STATE OF NEW YORK

3665

2017-2018 Regular Sessions

IN SENATE

January 25, 2017

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

AN ACT to amend the insurance law, the penal law, and the vehicle and traffic law, in relation to insurance fraud and combatting the theft of motor vehicles

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 401 of the insurance law is amended by adding a new subsection (d) to read as follows:

(d) The superintendent shall have authority pursuant to this chapter to investigate fraudulent activities with regard to individuals that operate motor vehicles with no insurance coverage, and motor vehicle insureds who misrepresent the principal place where insured motor vehicles are garaged and operated. Operating motor vehicles without proper insurance in violation of article six of the vehicle and traffic law is a significant danger to the public because drivers are unable to compensate individuals for personal injuries, death and property damage they inflict upon others. Furthermore, motor vehicle insureds who misrepresent the principal place where such vehicles are garaged and operated improperly shift their high liability exposure costs to other motor vehicle insureds that do not face such high liability risk and insurance premium costs.

§ 2. Subsection (a) of section 405 of the insurance law, as amended by section 7 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(a) Any person licensed or registered pursuant to the provisions of this chapter, and any person engaged in the business of insurance or life settlement in this state who is exempted from compliance with the licensing requirements of this chapter, including the state insurance fund of this state, who has reason to believe that an insurance trans-

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

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action or life settlement act may be fraudulent, or has knowledge that a fraudulent insurance transaction or fraudulent life settlement act is about to take place, or has taken place shall, within thirty days after determination by such person that the transaction appears to be fraudulent, send to the superintendent on a form prescribed by the superintendent, the information requested by the form and such additional information relative to the factual circumstances of the transaction and the parties involved as the superintendent may require. The superintendent shall accept reports of suspected fraudulent insurance transactions or fraudulent life settlement acts from any self insurer, including but not limited to self insurers providing health insurance coverage**, those providing motor vehicle liability insurance** or those defined in section fifty of the workers' compensation law, and shall treat such reports as any other received pursuant to this section.

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

§ 2133. [~~Forged~~] **False insurance documents and forged** insurance identification cards. Any insurance company, insurance agent, insurance broker or other person who or which, personally or by the action of an employee or agent, **knowingly** possesses, transfers or uses**: (a) any document which purports to evince insurance coverage when such coverage is not in effect or is in effect at limits less than those stated in the document; or (b)** a forged insurance identification card for a motor vehicle, having knowledge, personally or through such employee or agent, of the fact that such insurance identification card, when issued, did not actually represent an owner's policy of liability insurance or a financial security bond issued by an insurance company licensed to do business in this state covering the motor vehicle identified on such card, shall be liable for payment to the people of this state of a civil penalty in a sum not exceeding one thousand dollars for the first such violation and a sum not exceeding five thousand dollars for each subsequent violation. For the purposes of this section the term "forged insurance identification card" means a written insurance identification card which has been falsely made, completed or altered, and the term "falsely made, completed or altered" shall have the same meaning as set forth in section 170.00 of the penal law.

§ 4. Section 165.06 of the penal law, as amended by chapter 413 of the laws of 1982, is amended to read as follows:

§ 165.06 Unauthorized use of a vehicle in the second degree.

A person is guilty of unauthorized use of a vehicle in the second degree when:

He **or she** commits the crime of unauthorized use of a vehicle in the third degree as defined in subdivision one of section 165.05 of this article and has been previously convicted of the crime of unauthorized use of a vehicle [~~in the third degree~~] as defined in [~~subdivision one of section 165.05 or second degree~~] **sections 165.05, 165.06, and 165.08, auto stripping as defined in sections 165.09, 165.10, and 165.11, grand larceny of a motor vehicle as defined in sections 155.30, 155.35, 155.40, and 155.42, criminal possession of stolen property as defined in sections 165.40, 165.45, 165.50, 165.52, and 165.54 and the stolen property consisted of a motor vehicle, or illegal possession of a vehicle identification number as defined in section 170.70** within the preceding ten years.

Unauthorized use of a vehicle in the second degree is a class E felony.

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

5. A prescription of a duly licensed physician or other person authorized to issue the same for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law[~~.~~]**; or**

6. A certificate of insurance or an insurance identification card, as defined in section three hundred eleven of the vehicle and traffic law.

§ 6. Section 170.15 of the penal law is amended to read as follows:

§ 170.15 Forgery in the first degree.

A person is guilty of forgery in the first degree when, with intent to defraud, deceive or injure another, he **or she** falsely makes, completes or alters [~~a~~]**:**

1. Ten or more written instruments; or

2. A written instrument which is or purports to be, or which is calculated to become or to represent if completed:

[~~1.~~] **(a)** Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental instrumentality; or

[~~2.~~] **(b)** Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property.

Forgery in the first degree is a class C felony.

§ 7. The penal law is amended by adding a new section 175.50 to read as follows:

§ 175.50 Offering a false application for motor vehicle insurance or registration.

A person is guilty of offering a false application for motor vehicle insurance or registration when knowing that any document he or she files with the department of motor vehicles or an insurer providing liability insurance for a motor vehicle contains a false statement or false information with regard to where he or she resides or where his or her motor vehicle is garaged and operated.

Offering a false application for motor vehicle insurance or registration is a class E felony.

§ 8. Subdivision 1 of section 176.05 of the penal law, as amended by chapter 211 of the laws of 2011, is amended to read as follows:

1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial **or personal** insurance or commercial **or personal** self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance that he or she knows to:

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

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

§ 9. Section 176.15 of the penal law, as amended by chapter 515 of the laws of 1986, is amended to read as follows:

§ 176.15 Insurance fraud in the fourth degree.

A person is guilty of insurance fraud in the fourth degree when he [~~commits~~] **or she:**

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

2. operates a motor vehicle on a public highway, when being the owner of such motor vehicle, he or she knows the motor vehicle is insured by a policy issued under the laws of another state, when such person maintains his or her principal residence in this state or such motor vehicle is principally garaged in this state, and such insurance policy was issued upon any written or oral statement by such person that he or she principally resides in such other state or that such motor vehicle is principally garaged in such other state.

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

§ 10. The vehicle and traffic law is amended by adding a new section 201-a to read as follows:

§ 201-a. Access to information. The department shall allow law enforcement personnel access to any individual's street address provided pursuant to paragraph b of subdivision one of section four hundred one and subdivision one-a of section five hundred two of this chapter.

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

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle**, provided that if the applicant uses a post office box when providing a residence address, such applicant shall also provide the street address at which he or she resides**; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; (e) provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he **or she** may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f) such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this [~~chapter~~] **article** shall be transferred to or used

upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be required by the commissioner or his **or her** agent and which, with respect 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**.

§ 12. Section 502 of the vehicle and traffic law is amended by adding a new subdivision 1-a to read as follows:

1-a. Provision of street address. In addition to the requirements of subdivision one of this section, each applicant, when providing his or her address, shall provide the street address at which he or she resides. The applicant shall sign his or her application attesting to the truth and veracity of the place of his or her residence.

§ 13. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided however, that sections four, five, six, seven, eight and nine of this act shall take effect on the first of November next succeeding the date on which it shall have become a law.