

3140

2013-2014 Regular Sessions

I N A S S E M B L Y

January 23, 2013

Introduced by 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 ASSEMBLY, 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

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

LBD04456-01-3

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

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

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

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

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

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

48 S 5. Section 170.15 of the penal law is amended to read as follows:
49 S 170.15 Forgery in the first degree.

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

53 1. TEN OR MORE WRITTEN INSTRUMENTS; OR

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

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

4 [2.] (B) Part of an issue of stock, bonds or other instruments repres-
5 enting interests in or claims against a corporate or other organization
6 or its property.

7 Forgery in the first degree is a class C felony.

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

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

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

18 OFFERING A FALSE APPLICATION FOR MOTOR VEHICLE INSURANCE OR REGISTRA-
19 TION IS A CLASS E FELONY.

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

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

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

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

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

35 S 176.15 Insurance fraud in the fourth degree.

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

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

41 2. OPERATES A MOTOR VEHICLE ON A PUBLIC HIGHWAY, WHEN SUCH MOTOR VEHI-
42 CLE IS INSURED BY A POLICY ISSUED UNDER THE LAWS OF ANOTHER STATE, WHEN
43 SUCH PERSON MAINTAINS HIS OR HER PRINCIPAL RESIDENCE IN THIS STATE OR
44 SUCH MOTOR VEHICLE IS PRINCIPALLY GARAGED IN THIS STATE, AND SUCH INSUR-
45 ANCE POLICY WAS ISSUED UPON ANY WRITTEN OR ORAL STATEMENT BY SUCH PERSON
46 THAT HE OR SHE PRINCIPALLY RESIDES IN SUCH OTHER STATE OR THAT SUCH
47 MOTOR VEHICLE IS PRINCIPALLY GARAGED IN SUCH OTHER STATE.

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

49 S 9. The vehicle and traffic law is amended by adding a new section
50 201-a to read as follows:

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

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

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

1 years of age AND HAS SIGNED SUCH APPLICATION ATTESTING TO THE TRUTH AND
2 VERACITY OF THE FACTS STATED THEREIN.

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

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

40 S 12. Subdivision 1 of section 502 of the vehicle and traffic law, as
41 separately amended by section 1 of part D of chapter 58 of the laws of
42 2012 and chapter 487 of the laws of 2012, is amended to read as follows:

43 1. Application for license. Application for a driver's license shall
44 be made to the commissioner. The fee prescribed by law may be submitted
45 with such application. The applicant shall furnish such proof of identi-
46 ty, age, ADDRESS OF HIS OR HER RESIDENCE and fitness as may be required
47 by the commissioner. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE,
48 THE APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE
49 RESIDES. EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO
50 THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN. The commissioner may
51 also provide that the application procedure shall include the taking of
52 a photo image or images of the applicant in accordance with rules and
53 regulations prescribed by the commissioner. In addition, the commission-
54 er also shall require that the applicant provide his or her social secu-
55 rity number and provide space on the application so that the applicant
56 may register in the New York state organ and tissue donor registry under

1 section forty-three hundred ten of the public health law, and space so
2 that the applicant may request a notation upon such license that he or
3 she is a veteran of the United States armed forces. In addition, an
4 applicant for a commercial driver's license who will operate a commer-
5 cial motor vehicle in interstate commerce shall certify that such appli-
6 cant meets the requirements to operate a commercial motor vehicle, as
7 set forth in public law 99-570, title XII, and title 49 of the code of
8 federal regulations, and all regulations promulgated by the United
9 States secretary of transportation under the hazardous materials trans-
10 portation act. In addition, an applicant for a commercial driver's
11 license shall submit a medical certificate at such intervals as required
12 by the federal motor carrier safety improvement act of 1999 and Part
13 383.71(h) of title 49 of the code of federal regulations relating to
14 medical certification and in a manner prescribed by the commissioner.
15 For purposes of this section and sections five hundred three, five
16 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
17 certificate" and "medical certification" shall mean a form substantially
18 in compliance with the form set forth in Part 391.43(h) of title 49 of
19 the code of federal regulations. Upon a determination that the holder of
20 a commercial driver's license has made any false statement, with respect
21 to the application for such license, the commissioner shall revoke such
22 license.

23 S 13. Subdivision 1 of section 502 of the vehicle and traffic law, as
24 amended by chapter 465 of the laws of 2012, is amended to read as
25 follows:

26 1. Application for license. Application for a driver's license shall
27 be made to the commissioner. The fee prescribed by law may be submitted
28 with such application. The applicant shall furnish such proof of identi-
29 ty, age, ADDRESS OF HIS OR HER RESIDENCE and fitness as may be required
30 by the commissioner. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE,
31 THE APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE
32 RESIDES. EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO
33 THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN. The commissioner may
34 also provide that the application procedure shall include the taking of
35 a photo image or images of the applicant in accordance with rules and
36 regulations prescribed by the commissioner. In addition, the commission-
37 er also shall require that the applicant provide his or her social secu-
38 rity number and shall provide space on the application so that the
39 applicant may register in the New York state organ and tissue donor
40 registry under section forty-three hundred ten of the public health law
41 with the following stated on the application in clear and conspicuous
42 type:

43 "You must fill out the following section: Would you like to be added
44 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
45 tion'."

46 The commissioner of the department of health shall not maintain
47 records of any person who checks "skip this question". Failure to check
48 a box shall not impair the validity of an application, and failure to
49 check "yes" or checking "skip this question" shall not be construed to
50 imply a wish not to donate. In the case of an applicant under eighteen
51 years of age, checking "yes" shall not constitute consent to make an
52 anatomical gift or registration in the donate life registry. Where an
53 applicant has previously consented to make an anatomical gift or regis-
54 tered in the donate life registry, checking "skip this question" or
55 failing to check a box shall not impair that consent or registration. In
56 addition, an applicant for a commercial driver's license who will oper-

1 ate a commercial motor vehicle in interstate commerce shall certify that
2 such applicant meets the requirements to operate a commercial motor
3 vehicle, as set forth in public law 99-570, title XII, and title 49 of
4 the code of federal regulations, and all regulations promulgated by the
5 United States secretary of transportation under the hazardous materials
6 transportation act. In addition, an applicant for a commercial driver's
7 license shall submit a medical certificate at such intervals as required
8 by the federal motor carrier safety improvement act of 1999 and Part
9 383.71(h) of title 49 of the code of federal regulations relating to
10 medical certification and in a manner prescribed by the commissioner.
11 For purposes of this section and sections five hundred three, five
12 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
13 certificate" and "medical certification" shall mean a form substantially
14 in compliance with the form set forth in Part 391.43(h) of title 49 of
15 the code of federal regulations. Upon a determination that the holder of
16 a commercial driver's license has made any false statement, with respect
17 to the application for such license, the commissioner shall revoke such
18 license.

19 S 14. Subdivision 1 of section 502 of the vehicle and traffic law, as
20 separately amended by section 1 of part D of chapter 58 of the laws of
21 2012 and chapter 487 of the laws of 2012, is amended to read as follows:

22 1. Application for license. Application for a driver's license shall
23 be made to the commissioner. The fee prescribed by law may be submitted
24 with such application. The applicant shall furnish such proof of identi-
25 ty, age, ADDRESS OF HIS OR HER RESIDENCE and fitness as may be required
26 by the commissioner. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE,
27 THE APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE
28 RESIDES. EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO
29 THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN. The commissioner may
30 also provide that the application procedure shall include the taking of
31 a photo image or images of the applicant in accordance with rules and
32 regulations prescribed by the commissioner. In addition, the commission-
33 er also shall require that the applicant provide his or her social secu-
34 rity number and provide space on the application so that the applicant
35 may register in the New York state organ and tissue donor registry under
36 section forty-three hundred ten of the public health law, and space so
37 that the applicant may request a notation upon such license that he or
38 she is a veteran of the United States armed forces. In addition, an
39 applicant for a commercial driver's license who will operate a commer-
40 cial motor vehicle in interstate commerce shall certify that such appli-
41 cant meets the requirements to operate a commercial motor vehicle, as
42 set forth in public law 99-570, title XII, and title 49 of the code of
43 federal regulations, and all regulations promulgated by the United
44 States secretary of transportation under the hazardous materials trans-
45 portation act. In addition, an applicant for a commercial driver's
46 license shall submit a medical certificate at such intervals as required
47 by the federal motor carrier safety improvement act of 1999 and Part
48 383.71(h) of title 49 of the code of federal regulations relating to
49 medical certification and in a manner prescribed by the commissioner.
50 For purposes of this section and sections five hundred three, five
51 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
52 certificate" and "medical certification" shall mean a form substantially
53 in compliance with the form set forth in Part 391.43(h) of title 49 of
54 the code of federal regulations. Upon a determination that the holder of
55 a commercial driver's license has made any false statement, with respect

1 to the application for such license, the commissioner shall revoke such
2 license.

3 S 15. This act shall take effect immediately; provided that:

4 a. the amendments to subdivision 1 of section 502 of the vehicle and
5 traffic law made by section twelve of this act shall take effect on the
6 same date and in the same manner as chapter 487 of the laws of 2012
7 takes effect; and

8 b. the amendments to subdivision 1 of section 502 of the vehicle and
9 traffic law made by section thirteen of this act shall take effect on
10 the same date and in the same manner as chapter 465 of the laws of 2012
11 takes effect and shall be subject to the expiration of such subdivision
12 when upon such date the provisions of section fourteen of this act shall
13 take effect.