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

5793--A

2013-2014 Regular Sessions

I N S E N A T E

June 14, 2013

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted 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 and the vehicle and traffic law, in relation to personal vehicle sharing programs

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

Section 1. The insurance law is amended by adding a new section 3441 to read as follows:

S 3441. PERSONAL VEHICLE SHARING PROGRAMS. (A) NO PRIVATE PASSENGER MOTOR VEHICLE AS DEFINED IN THIS SECTION INSURED BY ITS OWNER PURSUANT TO A POLICY OF INSURANCE SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE OR ARTICLE FIFTY-THREE OF THIS CHAPTER SHALL BE CLASSIFIED AS A COMMERCIAL VEHICLE, FOR-HIRE VEHICLE, PERMISSIVE USE VEHICLE, TAXICAB OR LIVERY SOLELY BECAUSE ITS OWNER ALLOWS IT TO BE USED FOR PERSONAL VEHICLE SHARING AS LONG AS ALL OF THE FOLLOWING CIRCUMSTANCES APPLY:

(1) THE PERSONAL VEHICLE SHARING IS COMPLIANT WITH A PERSONAL VEHICLE SHARING PROGRAM AS PROVIDED FOR IN THIS SECTION; AND

(2) THE OWNER OF THE PRIVATE PASSENGER MOTOR VEHICLE DOES NOT KNOWINGLY PLACE THE VEHICLE INTO USE AS A COMMERCIAL VEHICLE OR AS A VEHICLE FOR HIRE BY A PERSONAL VEHICLE SHARING RENTER AS DEFINED IN THIS SECTION WHILE ENGAGED IN PERSONAL VEHICLE SHARING; AND

(3) THE ANNUAL REVENUE RECEIVED BY THE VEHICLE'S REGISTERED OWNER THAT WAS GENERATED BY THE PERSONAL VEHICLE SHARING DOES NOT EXCEED THE ANNUAL EXPENSES OF OWNING AND OPERATING THE VEHICLE, INCLUDING DEPRECIATION, INTEREST, LEASE PAYMENTS, MOTOR VEHICLE LOAN PAYMENTS, INSURANCE, MAINTENANCE, PARKING, FUEL, CLEANING, AUTOMOBILE REPAIR AND COSTS ASSOCIATED WITH PERSONAL VEHICLE SHARING, INCLUDING BUT NOT LIMITED TO THE INSTAL-

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

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LATION, OPERATION, AND MAINTENANCE OF COMPUTER HARDWARE AND SOFTWARE, SIGNAGE IDENTIFYING THE VEHICLE AS A PERSONAL VEHICLE SHARING VEHICLE, AND ANY FEES CHARGED BY THE PROGRAM.

(B) FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS APPLY:

(1) "PERSONAL VEHICLE SHARING" MEANS THE USE OF PRIVATE PASSENGER MOTOR VEHICLES BY PERSONS OTHER THAN THE VEHICLE'S OWNER, IN CONNECTION WITH A PERSONAL VEHICLE SHARING PROGRAM.

(2) "PERSONAL VEHICLE SHARING PROGRAM" MEANS A PROGRAM ENGAGED IN FACILITATING THE SHARING OF PRIVATE PASSENGER MOTOR VEHICLES FOR NONCOMMERCIAL USE.

(3) "PRIVATE PASSENGER MOTOR VEHICLE" MEANS:

(A) A PRIVATE PASSENGER AUTO; OR

(B) A PICKUP OR VAN THAT:

(I) HAS A GROSS VEHICLE WEIGHT RATING OF TEN THOUSAND POUNDS OR LESS; AND

(II) IS NOT USED FOR THE COMMERCIAL DELIVERY OR TRANSPORTATION OF GOODS AND MATERIALS.

(C) A PRIVATE PASSENGER MOTOR VEHICLE UNDER THIS DEFINITION MUST BE INSURED, OR BE SUBJECT TO BEING INSURED, UNDER A PRIVATE PASSENGER MOTOR VEHICLE LIABILITY INSURANCE POLICY INSURING A SINGLE INDIVIDUAL, OR INDIVIDUALS RESIDING IN THE SAME HOUSEHOLD, AS THE NAMED INSURED, BUT DOES NOT INCLUDE A VEHICLE WITH FEWER THAN FOUR WHEELS.

(4) "PERSONAL VEHICLE SHARING RENTER" MEANS A PERSON, OTHER THAN THE VEHICLE OWNER, WHO RENTS THE OWNER'S VEHICLE THROUGH A PERSONAL VEHICLE SHARING PROGRAM AS DEFINED IN THIS SECTION.

(5) "PROGRAM PROVIDER" MEANS THE PERSON OR ENTITY THAT IS RESPONSIBLE FOR OPERATING THE PERSONAL VEHICLE SHARING PROGRAM.

(C) A PROGRAM PROVIDER SHALL, FOR EACH VEHICLE THAT IT FACILITATES THE USE OF, DO ALL OF THE FOLLOWING:

(1) DURING ALL TIMES THAT THE VEHICLE IS ENGAGED IN PERSONAL VEHICLE SHARING, PROCURE GROUP INSURANCE COVERAGE FOR EACH VEHICLE AND AUTHORIZED OPERATOR OF THE VEHICLE. SUCH INSURANCE SHALL, AT A MINIMUM, PROVIDE FOR EACH VEHICLE COVERAGE AT LEAST EQUAL TO THE MINIMUM INSURANCE REQUIREMENTS FOR PRIVATE PASSENGER VEHICLES AS PROVIDED BY SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW, ARTICLE FIFTY-ONE OF THIS CHAPTER AND SUCH OTHER NEW YORK STATE STATUTES WITH RESPECT TO MANDATORY LIABILITY, UNINSURED, AND FIRST-PARTY BENEFITS COVERAGE AS MAY BE ENACTED FROM TIME TO TIME. THE GROUP INSURANCE POLICY MAY PROVIDE UNDERINSURED INSURANCE COVERAGE AT THE OPTION OF THE PROGRAM PROVIDER AS INSURED OF THE GROUP POLICY. THE PROGRAM SHALL ALSO OFFER COMPREHENSIVE AND COLLISION PROTECTION, AS FURTHER DESCRIBED IN SUBSECTIONS (M) AND (N) OF THIS SECTION.

(2) PROVIDE THE REGISTERED OWNER OF THE VEHICLE WITH SUITABLE PROOF OF COMPLIANCE WITH THE INSURANCE REQUIREMENTS OF THIS SECTION AND THE REQUIREMENTS OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW AND ARTICLE FIFTY-ONE OF THIS CHAPTER, A COPY OF WHICH SHALL BE MAINTAINED IN THE VEHICLE BY THE VEHICLE'S REGISTERED OWNER DURING ANY TIME WHEN THE VEHICLE IS OPERATED BY ANY PERSON OTHER THAN THE VEHICLE'S OWNER PURSUANT TO A PERSONAL VEHICLE SHARING PROGRAM.

(3) NOT KNOWINGLY PERMIT THE VEHICLE TO BE OPERATED FOR COMMERCIAL USE OR AS A VEHICLE FOR HIRE BY A PERSONAL VEHICLE SHARING RENTER WHILE ENGAGED IN PERSONAL VEHICLE SHARING.

(4) PROVIDE EACH PERSONAL VEHICLE SHARING RENTER FOR EACH VEHICLE RENTAL TRANSACTION UNDER THE PERSONAL VEHICLE SHARING PROGRAM AT THE TIME OF EACH RENTAL:

(A) DOCUMENTATION ABLE TO BE CARRIED IN THE VEHICLE AT ALL TIMES DURING THE RENTAL THAT THE INSURANCE COVERAGE REFERRED TO IN PARAGRAPH ONE OF THIS SUBSECTION IS IN FULL FORCE AND EFFECT; AND

(B) PROVIDE MEANS VIA A TOLL FREE NUMBER, E-MAIL ADDRESS OR SUCH OTHER MEANS OF COMMUNICATION PURSUANT TO WHICH A LAW ENFORCEMENT POLICE OFFICER, A REPRESENTATIVE OF THE DEPARTMENT OF MOTOR VEHICLES OR OTHER OFFICER OF THIS STATE OR ANY POLITICAL SUBDIVISION THEREOF MAY CONFIRM IN REAL TIME THAT THE INSURANCE COVERAGE PROVIDED FOR IN PARAGRAPH ONE OF THIS SUBSECTION, IS IN EFFECT.

(5) SHALL COMPLY WITH THE REQUIREMENTS OF SUBDIVISION TWO OF SECTION THREE HUNDRED TWELVE OF THE VEHICLE AND TRAFFIC LAW.

(6) REQUIRE THAT THE VEHICLES USED IN THE PERSONAL VEHICLE SHARING PROGRAM ARE LIMITED TO PRIVATE PASSENGER MOTOR VEHICLES AS DEFINED IN THIS SECTION.

(7) FACILITATE THE INSTALLATION, OPERATION, AND MAINTENANCE OF ITS OWN SIGNAGE AND COMPUTER HARDWARE AND SOFTWARE, IF AND WHEN REQUESTED BY THE VEHICLE'S REGISTERED OWNER, TO THE EXTENT NECESSARY FOR THE VEHICLE TO BE USED IN THE PROGRAM.

(8) INDEMNIFY AND HOLD HARMLESS THE VEHICLE'S REGISTERED OWNER FOR THE COST OF DAMAGE OR THEFT OF EQUIPMENT INSTALLED BY THE PROGRAM UNDER PARAGRAPH SEVEN OF THIS SUBSECTION AND FOR ANY DAMAGE CAUSED TO THE VEHICLE BY THE INSTALLATION, OPERATION OR MAINTENANCE OF SUCH EQUIPMENT.

(9) COLLECT, MAINTAIN, AND MAKE AVAILABLE TO THE VEHICLE'S REGISTERED OWNER, AND THE OWNER'S PRIMARY MOTOR VEHICLE LIABILITY INSURER, THE OPERATOR'S PRIMARY AUTOMOBILE INSURER, EXCESS OR UMBRELLA INSURER AND ANY GOVERNMENT AGENCY AS REQUIRED BY LAW, AT THE COST OF THE PROGRAM THE FOLLOWING WITHIN TEN BUSINESS DAYS OF A REQUEST:

(A) VERIFIABLE RECORDS OF THE PROGRAM USE PERIOD FOR EACH VEHICLE. FOR VEHICLES WITH AN ELECTRONIC TRACKING DEVICE, VERIFIABLE ELECTRONIC RECORDS OF THE TIME, INITIAL AND FINAL LOCATIONS OF THE VEHICLE, AND (TO THE EXTENT MILEAGE IS COLLECTED) MILES DRIVEN; AND

(B) IN INSTANCES WHERE AN INSURANCE CLAIM HAS BEEN FILED, ANY AND ALL INFORMATION RELEVANT TO THE CLAIM, INCLUDING PAYMENTS BY THE PROGRAM, CONCERNING ACCIDENTS, DAMAGES AND INJURIES.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW OR ANY PROVISION IN A PRIVATE PASSENGER MOTOR VEHICLE OWNER'S AUTOMOBILE INSURANCE POLICY, IN THE EVENT OF A LOSS OR INJURY THAT OCCURS DURING ANY TIME PERIOD WHEN THE VEHICLE IS UNDER THE OPERATION AND CONTROL OF A PERSONAL VEHICLE SHARING RENTER AS DEFINED IN THIS SECTION OR OTHERWISE UNDER THE CONTROL OF A PERSONAL VEHICLE SHARING PROGRAM, THE PROGRAM PROVIDER SHALL ASSUME ALL LIABILITY UNDER SECTION THREE HUNDRED EIGHTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW AND SUCH OTHER STATUTES THAT MAY IMPOSE LIABILITY UPON AN OWNER OF A PRIVATE PASSENGER MOTOR VEHICLE AS IF THE PROGRAM PROVIDER WERE THE OWNER OF THE VEHICLE.

SECTION THREE HUNDRED EIGHTY-EIGHT OF THE VEHICLE AND TRAFFIC LAW SHALL NOT APPLY TO THE VEHICLE OWNER WHILE THE VEHICLE IS UNDER THE OPERATION AND CONTROL OF A PERSONAL VEHICLE SHARING RENTER OR OTHERWISE UNDER THE CONTROL OF A PERSONAL VEHICLE SHARING PROGRAM. NOTHING IN THIS SECTION LIMITS THE LIABILITY OF THE PROGRAM PROVIDER FOR ITS ACTS OR OMISSIONS THAT RESULT IN INJURY TO ANY PERSONS AS A RESULT OF THE USE OR OPERATION OF A MOTOR VEHICLE WHILE IN CUSTODY OF A PERSONAL VEHICLE SHARING PROGRAM. HOWEVER NOTHING IN THIS SECTION LIMITS THE ABILITY OF THE PROGRAM TO, BY CONTRACT, SEEK INDEMNIFICATION FROM THE VEHICLE'S REGISTERED OWNER FOR ANY CLAIMS PAID BY THE PROGRAM FOR ANY LOSS OR INJURY RESULTING FROM FRAUD OR MATERIAL INTENTIONAL MISREPRESENTATION BY

THE VEHICLE'S REGISTERED OWNER, PROVIDED THAT THE VEHICLE SHARING PROGRAM DISCLOSES IN THE CONTRACT THAT:

(I) THE PROGRAM IS ENTITLED TO SEEK INDEMNIFICATION IN THESE CIRCUMSTANCES; AND

(II) THE REGISTERED OWNER'S INSURANCE POLICY MAY NOT PROVIDE DEFENSE OR INDEMNIFICATION FOR ANY LOSS OR INJURY RESULTING FROM FRAUD OR MATERIAL INTENTIONAL MISREPRESENTATION.

(E) A PROGRAM PROVIDER SHALL CONTINUE TO BE LIABLE PURSUANT TO SUBSECTION (D) OF THIS SECTION UNTIL BOTH OF THE FOLLOWING OCCUR:

(1) THE PRIVATE PASSENGER MOTOR VEHICLE IS RETURNED TO A LOCATION SPECIFIED BY THE OWNER, OR DESIGNATED BY THE PERSONAL VEHICLE SHARING PROGRAM; AND

(2) THE EARLIEST OF ONE OF THE FOLLOWING OCCURS:

(A) THE EXPIRATION OF THE TIME PERIOD ESTABLISHED FOR THE PARTICULAR USE OF THE VEHICLE;

(B) THE INTENT TO TERMINATE THE PERSONAL VEHICLE SHARING USE IS VERIFIABLY COMMUNICATED TO THE PROGRAM PROVIDER; OR

(C) THE VEHICLE'S OWNER TAKES POSSESSION AND CONTROL OF THE VEHICLE.

(F) THE INSURER OR INSURERS PROVIDING GROUP LIABILITY INSURANCE TO THE PERSONAL VEHICLE SHARING PROGRAM PURSUANT TO SUBSECTION (J) OF THIS SECTION AND GROUP PHYSICAL DAMAGE INSURANCE TO THE PERSONAL VEHICLE SHARING PROGRAM PURSUANT TO SUBSECTION (M) OF THIS SECTION SHALL ASSUME LIABILITY FOR A CLAIM IN WHICH A DISPUTE EXISTS REGARDING WHO WAS IN CONTROL OF THE VEHICLE WHEN THE LOSS OCCURRED GIVING RISE TO THE CLAIM, AND THE VEHICLE OWNER'S PRIVATE PASSENGER MOTOR VEHICLE INSURER SHALL INDEMNIFY THE PERSONAL VEHICLE SHARING PROGRAM'S GROUP INSURER OR INSURERS TO THE EXTENT OF ITS OBLIGATION UNDER THE APPLICABLE INSURANCE POLICY, IF IT IS DETERMINED THAT THE VEHICLE'S OWNER WAS IN CONTROL OF THE VEHICLE AT THE TIME OF THE LOSS. THE PROGRAM MUST NOTIFY THE REGISTERED OWNER'S INSURER OF ANY SUCH DISPUTE WITHIN TWENTY-FIVE BUSINESS DAYS OF BECOMING AWARE THAT SUCH A DISPUTE MAY EXIST.

(G) IN THE EVENT THAT THE OWNER OF THE VEHICLE OR ITS INSURER IS NAMED AS A DEFENDANT IN A CIVIL ACTION FOR A LOSS OR INJURY THAT OCCURS DURING ANY TIME PERIOD WHEN THE VEHICLE IS UNDER THE OPERATION AND CONTROL OF A PERSON OTHER THAN THE VEHICLE'S OWNER PURSUANT TO A PERSONAL VEHICLE SHARING PROGRAM, OR OTHERWISE UNDER THE CONTROL OF A PERSONAL VEHICLE SHARING PROGRAM, THE PERSONAL VEHICLE SHARING PROGRAM'S GROUP LIABILITY INSURANCE INSURER UNDER SUBSECTION (J) OF THIS SECTION SHALL HAVE THE DUTY TO DEFEND AND INDEMNIFY THE VEHICLE'S OWNER AND THE VEHICLE OWNER'S INSURER, SUBJECT TO THE PROVISIONS OF SUBSECTIONS (D) AND (F) OF THIS SECTION.

(H) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHILE A PRIVATE PASSENGER MOTOR VEHICLE IS USED BY A PERSON OTHER THAN ITS OWNER, PURSUANT TO PERSONAL VEHICLE SHARING FACILITATED THROUGH A PERSONAL VEHICLE SHARING PROGRAM, ALL OF THE FOLLOWING SHALL APPLY:

(1) THE INSURER OF THAT VEHICLE ON FILE WITH THE DEPARTMENT OF MOTOR VEHICLES MAY EXCLUDE ANY AND ALL COVERAGE FOR LIABILITY, UNINSURED, UNDERINSURED, COLLISION PHYSICAL DAMAGE AND COMPREHENSIVE PHYSICAL DAMAGE BENEFITS AND FIRST-PARTY BENEFITS THAT MAY OTHERWISE BE AFFORDED PURSUANT TO ITS POLICY.

(2) THE PRIMARY AND EXCESS INSURER OR INSURERS OF THE OWNERS OF THE PRIVATE PASSENGER MOTOR VEHICLE USED IN A PERSONAL VEHICLE SHARING PROGRAM SHALL HAVE THE RIGHT TO NOTIFY AN INSURED THAT IT HAS NO DUTY TO DEFEND OR INDEMNIFY ANY PERSON OR ORGANIZATION FOR LIABILITY FOR ANY LOSS THAT OCCURS DURING THE RENTAL PERIOD OF THE VEHICLE IN A PERSONAL VEHICLE SHARING PROGRAM.

(I) NO VEHICLE OWNER'S POLICY OF INSURANCE THAT IS SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE SHALL BE CANCELED, VOIDED, TERMINATED, RESCINDED, OR NON-RENEWED, SOLELY ON THE BASIS THAT THE PRIVATE PASSENGER MOTOR VEHICLE HAS BEEN MADE AVAILABLE FOR PERSONAL VEHICLE SHARING PURSUANT TO A PERSONAL VEHICLE SHARING PROGRAM THAT IS IN COMPLIANCE WITH THE PROVISIONS OF THIS SECTION. PROVIDED, HOWEVER THAT:

(1) AN INSURER MAY REFUSE TO ENROLL A VEHICLE IN A USAGE-BASED INSURANCE PROGRAM (WHERE SUCH USAGE-BASED INSURANCE PROGRAM CONTINUALLY MONITORS USAGE ELECTRONICALLY TO DETERMINE ACCELERATION, BRAKING, MILES DRIVEN AND OTHER INDICIA OF DRIVING BEHAVIOR) IF THAT VEHICLE IS USED IN A PROGRAM; AND

(2) AN INSURER MAY CANCEL OR NON-RENEW A POLICY THAT INSURES A VEHICLE USED IN THE PROGRAM IF THAT VEHICLE IS ENROLLED IN SUCH A USAGE-BASED INSURANCE PROGRAM. THE INSURER MUST IMMEDIATELY OFFER THE INSURED A NEW POLICY WITH THE SAME COVERAGES AND PRE-EXISTING RATES, BUT WITHOUT ENROLLMENT IN THE USAGE-BASED INSURANCE PROGRAM.

(J) AN INSURER WHICH IS AUTHORIZED TO DO BUSINESS IN THE STATE OF NEW YORK MAY ISSUE A GROUP POLICY OF LIABILITY INSURANCE TO A PERSONAL VEHICLE SHARING PROGRAM TO INSURE THE PERSONAL VEHICLE SHARING PROGRAM AND ITS PARTICIPANTS AS DESCRIBED IN SUBSECTIONS (C), (D), (E), (F), (G) AND (H) OF THIS SECTION. SUCH POLICY SHALL PROVIDE LIABILITY, UNINSURED, AND FIRST PARTY COVERAGE, AND IF ELECTED BY THE PROGRAM PROVIDER, UNDERINSURED COVERAGE, FOR THE PRIVATE PASSENGER MOTOR VEHICLE AND ITS AUTHORIZED OPERATORS AND OCCUPANTS FOR CLAIMS AND DAMAGES RESULTING FROM THE USE OR OPERATION OF THAT VEHICLE WHILE IT IS IN THE CUSTODY OF THE PERSONAL VEHICLE SHARING PROGRAM. SUCH POLICY SHALL BE PRIMARY WITH RESPECT TO ANY OTHER INSURANCE AVAILABLE TO THE OWNER OF THE MOTOR VEHICLE AND SHALL BE EXCESS OVER ANY OTHER INSURANCE AVAILABLE TO THE PERSONAL VEHICLE SHARING RENTER. SUCH INSURER SHALL ALSO COMPLY WITH THE PROVISIONS OF SECTION THREE HUNDRED TWELVE-A AND THREE HUNDRED THIRTEEN OF THE VEHICLE AND TRAFFIC LAW. FOR PURPOSES OF GROUP INSURANCE WRITTEN UNDER THIS SECTION ONLY, THE RATES CHARGED BY THE AUTHORIZED INSURER FOR GROUP LIABILITY INSURANCE AS PROVIDED FOR IN THIS SECTION SHALL BE FILED WITH THE DEPARTMENT OF FINANCIAL SERVICES ON A FILE AND USE BASIS.

(K) AN INSURER WHICH ISSUES AN INSURANCE POLICY DESCRIBED IN SUBSECTION (J) OF THIS SECTION SHALL ISSUE SUCH POLICY IDENTIFYING THE PERSONAL VEHICLE SHARING PROGRAM AS THE NAMED INSURED. ANY SUCH POLICY SHALL INCLUDE A PROVISION THAT PROVIDES COVERAGE, WITHOUT PRIOR NOTICE TO THE INSURER, FOR ALL PRIVATE PASSENGER MOTOR VEHICLES DURING ALL TIMES THAT SUCH VEHICLES ARE ENGAGED IN PERSONAL VEHICLE SHARING FOR THE NAMED INSURED, AND SHALL FURTHER INCLUDE A PROVISION THAT THE VEHICLES' OWNERS, AUTHORIZED OPERATORS AND OCCUPANTS ARE INCLUDED AS INSUREDS UNDER THE POLICY TO THE SAME EXTENT THAT THEY WOULD BE INSUREDS UNDER A PRIVATE PASSENGER MOTOR VEHICLE POLICY ISSUED PURSUANT TO SECTIONS THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE AND SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW.

(L) A GROUP POLICY AS PROVIDED FOR IN SUBSECTIONS (J) AND (K) OF THIS SECTION MAY ONLY BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(M) A PROGRAM PROVIDER MAY CONTRACTUALLY ASSUME THE RISK OF PHYSICAL DAMAGE LOSS TO PRIVATE PASSENGER MOTOR VEHICLES DURING THE TIME THAT THE VEHICLES ARE IN THE CUSTODY OF THE PERSONAL VEHICLE SHARING PROGRAM. THE TERMS OF SUCH CONTRACTUAL ASSUMPTION MAY PROVIDE THAT THE PROGRAM PROVIDER IS ASSUMING THE RISK OF PHYSICAL DAMAGE LOSS TO THE VEHICLE IN EXCESS OF A SUM CERTAIN. SUCH ASSUMPTION OF RISK OF PHYSICAL DAMAGE LOSS

TO THE VEHICLE SHALL NOT BE DEEMED TO BE PHYSICAL DAMAGE INSURANCE. A PROGRAM PROVIDER SHALL ONLY BE PERMITTED TO ASSUME RESPONSIBILITY FOR POTENTIAL PHYSICAL DAMAGE TO PARTICIPATING VEHICLES AS PROVIDED FOR IN THIS PARAGRAPH UPON SATISFACTION OF CERTAIN STANDARDS TO BE DEVELOPED BY THE SUPERINTENDENT PURSUANT TO REGULATION. SUCH REGULATIONS SHALL ADDRESS THE FINANCIAL RESPONSIBILITY OF THE PROGRAM PROVIDER TO COVER THE COST OF THE PHYSICAL DAMAGE, AND SHALL ESTABLISH STANDARDS REGARDING THE PROGRAM PROVIDER'S RESPONSE TO VEHICLE OWNERS REGARDING ANY PHYSICAL DAMAGE TO THEIR VEHICLES WHILE IN THE CUSTODY OF THE PERSONAL VEHICLE SHARING PROGRAM.

(N) AN INSURER WHICH IS AUTHORIZED OR ELIGIBLE TO DO BUSINESS IN THE STATE OF NEW YORK MAY ISSUE A GROUP POLICY OF PHYSICAL DAMAGE INSURANCE TO A PERSONAL VEHICLE SHARING PROGRAM AND TO THE OWNERS OF PRIVATE PASSENGER MOTOR VEHICLES PARTICIPATING IN THAT PROGRAM TO INSURE AGAINST PHYSICAL DAMAGE LOSS TO VEHICLES WHILE THE VEHICLES ARE IN THE CUSTODY OF THE PERSONAL VEHICLE SHARING PROGRAM OR PERSONAL VEHICLE SHARING RENTER. SUCH POLICY MAY PROVIDE PRIMARY COVERAGE FOR PHYSICAL DAMAGE LOSS BY EITHER COLLISION, COMPREHENSIVE OR BOTH TO THE VEHICLE WHILE IT IS IN THE CUSTODY OF THE VEHICLE SHARING PROGRAM OR A PERSONAL VEHICLE SHARING RENTER.

(O) IF THE GROUP COVERAGE PROVIDED FOR IN SUBSECTION (N) OF THIS SECTION IS PLACED WITH AN ELIGIBLE EXCESS LINE INSURER, COMPLIANCE WITH THE EXCESS LINE STATUTES AND REGULATIONS OF THIS STATE SHALL BE PERFORMED WITH RESPECT TO THE GROUP AS A WHOLE AND NOT WITH RESPECT TO INDIVIDUAL GROUP MEMBERS.

(P) AN INSURER WHICH ISSUES A GROUP INSURANCE POLICY DESCRIBED IN SUBSECTION (N) OF THIS SECTION SHALL ISSUE SUCH POLICY IDENTIFYING THE PERSONAL VEHICLE SHARING PROGRAM AS THE NAMED INSURED. ANY SUCH POLICY SHALL INCLUDE A PROVISION THAT PROVIDES PRIMARY COVERAGE, WITHOUT PRIOR NOTICE TO THE INSURER, FOR ALL PRIVATE PASSENGER MOTOR VEHICLES DURING ALL TIMES THAT SUCH VEHICLES ARE ENGAGED IN PERSONAL VEHICLE SHARING FOR THE NAMED INSURED, AND SHALL FURTHER INCLUDE A PROVISION THAT CLAIMS WILL BE ADJUSTED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED TWELVE OF THIS ARTICLE.

(Q) A GROUP POLICY AS PROVIDED FOR IN SUBSECTIONS (N), (O) AND (P) OF THIS SECTION MAY ONLY BE ISSUED IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

S 2. Subdivision 4 of section 311 of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(E) IN THE CASE OF A PRIVATE PASSENGER MOTOR VEHICLE AS DEFINED IN SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW THAT IS USED IN CONNECTION WITH A PERSONAL VEHICLE SHARING PROGRAM AS DEFINED IN SUCH SECTION, THE INSURANCE REQUIREMENTS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE MET BY A GROUP INSURANCE POLICY ISSUED PURSUANT TO SECTION THIRTY-FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW TO A PROGRAM PROVIDER AND TO THE PERSONAL VEHICLE SHARING RENTERS OF THAT PROGRAM FOR ANY TIME THAT THE VEHICLE IS BEING USED IN CONNECTION WITH THE PERSONAL VEHICLE SHARING PROGRAM.

S 3. Subdivisions 2, 3, 4 and 5 of section 312 of the vehicle and traffic law are renumbered subdivisions 3, 4, 5 and 6 and a new subdivision 2 is added to read as follows:

2. IN THE CASE OF FINANCIAL SECURITY PROCURED BY A PROGRAM PROVIDER OF A PERSONAL VEHICLE SHARING PROGRAM AS SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW, THE PROGRAM PROVIDER SHALL PROVIDE THE COMMISSIONER WITH PROOF OF FINANCIAL SECURITY IN THE FORM OF A GROUP INSURANCE POLICY COVERING ITSELF AND THE OWNERS OF ALL

NEW YORK REGISTERED PRIVATE PASSENGER MOTOR VEHICLES THAT PARTICIPATE IN THE PROGRAM AS INSURED GROUP MEMBERS, COVERING THOSE VEHICLES WHILE THEY ARE BEING USED IN CONJUNCTION WITH THAT PROGRAM. SUCH PROOF SHALL NOT BE USED IN CONNECTION WITH THE REGISTRATION OF THE VEHICLES AND NO SUCH VEHICLE SHALL BE REGISTERED UNLESS THE OWNER OF THE VEHICLE SEPARATELY COMPLIES WITH SUBDIVISION ONE OF THIS SECTION.

S 4. Subdivision 1 of section 312-a of the vehicle and traffic law, as amended by chapter 781 of the laws of 1983, is amended to read as follows:

1. Upon issuance of an owner's policy of liability insurance, A GROUP LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A PERSONAL VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to paragraph (b) of subdivision two of section three hundred thirteen of this article.

S 5. Paragraphs (a) and (b) of subdivision 2 of section 313 of the vehicle and traffic law, as amended by chapter 509 of the laws of 1998, are amended to read as follows:

(a) Upon the termination of an owner's policy of liability insurance, OR A GROUP LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A PERSONAL VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW other than an owner's policy of liability insurance for a motorcycle, at the request of the insured or by cancellation by the insurer, the insurer shall file a notice of termination with reference to such policy, as opposed to any insured vehicle or vehicles under such policy, with the commissioner not later than thirty days following the effective date of such cancellation or other termination, in accordance with the regulations required by paragraph (c) of this subdivision. An insurer shall not file a notice of termination with the commissioner except as required by this subdivision.

(b) Upon the issuance of an owner's policy of liability insurance, OR A GROUP LIABILITY INSURANCE POLICY ISSUED TO A PROGRAM PROVIDER OF A PERSONAL VEHICLE SHARING PROGRAM PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THE INSURANCE LAW the insurer shall file a notice or confirmation of issuance with reference to such policy not later than fourteen days following the effective date of such issuance, and not later than seven days following the effective date for policies issued after January first, two thousand one, in accordance with the regulations required by paragraph (c) of this subdivision.

S 6. This act shall take effect immediately.