

4108--A

2015-2016 Regular Sessions

I N S E N A T E

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Introduced by Sens. SEWARD, DILAN, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to transportation network companies

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

1 Section 1. The insurance law is amended by adding a new section 3441
2 to read as follows:
3 S 3441. TRANSPORTATION NETWORK COMPANIES. (A) NOTWITHSTANDING ANY
4 OTHER PROVISION OF THIS CHAPTER, THIS SECTION SHALL APPLY TO TRANSPORTA-
5 TION NETWORK COMPANIES.
6 (B) FOR PURPOSES OF THIS SECTION THE FOLLOWING DEFINITIONS SHALL
7 APPLY:
8 (1) "PERSONAL VEHICLE" MEANS A VEHICLE THAT IS USED BY A TRANSPORTA-
9 TION NETWORK COMPANY DRIVER AND IS:
10 (A) OWNED, LEASED OR OTHERWISE AUTHORIZED FOR USE BY THE TRANSPORTA-
11 TION NETWORK COMPANY DRIVER; AND
12 (B) NOT A TAXICAB, LIVERY OR FOR-HIRE VEHICLE.
13 (2) "DIGITAL NETWORK" MEANS ANY ONLINE-ENABLED APPLICATION, SOFTWARE,
14 WEBSITE OR SYSTEM OFFERED OR UTILIZED BY A TRANSPORTATION NETWORK COMPA-
15 NY THAT ENABLES THE PREARRANGEMENT OF RIDES WITH TRANSPORTATION NETWORK
16 COMPANY DRIVERS.
17 (3) "TRANSPORTATION NETWORK COMPANY" MEANS A CORPORATION, PARTNERSHIP,
18 SOLE PROPRIETORSHIP, OR OTHER ENTITY THAT IS OPERATING IN THIS STATE
19 THAT USES A DIGITAL NETWORK TO CONNECT TRANSPORTATION NETWORK COMPANY
20 RIDERS TO TRANSPORTATION NETWORK COMPANY DRIVERS WHO PROVIDE PREARRANGED
21 RIDES. A TRANSPORTATION NETWORK COMPANY SHALL NOT BE DEEMED TO CONTROL,
22 DIRECT OR MANAGE THE PERSONAL VEHICLES OR TRANSPORTATION NETWORK COMPANY

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

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DRIVERS THAT CONNECT TO ITS DIGITAL NETWORK, EXCEPT WHERE AGREED TO BY WRITTEN CONTRACT.

(4) "TRANSPORTATION NETWORK COMPANY DRIVER" OR "DRIVER" MEANS AN INDIVIDUAL WHO:

(A) RECEIVES CONNECTIONS TO POTENTIAL PASSENGERS AND RELATED SERVICES FROM A TRANSPORTATION NETWORK COMPANY IN EXCHANGE FOR PAYMENT OF A FEE TO THE TRANSPORTATION NETWORK COMPANY; AND

(B) USES A PERSONAL VEHICLE TO OFFER OR PROVIDE A PREARRANGED RIDE TO RIDERS UPON CONNECTION THROUGH A DIGITAL NETWORK CONTROLLED BY A TRANSPORTATION NETWORK COMPANY IN RETURN FOR COMPENSATION OR PAYMENT OF A FEE.

(5) "TRANSPORTATION NETWORK COMPANY RIDER" OR "RIDER" MEANS AN INDIVIDUAL OR PERSONS WHO USE A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK TO CONNECT WITH A TRANSPORTATION NETWORK DRIVER WHO PROVIDES PREARRANGED RIDES TO THE RIDER IN THE DRIVER'S PERSONAL VEHICLE BETWEEN POINTS CHOSEN BY THE RIDER.

(6) "PREARRANGED RIDE" MEANS THE PROVISION OF TRANSPORTATION BY A DRIVER TO A RIDER, BEGINNING WHEN A DRIVER ACCEPTS A RIDE REQUESTED BY A RIDER THROUGH A DIGITAL NETWORK CONTROLLED BY A TRANSPORTATION NETWORK COMPANY, CONTINUING WHILE THE DRIVER TRANSPORTS A REQUESTING RIDER, AND ENDING WHEN THE LAST REQUESTING RIDER DEPARTS FROM THE PERSONAL VEHICLE. A PREARRANGED RIDE DOES NOT INCLUDE TRANSPORTATION PROVIDED USING A TAXICAB, LIVERY, OR OTHER FOR-HIRE VEHICLE.

(7) "GROUP POLICY" MEANS AN INSURANCE POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THIS ARTICLE.

(C) A TRANSPORTATION NETWORK COMPANY DRIVER OR TRANSPORTATION NETWORK COMPANY ON THE DRIVER'S BEHALF THROUGH A GROUP POLICY, SHALL MAINTAIN PRIMARY AUTOMOBILE INSURANCE THAT:

(1) RECOGNIZES THAT THE DRIVER IS A TRANSPORTATION NETWORK COMPANY DRIVER OR OTHERWISE USES A VEHICLE TO TRANSPORT PASSENGERS FOR COMPENSATION AND COVERS THE DRIVER:

(A) WHILE THE DRIVER IS LOGGED ON TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK; OR

(B) WHILE THE DRIVER IS ENGAGED IN A PREARRANGED RIDE.

(2) THE FOLLOWING AUTOMOBILE INSURANCE REQUIREMENTS SHALL APPLY WHILE A PARTICIPATING TRANSPORTATION NETWORK COMPANY DRIVER IS LOGGED ON TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AND IS AVAILABLE TO RECEIVE TRANSPORTATION REQUESTS BUT IS NOT ENGAGED IN A PREARRANGED RIDE:

(A) PRIMARY AUTOMOBILE LIABILITY INSURANCE IN THE AMOUNT OF AT LEAST FIFTY THOUSAND DOLLARS FOR DEATH AND BODILY INJURY PER PERSON, ONE HUNDRED THOUSAND DOLLARS FOR DEATH AND BODILY INJURY PER INCIDENT, AND TWENTY-FIVE THOUSAND DOLLARS FOR PROPERTY DAMAGE AND COVERAGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THEREUNDER.

(B) THE COVERAGE REQUIREMENTS OF THIS PARAGRAPH MAY BE SATISFIED BY ANY OF THE FOLLOWING:

(I) AUTOMOBILE INSURANCE MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY DRIVER; OR

(II) AUTOMOBILE INSURANCE PROVIDED THROUGH A GROUP POLICY MAINTAINED BY THE TRANSPORTATION NETWORK COMPANY; OR

(III) ANY COMBINATION OF CLAUSE (I) OR (II) OF THIS SUBPARAGRAPH.

(3) THE FOLLOWING AUTOMOBILE INSURANCE REQUIREMENTS SHALL APPLY WHILE A TRANSPORTATION NETWORK COMPANY DRIVER IS ENGAGED IN A PREARRANGED RIDE:

1 (A) PRIMARY AUTOMOBILE LIABILITY INSURANCE THAT PROVIDES AT LEAST ONE
2 MILLION DOLLARS FOR DEATH, BODILY INJURY AND PROPERTY DAMAGE AND COVER-
3 AGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET
4 FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE AND
5 ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THERE-
6 UNDER.

7 (B) THE COVERAGE REQUIREMENTS OF THIS PARAGRAPH MAY BE SATISFIED BY
8 ANY OF THE FOLLOWING:

9 (I) AUTOMOBILE INSURANCE MAINTAINED BY THE TRANSPORTATION NETWORK
10 COMPANY DRIVER; OR

11 (II) AUTOMOBILE INSURANCE PROVIDED THROUGH A GROUP POLICY MAINTAINED
12 BY THE TRANSPORTATION NETWORK COMPANY; OR

13 (III) ANY COMBINATION OF CLAUSES (I) AND (II) OF THIS SUBPARAGRAPH.

14 (4) IF INSURANCE MAINTAINED BY A DRIVER IN PARAGRAPH TWO OR THREE OF
15 THIS SUBSECTION HAS LAPSED OR DOES NOT PROVIDE THE REQUIRED COVERAGE,
16 INSURANCE MAINTAINED BY A TRANSPORTATION NETWORK COMPANY SHALL PROVIDE
17 THE COVERAGE REQUIRED BY THIS SUBSECTION BEGINNING WITH THE FIRST DOLLAR
18 OF A CLAIM AND HAVE THE DUTY TO DEFEND SUCH CLAIM.

19 (5) COVERAGE UNDER AN AUTOMOBILE INSURANCE POLICY MAINTAINED BY THE
20 TRANSPORTATION NETWORK COMPANY SHALL NOT BE DEPENDENT ON A PERSONAL
21 AUTOMOBILE INSURER FIRST DENYING A CLAIM NOR SHALL A PERSONAL AUTOMOBILE
22 INSURANCE POLICY BE REQUIRED TO FIRST DENY A CLAIM.

23 (6) INSURANCE REQUIRED BY THIS SUBSECTION MAY BE PLACED WITH AN INSUR-
24 ER AUTHORIZED OR ELIGIBLE TO WRITE INSURANCE IN THIS STATE AND SHALL BE
25 ELIGIBLE FOR PLACEMENT BY AN EXCESS LINE BROKER LICENSED PURSUANT TO
26 ARTICLE TWENTY-ONE OF THIS CHAPTER.

27 (7) INSURANCE SATISFYING THE REQUIREMENTS OF THIS SUBSECTION SHALL BE
28 DEEMED TO SATISFY THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN
29 SUBDIVISION FOUR OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND
30 TRAFFIC LAW, SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE,
31 AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THERE-
32 UNDER, AND SUCH OTHER REQUIREMENTS THAT MAY APPLY FOR THE PURPOSES OF
33 SATISFYING THE FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO THE
34 USE OR OPERATION OF A MOTOR VEHICLE.

35 (8) A TRANSPORTATION NETWORK COMPANY DRIVER SHALL CARRY PROOF OF
36 COVERAGE SATISFYING PARAGRAPHS TWO AND THREE OF THIS SUBSECTION WITH HIM
37 OR HER AT ALL TIMES DURING HIS OR HER USE OF A VEHICLE IN CONNECTION
38 WITH A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK. IN THE EVENT OF
39 AN ACCIDENT, A TRANSPORTATION NETWORK COMPANY DRIVER SHALL PROVIDE THIS
40 INSURANCE COVERAGE INFORMATION TO THE DIRECTLY INTERESTED PARTIES, AUTO-
41 MOBILE INSURERS AND INVESTIGATING POLICE OFFICERS, UPON REQUEST. UPON
42 SUCH REQUEST, A TRANSPORTATION NETWORK COMPANY DRIVER SHALL ALSO
43 DISCLOSE TO DIRECTLY INTERESTED PARTIES, AUTOMOBILE INSURERS, AND INVESTIGATING
44 POLICE OFFICERS, WHETHER HE OR SHE WAS LOGGED ON TO THE TRANSPORTATION
45 NETWORK COMPANY'S DIGITAL NETWORK OR ON A PREARRANGED RIDE AT
46 THE TIME OF AN ACCIDENT.

47 (D) THE TRANSPORTATION NETWORK COMPANY SHALL DISCLOSE IN WRITING TO
48 TRANSPORTATION NETWORK COMPANY DRIVERS THE FOLLOWING BEFORE THEY ARE
49 ALLOWED TO ACCEPT A REQUEST FOR A PREARRANGED RIDE ON THE TRANSPORTATION
50 NETWORK COMPANY'S DIGITAL NETWORK:

51 (1) THE INSURANCE COVERAGE, INCLUDING THE TYPES OF COVERAGE AND THE
52 LIMITS FOR EACH COVERAGE, THAT THE TRANSPORTATION NETWORK COMPANY
53 PROVIDES WHILE THE TRANSPORTATION NETWORK COMPANY DRIVER USES A PERSONAL
54 VEHICLE IN CONNECTION WITH A TRANSPORTATION NETWORK COMPANY'S DIGITAL
55 NETWORK; AND

(2) THAT THE TRANSPORTATION NETWORK COMPANY DRIVER'S OWN AUTOMOBILE INSURANCE POLICY MIGHT NOT PROVIDE ANY COVERAGE WHILE THE DRIVER IS LOGGED ON TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK AND IS AVAILABLE TO RECEIVE TRANSPORTATION REQUESTS OR IS ENGAGED IN A PREARRANGED RIDE, DEPENDING ON ITS TERMS.

(E) (1) INSURERS THAT WRITE AUTOMOBILE INSURANCE IN THIS STATE MAY EXCLUDE ANY AND ALL COVERAGE AFFORDED UNDER THE POLICY ISSUED TO AN OWNER OR OPERATOR OF A PERSONAL VEHICLE FOR ANY LOSS OR INJURY THAT OCCURS WHILE A DRIVER IS LOGGED ON TO A TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK OR WHILE A DRIVER PROVIDES A PREARRANGED RIDE. THIS RIGHT TO EXCLUDE ALL COVERAGE MAY APPLY TO ANY COVERAGE INCLUDED IN AN AUTOMOBILE INSURANCE POLICY INCLUDING, BUT NOT LIMITED TO:

(A) LIABILITY COVERAGE FOR BODILY INJURY AND PROPERTY DAMAGE;

(B) COVERAGE PROVIDED PURSUANT TO ARTICLE FIFTY-ONE OF THIS CHAPTER;

(C) UNINSURED AND UNDERINSURED MOTORIST COVERAGE; AND

(D) MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER.

(2) SUCH EXCLUSIONS SHALL APPLY NOTWITHSTANDING ANY REQUIREMENT UNDER THE LAW TO THE CONTRARY. NOTHING IN THIS SECTION IMPLIES OR REQUIRES THAT A PERSONAL AUTOMOBILE INSURANCE POLICY PROVIDE COVERAGE WHILE THE DRIVER IS LOGGED ON TO THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK, WHILE THE DRIVER IS ENGAGED IN A PREARRANGED RIDE OR WHILE THE DRIVER OTHERWISE USES A VEHICLE TO TRANSPORT PASSENGERS FOR COMPENSATION.

(3) NOTHING SHALL BE DEEMED TO PRECLUDE AN INSURER FROM PROVIDING COVERAGE FOR THE TRANSPORTATION NETWORK COMPANY DRIVER'S VEHICLE, IF IT SO CHOSE TO DO SO BY CONTRACT OR ENDORSEMENT.

(4) AUTOMOBILE INSURERS THAT EXCLUDE THE COVERAGE DESCRIBED IN SUBSECTION (C) OF THIS SECTION SHALL HAVE NO DUTY TO DEFEND OR INDEMNIFY ANY CLAIM EXPRESSLY EXCLUDED THEREUNDER. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO INVALIDATE OR LIMIT AN EXCLUSION CONTAINED IN A POLICY INCLUDING ANY POLICY IN USE OR APPROVED FOR USE IN THIS STATE PRIOR TO THE ENACTMENT OF THIS SECTION THAT EXCLUDES COVERAGE FOR VEHICLES USED TO CARRY PERSONS OR PROPERTY FOR A CHARGE OR AVAILABLE FOR HIRE BY THE PUBLIC.

(5) AN AUTOMOBILE INSURER THAT DEFENDS OR INDEMNIFIES A CLAIM AGAINST A DRIVER THAT IS EXCLUDED UNDER THE TERMS OF ITS POLICY, SHALL HAVE A RIGHT OF CONTRIBUTION AGAINST OTHER INSURERS THAT PROVIDE AUTOMOBILE INSURANCE TO THE SAME DRIVER IN SATISFACTION OF THE COVERAGE REQUIREMENTS OF SUBSECTION (C) OF THIS SECTION AT THE TIME OF LOSS.

(6) IN A CLAIMS COVERAGE INVESTIGATION, TRANSPORTATION NETWORK COMPANIES AND ANY INSURER POTENTIALLY PROVIDING COVERAGE UNDER SUBSECTION (C) OF THIS SECTION SHALL COOPERATE TO FACILITATE THE EXCHANGE OF RELEVANT INFORMATION WITH DIRECTLY INVOLVED PARTIES AND ANY INSURER OF THE TRANSPORTATION NETWORK COMPANY DRIVER IF APPLICABLE, INCLUDING THE PRECISE TIMES THAT A TRANSPORTATION NETWORK COMPANY DRIVER LOGGED ON AND OFF OF THE TRANSPORTATION NETWORK COMPANY'S DIGITAL NETWORK IN THE TWELVE HOUR PERIOD IMMEDIATELY PRECEDING AND IN THE TWELVE HOUR PERIOD IMMEDIATELY FOLLOWING THE ACCIDENT AND DISCLOSE TO ONE ANOTHER A CLEAR DESCRIPTION OF THE COVERAGE, EXCLUSIONS AND LIMITS PROVIDED UNDER ANY AUTOMOBILE INSURANCE MAINTAINED UNDER SUBSECTION (C) OF THIS SECTION.

S 2. The insurance law is amended by adding a new section 3455 to read as follows:

S 3455. GROUP INSURANCE POLICY FOR TRANSPORTATION NETWORK COMPANIES.

(A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

1 (1) "TRANSPORTATION NETWORK COMPANY" SHALL HAVE THE MEANING SET FORTH
2 IN SUBSECTION (B) OF SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF
3 THIS ARTICLE.

4 (2) "FINANCIAL RESPONSIBILITY COVERAGE" MEANS COVERAGE IN SATISFACTION
5 OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SUBDIVISION
6 FOUR OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW,
7 SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE, AND ARTICLE
8 FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THEREUNDER, AND
9 SUCH OTHER REQUIREMENTS THAT MAY APPLY FOR THE PURPOSES OF SATISFYING
10 THE FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO THE USE OR
11 OPERATION OF THE MOTOR VEHICLE.

12 (3) "GROUP POLICYHOLDER" MEANS A TRANSPORTATION NETWORK COMPANY.

13 (4) "GROUP POLICY MEMBER" MEANS A TRANSPORTATION NETWORK COMPANY DRIV-
14 ER AS DEFINED IN SUBSECTION (B) OF SECTION THREE THOUSAND FOUR HUNDRED
15 FORTY-ONE OF THIS ARTICLE.

16 (5) "PREARRANGED RIDE" SHALL HAVE THE MEANING SET FORTH IN SUBSECTION
17 (B) OF SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THIS ARTICLE.

18 (6) "TRANSPORTATION NETWORK COMPANY DRIVER" OR "DRIVER" SHALL HAVE THE
19 MEANING SET FORTH IN SUBSECTION (B) OF SECTION THREE THOUSAND FOUR
20 HUNDRED FORTY-ONE OF THIS ARTICLE.

21 (7) "PERSONAL VEHICLE" SHALL HAVE THE MEANING SET FORTH IN SUBSECTION
22 (B) OF SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THIS ARTICLE.

23 (B) AN INSURER MAY ISSUE OR ISSUE FOR DELIVERY IN THIS STATE A GROUP
24 POLICY TO A TRANSPORTATION NETWORK COMPANY AS A GROUP POLICYHOLDER ONLY
25 IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

26 (C) (1) A GROUP POLICY SHALL PROVIDE COVERAGE FOR A PERSONAL VEHICLE
27 IN ACCORDANCE WITH THE REQUIREMENTS OF SUBSECTION (C) OF SECTION THREE
28 THOUSAND FOUR HUNDRED FORTY-ONE OF THIS ARTICLE.

29 (2) A GROUP POLICY MAY PROVIDE:

30 (A) COVERAGE FOR LIMITS HIGHER THAN THE MINIMUM LIMITS REQUIRED PURSU-
31 ANT TO SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE
32 OF THIS ARTICLE;

33 (B) SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE FOR BODI-
34 LY INJURY PURSUANT TO PARAGRAPH TWO OF SUBSECTION (F) OF SECTION THREE
35 THOUSAND FOUR HUNDRED TWENTY OF THIS ARTICLE;

36 (C) SUPPLEMENTAL SPOUSAL LIABILITY INSURANCE PURSUANT TO SUBSECTION
37 (G) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER; AND

38 (D) MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH
39 NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN
40 OF THIS CHAPTER.

41 (3) THE COVERAGE DESCRIBED IN PARAGRAPHS ONE AND TWO OF THIS
42 SUBSECTION MAY BE PROVIDED IN ONE GROUP POLICY OR IN SEPARATE GROUP
43 POLICIES.

44 (4) A GROUP POLICY, INCLUDING CERTIFICATES, SHALL BE ISSUED BY AN
45 INSURER AUTHORIZED OR ELIGIBLE TO WRITE INSURANCE IN THIS STATE AND
46 SHALL BE ELIGIBLE FOR PLACEMENT BY AN EXCESS LINE BROKER LICENSED PURSU-
47 ANT TO ARTICLE TWENTY-ONE OF THIS CHAPTER.

48 (5) A POLICYHOLDER ALSO MAY BE AN INSURED UNDER A GROUP POLICY.

49 (D) THE PREMIUM FOR THE GROUP POLICY, INCLUDING CERTIFICATES, MAY BE
50 PAID BY THE GROUP POLICYHOLDER FROM THE FUNDS CONTRIBUTED:

51 (1) WHOLLY BY THE GROUP POLICYHOLDER;

52 (2) WHOLLY BY THE GROUP POLICY MEMBERS; OR

53 (3) JOINTLY BY THE GROUP POLICYHOLDER AND THE GROUP POLICY MEMBERS.

54 (E) (1) ANY POLICY DIVIDEND, RETROSPECTIVE PREMIUM CREDIT, OR RETRO-
55 SPECTIVE PREMIUM REFUND IN RESPECT OF PREMIUMS PAID BY THE GROUP POLICY-
56 HOLDER MAY:

1 (A) BE APPLIED TO REDUCE THE PREMIUM CONTRIBUTION OF THE GROUP POLICY-
2 HOLDER, BUT NOT IN EXCESS OF THE PROPORTION TO ITS CONTRIBUTION; OR

3 (B) BE RETAINED BY THE GROUP POLICYHOLDER.

4 (2) ANY POLICY DIVIDEND, RETROSPECTIVE PREMIUM CREDIT, OR RETROSPEC-
5 TIVE PREMIUM REFUND NOT DISTRIBUTED UNDER PARAGRAPH ONE OF THIS
6 SUBSECTION SHALL BE:

7 (A) APPLIED TO REDUCE FUTURE PREMIUMS AND, ACCORDINGLY, FUTURE
8 CONTRIBUTIONS, OF EXISTING OR FUTURE GROUP POLICY MEMBERS, OR BOTH; OR

9 (B) PAID OR REFUNDED TO THOSE GROUP POLICY MEMBERS INSURED ON THE DATE
10 THE PAYMENT OR REFUND IS MADE TO THE GROUP POLICYHOLDER, IF DISTRIBUTED
11 BY THE GROUP POLICYHOLDER, OR ON THE DATE OF MAILING, IF DISTRIBUTED
12 DIRECTLY BY THE INSURER, SUBJECT TO THE FOLLOWING REQUIREMENTS:

13 (I) THE INSURER SHALL BE RESPONSIBLE FOR DETERMINING THE ALLOCATION OF
14 THE PAYMENT OR REFUND TO THE GROUP POLICY MEMBERS;

15 (II) IF THE GROUP POLICYHOLDER DISTRIBUTES THE PAYMENT OR REFUND, THEN
16 THE INSURER SHALL BE RESPONSIBLE FOR AUDIT TO ASCERTAIN THAT THE PAYMENT
17 OR REFUND IS ACTUALLY MADE IN ACCORDANCE WITH THE ALLOCATION PROCEDURE;
18 AND

19 (III) IF THE GROUP POLICYHOLDER FAILS TO MAKE THE PAYMENT OR REFUND,
20 THEN THE INSURER SHALL MAKE THE PAYMENT OR REFUND DIRECTLY OR USE THE
21 METHOD PROVIDED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH.

22 (3) NOTWITHSTANDING PARAGRAPHS ONE AND TWO OF THIS SUBSECTION, IF A
23 DIVIDEND ACCRUES UPON TERMINATION OF COVERAGE UNDER A GROUP POLICY, THE
24 PREMIUM FOR WHICH WAS PAID OUT OF FUNDS CONTRIBUTED BY GROUP POLICY
25 MEMBERS SPECIFICALLY FOR THE COVERAGE, THEN THE DIVIDEND SHALL BE PAID
26 OR REFUNDED BY THE GROUP POLICYHOLDER TO THE GROUP POLICY MEMBERS
27 INSURED ON THE DATE THE PAYMENT OR REFUND IS MADE TO THE GROUP POLICY-
28 HOLDER NET OF REASONABLE EXPENSES INCURRED BY THE GROUP POLICYHOLDER IN
29 PAYING OR REFUNDING THE DIVIDEND TO SUCH GROUP POLICY MEMBERS.

30 (4) FOR THE PURPOSES OF THIS SUBSECTION, "DIVIDEND" MEANS A RETURN BY
31 AN INSURER TO A GROUP POLICYHOLDER OF EXCESS PREMIUMS PAID BY THAT GROUP
32 POLICYHOLDER IN LIGHT OF FAVORABLE LOSS EXPERIENCE, INCLUDING RETROSPEC-
33 TIVE PREMIUM CREDITS OR RETROSPECTIVE PREMIUM REFUNDS. THE TERM "DIVI-
34 DEND" DOES NOT INCLUDE REIMBURSEMENTS OR FEES RECEIVED BY A GROUP POLI-
35 CYHOLDER IN CONNECTION WITH THE OPERATION OR ADMINISTRATION OF A GROUP
36 POLICY, INCLUDING ADMINISTRATIVE REIMBURSEMENTS, FEES FOR SERVICES
37 PROVIDED BY THE GROUP POLICYHOLDER, OR TRANSACTIONAL SERVICE FEES.

38 (F) THE INSURER MUST TREAT IN LIKE MANNER ALL ELIGIBLE GROUP POLICY
39 MEMBERS OF THE SAME CLASS AND STATUS.

40 (G) A GROUP POLICYHOLDER SHALL COMPLY WITH THE PROVISIONS OF SECTION
41 TWO THOUSAND ONE HUNDRED TWENTY-TWO OF THIS CHAPTER, IN THE SAME MANNER
42 AS AN INSURANCE AGENT OR INSURANCE BROKER, IN ANY ADVERTISEMENT, SIGN,
43 PAMPHLET, CIRCULAR, CARD, OR OTHER PUBLIC ANNOUNCEMENT REFERRING TO
44 COVERAGE UNDER A GROUP POLICY OR CERTIFICATE.

45 (H) EXCEPT AS PROVIDED IN SUBSECTION (I) OF THIS SECTION, A GROUP
46 POLICY OR CERTIFICATE SHALL NOT BE SUBJECT TO SECTION THREE THOUSAND
47 FOUR HUNDRED TWENTY-FIVE OR SECTION THREE THOUSAND FOUR HUNDRED TWENTY-
48 SIX OF THIS ARTICLE.

49 (I) (1) AN INSURER MAY TERMINATE A GROUP POLICY ONLY IF CANCELLATION
50 IS BASED ON ONE OR MORE OF THE REASONS SET FORTH IN SUBPARAGRAPHS (A)
51 THROUGH (D) OR (F) THROUGH (H) OF PARAGRAPH ONE OF SUBSECTION (C) OF
52 SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE.

53 (2) AN INSURER MAY TERMINATE AN INDIVIDUAL CERTIFICATE ONLY IF CANCEL-
54 LATION IS BASED ON ONE OR MORE OF THE REASONS SET FORTH IN SUBPARAGRAPHS
55 (B) OR (C) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND
56 FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE, PROVIDED, HOWEVER THAT WHERE

THE PREMIUM IS DERIVED WHOLLY OR PARTIALLY FROM FUNDS CONTRIBUTED BY THE GROUP POLICYHOLDER, AN INSURER ALSO MAY CANCEL THE INDIVIDUAL CERTIFICATE IF CANCELLATION IS BASED ON THE REASON SET FORTH IN SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

(3) IF AN INSURER TERMINATES AN INDIVIDUAL CERTIFICATE PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION, THEN THE INSURER SHALL NOTIFY THE GROUP POLICYHOLDER IN WRITING THAT THE INSURER HAS TERMINATED THE INDIVIDUAL CERTIFICATE AND THE GROUP POLICY MEMBER SHALL BE PROHIBITED FROM PROVIDING A PREARRANGED RIDE.

(4) AN INSURER'S CANCELLATION OF A GROUP POLICY, INCLUDING ALL CERTIFICATES, SHALL NOT BECOME EFFECTIVE UNTIL TWENTY DAYS AFTER THE INSURER MAILED OR DELIVERS WRITTEN NOTICE OF CANCELLATION TO THE GROUP POLICYHOLDER AT THE MAILING ADDRESS SHOWN IN THE POLICY, EXCEPT FIFTEEN DAYS WRITTEN NOTICE SHALL BE SUFFICIENT WHERE THE CANCELLATION IS FOR NON-PAYMENT OF PREMIUM.

(J) CANCELLATION BY THE GROUP POLICYHOLDER. A GROUP POLICYHOLDER MAY CANCEL A GROUP POLICY FOR ANY REASON UPON TWENTY DAYS WRITTEN NOTICE TO THE INSURER AND EACH GROUP POLICY MEMBER.

(K) CANCELLATION BY THE GROUP POLICY MEMBER. A GROUP POLICY MEMBER MAY CANCEL OPTIONAL COVERAGE UPON PROVIDING NOTICE TO THE INSURER AND THE GROUP POLICYHOLDER. FOR THE PURPOSES OF THIS SUBSECTION, "OPTIONAL COVERAGE" MEANS COVERAGE OTHER THAN FINANCIAL RESPONSIBILITY COVERAGE THAT AN INDIVIDUAL GROUP POLICY MEMBER PURCHASES ON AN OPTIONAL BASIS.

(L) (1) A GROUP POLICY AND ALL CERTIFICATES SHALL BE ISSUED OR RENEWED FOR A ONE-YEAR POLICY PERIOD UNLESS THE GROUP POLICY PROVIDES FOR A LONGER POLICY PERIOD.

(2) A GROUP POLICYHOLDER SHALL BE ENTITLED TO RENEW THE GROUP POLICY AND ALL CERTIFICATES UPON TIMELY PAYMENT OF THE PREMIUM BILLED TO THE GROUP POLICYHOLDER FOR THE RENEWAL, UNLESS THE INSURER MAILED OR DELIVERS TO THE GROUP POLICYHOLDER WRITTEN NOTICE OF NONRENEWAL, OR CONDITIONAL RENEWAL, AT LEAST FORTY-FIVE BUT NOT MORE THAN SIXTY DAYS PRIOR TO THE EXPIRATION DATE SPECIFIED IN THE POLICY OR, IF NO DATE IS SPECIFIED, THEN THE NEXT ANNIVERSARY DATE OF THE POLICY.

(M) EVERY NOTICE OF CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL FROM AN INSURER SHALL SET FORTH THE SPECIFIC REASON OR REASONS FOR CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL.

(N) TERMINATION FROM THE GROUP SHALL TERMINATE THE GROUP POLICY MEMBER'S COVERAGE.

(O) IF, PRIOR TO THE EFFECTIVE DATE OF CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL OF THE GROUP POLICY, OR A CERTIFICATE, WHETHER INITIATED BY THE INSURER, GROUP POLICYHOLDER, OR BY THE GROUP POLICY MEMBER IN REGARD TO THE GROUP POLICY MEMBER'S CERTIFICATE, COVERAGE ATTACHES PURSUANT TO THE TERMS OF A GROUP POLICY, THEN THE COVERAGE SHALL BE EFFECTIVE UNTIL EXPIRATION OF THE APPLICABLE PERIOD OF COVERAGE PROVIDED IN THE GROUP POLICY NOTWITHSTANDING THE CANCELLATION, NONRENEWAL, OR CONDITIONAL NONRENEWAL OF THE GROUP POLICY.

S 3. Subsection (b) of section 5103 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) IS INJURED WHILE OPERATING A PERSONAL VEHICLE AS A TRANSPORTATION NETWORK COMPANY DRIVER OR TRANSPORTATION NETWORK COMPANY RIDER AS SUCH TERMS ARE DEFINED IN SUBSECTION (B) OF SECTION THREE THOUSAND FOUR HUNDRED FORTY-ONE OF THIS CHAPTER.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law.