

3629--A

2013-2014 Regular Sessions

I N S E N A T E

February 7, 2013

Introduced by Sens. LANZA, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommended to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to making comprehensive motor vehicle insurance reparations applicable to motorcycles

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

1 Section 1. Subsection (f) of section 5102 of the insurance law is
2 amended to read as follows:
3 (f) "Motor vehicle" means a motor vehicle as defined in section three
4 hundred eleven of the vehicle and traffic law and also includes fire and
5 police vehicles, AND MOTORCYCLES. It shall not include any motor vehi-
6 cle not required to carry financial security pursuant to article six,
7 eight or forty-eight-A of the vehicle and traffic law [or a motorcycle,
8 as defined in subsection (m) hereof].
9 S 2. Subsections (a) and (f) of section 5103 of the insurance law,
10 subsection (f) as amended by chapter 402 of the laws of 1986, are
11 amended to read as follows:
12 (a) Every owner's policy of liability insurance issued on a motor
13 vehicle in satisfaction of the requirements of article six or eight of
14 the vehicle and traffic law shall also provide for; every owner who
15 maintains another form of financial security on a motor vehicle in
16 satisfaction of the requirements of such articles shall be liable for;
17 and every owner of a motor vehicle required to be subject to the
18 provisions of this article by subdivision two of section three hundred
19 twenty-one of the vehicle and traffic law shall be liable for; the
20 payment of first party benefits to:
21 (1) Persons, other than occupants of another motor vehicle [or a
22 motorcycle], for loss arising out of the use or operation in this state

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

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1 of such motor vehicle. In the case of occupants of a bus other than
2 operators, owners, and employees of the owner or operator of the bus,
3 the coverage for first party benefits shall be afforded under the policy
4 or policies, if any, providing first party benefits to the injured
5 person and members of his OR HER household for loss arising out of the
6 use or operation of any motor vehicle of such household. In the event
7 there is no such policy, first party benefits shall be provided by the
8 insurer of such bus.

9 (2) The named insured and members of his OR HER household[, other than
10 occupants of a motorcycle,] for loss arising out of the use or operation
11 of (i) an uninsured motor vehicle [or motorcycle], within the United
12 States, its territories or possessions, or Canada; and (ii) an insured
13 motor vehicle [or motorcycle] outside of this state and within the
14 United States, its territories or possessions, or Canada.

15 (3) Any New York resident who is neither the owner of a motor vehicle
16 with respect to which coverage for first party benefits is required by
17 this article nor, as a member of a household, is entitled to first party
18 benefits under paragraph two of this subsection, for loss arising out of
19 the use or operation of the insured or self-insured motor vehicle
20 outside of this state and within the United States, its territories or
21 possessions, or Canada.

22 (4) The estate of any covered person, other than an occupant of another
23 motor vehicle [or a motorcycle], a death benefit in the amount of two
24 thousand dollars for the death of such person arising out of the use or
25 operation of such motor vehicle which is in addition to any first party
26 benefits for basic economic loss.

27 (f) Every owner's policy of liability insurance issued on [a motorcy-
28 cle or] an all terrain vehicle in satisfaction of the requirements of
29 [article six or eight of the vehicle and traffic law or] section twenty-
30 four hundred seven of [such] THE VEHICLE AND TRAFFIC law shall also
31 provide for; every owner who maintains another form of financial securi-
32 ty on [a motorcycle or] an all terrain vehicle in satisfaction of the
33 requirements of such [articles or] section shall be liable for; and
34 every owner of [a motorcycle or] an all terrain vehicle required to be
35 subject to the provisions of this article by subdivision two of section
36 three hundred twenty-one of such law shall be liable for; the payment of
37 first party benefits to persons, other than the occupants of such
38 [motorcycle or] all terrain vehicle, another [motorcycle or] all terrain
39 vehicle, or any motor vehicle, for loss arising out of the use or opera-
40 tion of the [motorcycle or] all terrain vehicle within this state. Every
41 insurer and self-insurer may exclude from the coverage required by this
42 subsection a person who intentionally causes his OR HER own injury or is
43 injured while committing an act which would constitute a felony or while
44 seeking to avoid lawful apprehension or arrest by a law enforcement
45 officer.

46 S 3. Subsections (a) and (b) of section 5104 of the insurance law are
47 amended to read as follows:

48 (a) Notwithstanding any other law, in any action by or on behalf of a
49 covered person against another covered person for personal injuries
50 arising out of negligence in the use or operation of a motor vehicle in
51 this state, there shall be no right of recovery for non-economic loss,
52 except in the case of a serious injury, or for basic economic loss. [The
53 owner, operator or occupant of a motorcycle which has in effect the
54 financial security required by article six or eight of the vehicle and
55 traffic law, or which is referred to in subdivision two of section three
56 hundred twenty-one of such law, shall not be subject to an action by or

1 on behalf of a covered person for recovery for non-economic loss, except
2 in the case of a serious injury, or for basic economic loss.]

3 (b) In any action by or on behalf of a covered person, against a non-
4 covered person, where damages for personal injuries arising out of the
5 use or operation of a motor vehicle [or a motorcycle] may be recovered,
6 an insurer which paid or is liable for first party benefits on account
7 of such injuries has a lien against any recovery to the extent of bene-
8 fits paid or payable by it to the covered person. No such action may be
9 compromised by the covered person except with the written consent of the
10 insurer, or with the approval of the court, or where the amount of such
11 settlement exceeds fifty thousand dollars. The failure of such person to
12 commence such action within two years after accrual gives the insurer a
13 cause of action for the amount of first party benefits paid or payable
14 against any person who may be liable to the covered person for his OR
15 HER personal injuries. The insurer's cause of action shall be in addi-
16 tion to the cause of action of the covered person except that in any
17 action subsequently commenced by the covered person for such injuries,
18 the amount of his OR HER basic economic loss shall not be recoverable.

19 S 4. This act shall take effect January 1, 2016.