

1146--A

2015-2016 Regular Sessions

I N S E N A T E

January 9, 2015

Introduced by Sens. KLEIN, AVELLA, CARLUCCI, SAVINO, SQUADRON, STAVISKY, VALESKY -- 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, the penal law, and the vehicle and traffic law, in relation to insurance fraud; and to repeal subdivision 1 of section 502 of the vehicle and traffic law relating to applications for licenses

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 INDIVIDUALS
5 THAT OPERATE MOTOR VEHICLES WITH NO INSURANCE COVERAGE, AND MOTOR VEHI-
6 CLE INSUREDS WHO MISREPRESENT THE PRINCIPAL PLACE WHERE INSURED MOTOR
7 VEHICLES ARE GARAGED AND OPERATED. OPERATING MOTOR VEHICLES WITHOUT
8 PROPER INSURANCE IN VIOLATION OF ARTICLE SIX OF THE VEHICLE AND TRAFFIC
9 LAW IS A SIGNIFICANT DANGER TO THE PUBLIC BECAUSE DRIVERS ARE UNABLE TO
10 COMPENSATE INDIVIDUALS FOR PERSONAL INJURIES, DEATH AND PROPERTY DAMAGE
11 THEY INFLICT UPON OTHERS. FURTHERMORE, MOTOR VEHICLE INSUREDS WHO
12 MISREPRESENT THE PRINCIPAL PLACE WHERE SUCH VEHICLES ARE GARAGED AND
13 OPERATED IMPROPERLY SHIFT THEIR HIGH LIABILITY EXPOSURE COSTS TO OTHER
14 MOTOR VEHICLE INSUREDS THAT DO NOT FACE SUCH HIGH LIABILITY RISK AND
15 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:

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

LBD03886-03-6

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

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

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

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

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

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

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

56 S 170.15 Forgery in the first degree.

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

4 1. TEN OR MORE WRITTEN INSTRUMENTS; OR

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

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

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

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

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

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

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

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

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

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

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

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

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

41 S 176.15 Insurance fraud in the fourth degree.

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

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

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

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

55 S 9. The vehicle and traffic law is amended by adding a new section
56 201-a to read as follows:

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

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

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

by the commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the commissioner as he OR SHE shall direct for filing. No application for registration shall be accepted unless the applicant is at least sixteen years of age AND HAS SIGNED SUCH APPLICATION ATTESTING TO THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN.

S 11. Subdivision 1 of section 502 of the vehicle and traffic law, as separately amended by chapters 465 and 487 of the laws of 2012, the third undesignated paragraph as amended by chapter 405 of the laws of 2015, is REPEALED and a new subdivision 1 is added to read as follows:

1. APPLICATION FOR LICENSE. APPLICATION FOR A DRIVER'S LICENSE SHALL BE MADE TO THE COMMISSIONER. THE FEE PRESCRIBED BY LAW MAY BE SUBMITTED WITH SUCH APPLICATION. THE APPLICANT SHALL FURNISH SUCH PROOF OF IDENTITY, AGE, ADDRESS OF HIS OR HER RESIDENCE AND FITNESS AS MAY BE REQUIRED BY THE COMMISSIONER. WHEN PROVIDING HIS OR HER ADDRESS OF RESIDENCE, THE APPLICANT SHALL PROVIDE THE STREET ADDRESS AT WHICH HE OR SHE RESIDES. EACH APPLICANT SHALL SIGN HIS OR HER APPLICATION ATTESTING TO THE TRUTH AND VERACITY OF THE FACTS STATED THEREIN. THE COMMISSIONER MAY ALSO PROVIDE THAT THE APPLICATION PROCEDURE SHALL INCLUDE THE TAKING OF A PHOTO IMAGE OR IMAGES OF THE APPLICANT IN ACCORDANCE WITH RULES AND REGULATIONS PRESCRIBED BY THE COMMISSIONER. IN ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT THE APPLICANT PROVIDE HIS OR HER SOCIAL SECURITY NUMBER AND SHALL PROVIDE SPACE ON THE APPLICATION SO THAT THE APPLICANT MAY REGISTER IN THE NEW YORK STATE ORGAN AND TISSUE DONOR REGISTRY UNDER SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC HEALTH LAW WITH THE FOLLOWING STATED ON THE APPLICATION IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: WOULD YOU LIKE TO BE ADDED TO THE DONATE LIFE REGISTRY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'."

THE COMMISSIONER OF HEALTH SHALL NOT MAINTAIN RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". EXCEPT WHERE THE APPLICATION IS MADE IN PERSON OR ELECTRONICALLY, FAILURE TO CHECK A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGISTERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION. IN ADDITION, AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE WHO WILL OPERATE A COMMERCIAL MOTOR VEHICLE IN INTER-STATE COMMERCE SHALL CERTIFY THAT SUCH APPLICANT MEETS THE REQUIREMENTS TO OPERATE A COMMERCIAL MOTOR VEHICLE, AS SET FORTH IN PUBLIC LAW 99-570, TITLE XII, AND TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AND ALL REGULATIONS PROMULGATED BY THE UNITED STATES SECRETARY OF TRANSPORTATION UNDER THE HAZARDOUS MATERIALS TRANSPORTATION ACT. IN ADDITION, AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE SHALL SUBMIT A MEDICAL CERTIFICATE AT SUCH INTERVALS AS REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS RELATING TO MEDICAL CERTIFICATION AND IN A MANNER PRESCRIBED BY THE COMMISSIONER. FOR PURPOSES OF THIS SECTION AND SECTIONS FIVE HUNDRED THREE, FIVE HUNDRED TEN-A, AND FIVE HUNDRED TEN-AA OF THIS TITLE, THE TERMS "MEDICAL CERTIFICATE" AND "MEDICAL CERTIFICATION" SHALL MEAN A FORM SUBSTANTIALLY IN COMPLIANCE WITH THE FORM SET FORTH IN PART 391.43(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS.

1 UPON A DETERMINATION THAT THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE
2 HAS MADE ANY FALSE STATEMENT, WITH RESPECT TO THE APPLICATION FOR SUCH
3 LICENSE, THE COMMISSIONER SHALL REVOKE SUCH LICENSE.

4 S 12. Subdivision 1 of section 502 of the vehicle and traffic law, as
5 added by section eleven of this act, is 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, the
11 applicant shall provide the street address at which he or she resides.
12 Each applicant shall sign his or her application attesting to the truth
13 and veracity of the facts stated therein. The commissioner may also
14 provide that the application procedure shall include the taking of a
15 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 [shall] provide space on the application so that the
19 applicant may register in the New York state organ and tissue donor
20 registry under section forty-three hundred ten of the public health law
21 [with the following stated on the application in clear and conspicuous
22 type:

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

26 The commissioner of health shall not maintain records of any person
27 who checks "skip this question". Except where the application is made in
28 person or electronically, failure to check a box shall not impair the
29 validity of an application, and failure to check "yes" or checking "skip
30 this question" shall not be construed to imply a wish not to donate. In
31 the case of an applicant under eighteen years of age, checking "yes"
32 shall not constitute consent to make an anatomical gift or registration
33 in the donate life registry. Where an applicant has previously consented
34 to make an anatomical gift or registered in the donate life registry,
35 checking "skip this question" or failing to check a box shall not impair
36 that consent or registration]. In addition, an applicant for a commer-
37 cial driver's license who will operate a commercial motor vehicle in
38 interstate commerce shall certify that such applicant meets the require-
39 ments to operate a commercial motor vehicle, as set forth in public law
40 99-570, title XII, and title 49 of the code of federal regulations, and
41 all regulations promulgated by the United States secretary of transpor-
42 tation under the hazardous materials transportation act. In addition, an
43 applicant for a commercial driver's license shall submit a medical
44 certificate at such intervals as required by the federal motor carrier
45 safety improvement act of 1999 and Part 383.71(h) of title 49 of the
46 code of federal regulations relating to medical certification and in a
47 manner prescribed by the commissioner. For purposes of this section and
48 sections five hundred three, five hundred ten-a, and five hundred ten-aa
49 of this title, the terms "medical certificate" and "medical certif-
50 ication" shall mean a form substantially in compliance with the form set
51 forth in Part 391.43(h) of title 49 of the code of federal regulations.
52 Upon a determination that the holder of a commercial driver's license
53 has made any false statement, with respect to the application for such
54 license, the commissioner shall revoke such license.

55 S 13. This act shall take effect on the one hundred eightieth day
56 after it shall have become a law, provided however, that:

1 (a) section twelve of this act shall take effect October 3, 2016; and
2 (b) sections four, five, six, seven and eight of this act shall take
3 effect on the first of November next succeeding the date on which it
4 shall have become a law.