor registry under
15 section forty-three hundred ten of the public health law. In addition,
16 an applicant for a commercial driver's license who will operate a
17 commercial motor vehicle in interstate commerce shall certify that such
18 applicant meets the requirements to operate a commercial motor vehicle,
19 as set forth in public law 99-570, title XII, and title 49 of the code
20 of federal regulations, and all regulations promulgated by the United
21 States secretary of transportation under the hazardous materials trans-
22 portation act. In addition, an applicant for a commercial driver's
23 license shall submit a medical certificate at such intervals as required
24 by the federal motor carrier safety improvement act of 1999 and Part
25 383.71(h) of title 49 of the code of federal regulations relating to
26 medical certification and in a manner prescribed by the commissioner.
27 For purposes of this section and sections five hundred three, five
28 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
29 certificate" and "medical certification" shall mean a form substantially
30 in compliance with the form set forth in Part 391.43(h) of title 49 of
31 the code of federal regulations. Upon a determination that the holder of
32 a commercial driver's license has made any false statement, with respect
33 to the application for such license, the commissioner shall revoke such
34 license.

35 S 12. This act shall take effect immediately.