

# STATE OF NEW YORK

3784

2017-2018 Regular Sessions

## IN ASSEMBLY

January 30, 2017

Introduced by M. of A. HYNDMAN -- read once and referred to the Committee on Insurance

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to increasing the minimum insurance coverage requirements for automobiles registered and/or operated within the state of New York

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

1 Section 1. Paragraph (a) of subdivision 4 and subdivision 7 of section  
2 311 of the vehicle and traffic law, paragraph (a) of subdivision 4 as  
3 amended by chapter 305 of the laws of 1995 and subdivision 7 as amended  
4 by chapter 805 of the laws of 1984, are amended to read as follows:

5 (a) Affording coverage as defined in the minimum provisions prescribed  
6 in a regulation which shall be promulgated by the superintendent at  
7 least ninety days prior to effective date of this act. The superinten-  
8 dent before promulgating such regulations or any amendment thereof,  
9 shall consult with all insurers licensed to write automobile liability  
10 insurance in this state and shall not prescribe minimum provisions which  
11 fail to reflect the provisions of automobile liability insurance poli-  
12 cies, other than motor vehicle liability policies as defined in section  
13 three hundred forty-five of this chapter, issued within this state at  
14 the date of such regulation or amendment thereof. Nothing contained in  
15 such regulation or in this article shall prohibit any insurer from  
16 affording coverage under an owner's policy of liability insurance more  
17 liberal than that required by said minimum provisions. Every such  
18 owner's policy of liability insurance shall provide insurance subject to  
19 said regulation against loss from the liability imposed by law for  
20 damages, including damages for care and loss of services, because of  
21 bodily injury to or death of any person and injury to or destruction of  
22 property arising out of the ownership, maintenance, use, or operation of  
23 a specific motor vehicle or motor vehicles within the state of New York,  
24 or elsewhere in the United States in North America or the Dominion of

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

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1 Canada, subject to a limit, exclusive of interest and costs, with  
2 respect to each such motor vehicle except a tow truck, of [~~twenty-five~~  
3 two hundred fifty thousand dollars because of bodily injuries to and  
4 [~~fifty~~ five hundred thousand dollars because of death of one person in  
5 any one accident and, subject to said limit for one person, to a limit  
6 of [~~fifty~~ five hundred thousand dollars because of bodily injury to and  
7 one [~~hundred-thousand~~ million dollars because of death of two or more  
8 persons in any one accident, and to a limit of [~~ten~~ twenty-five thou-  
9 sand dollars because of injury to or destruction of property of others  
10 in any one accident provided, however, that such policy need not be for  
11 a period coterminous with the registration period of the vehicle  
12 insured. The limit, exclusive of interest and costs, with respect to a  
13 tow truck shall be a combined single limit of at least three hundred  
14 thousand dollars because of bodily injury or death to one or more  
15 persons or because of injury or destruction of property of others in any  
16 one accident, and to a limit of twenty-five thousand dollars because of  
17 damage to a vehicle in the care, custody and control of the insured. Any  
18 insurer authorized to issue an owner's policy of liability insurance as  
19 provided for in this article may, pending the issue of such a policy,  
20 make an agreement, to be known as a binder, or may, in lieu of such a  
21 policy, issue a renewal endorsement or evidence of renewal of an exist-  
22 ing policy; each of which shall be construed to provide indemnity or  
23 protection in like manner and to the same extent as such a policy. The  
24 provisions of this article shall apply to such binders, renewal endorse-  
25 ments or evidences of renewal. Every such policy issued insuring private  
26 passenger vehicles and every renewal policy, renewal endorsement, or  
27 other evidence of renewal issued shall have attached thereto a rating  
28 information form which clearly specifies and defines the rating classi-  
29 fication assigned thereto, including any applicable merit rating plan;  
30 and

31 7. The term "financial security deposit" shall mean for each motor  
32 vehicle the deposit with the commissioner of [~~twenty-five~~ two hundred  
33 fifty thousand dollars in cash, or securities, such as may legally be  
34 purchased by savings banks or trust funds, of a market value of [~~twen-~~  
35 ~~ty-five~~ two hundred fifty thousand dollars and an additional deposit in  
36 an amount determined by the commissioner to be sufficient to satisfy the  
37 requirements of article fifty-one of the insurance law.

38 § 2. Paragraph 3 of subdivision (b) of section 345 of the vehicle and  
39 traffic law, as amended by chapter 305 of the laws of 1995, is amended  
40 to read as follows:

41 (3) Shall insure the insured or such other person against loss from  
42 the liability imposed by law for damages, including damages for care and  
43 loss of services because of bodily injury to or death of any person and  
44 injury to or destruction of property arising out of the ownership, main-  
45 tenance, use, or operation of such motor vehicle or motor vehicles with-  
46 in the state of New York, or elsewhere in the United States in North  
47 America or the Dominion of Canada, subject to a limit, exclusive of  
48 interest and cost, with respect to each such motor vehicle, except a tow  
49 truck, of [~~twenty-five~~ two hundred fifty thousand dollars because of  
50 bodily injury to or [~~fifty~~ five hundred thousand dollars because of  
51 death of one person in any one accident and, subject to said limit for  
52 one person, to a limit of [~~fifty~~ five hundred thousand dollars because  
53 of bodily injury to or one [~~hundred-thousand~~ million dollars because of  
54 death of two or more persons in any one accident, and to a limit of  
55 [~~ten~~ twenty-five thousand dollars because of injury to or destruction  
56 of property of others in any one accident. The limit, exclusive of

1 interest and costs, with respect to a tow truck shall be a combined  
2 single limit of three hundred thousand dollars because of bodily injury  
3 of death to one or more persons or because of injury or destruction of  
4 property of others in any one accident, and to a limit of twenty-five  
5 thousand dollars because of damage to a vehicle in the care, custody and  
6 control of the insured.

7 § 3. Paragraph 1 of subsection (f) of section 3420 of the insurance  
8 law, as amended by chapter 305 of the laws of 1995, is amended to read  
9 as follows:

10 (1) No policy insuring against loss resulting from liability imposed  
11 by law for bodily injury or death suffered by any natural person arising  
12 out of the ownership, maintenance and use of a motor vehicle by the  
13 insured shall be issued or delivered by any authorized insurer upon any  
14 motor vehicle then principally garaged or principally used in this state  
15 unless it contains a provision whereby the insurer agrees that it will  
16 pay to the insured, as defined in such provision, subject to the terms  
17 and conditions set forth therein to be prescribed by the board of direc-  
18 tors of the Motor Vehicle Accident Indemnification Corporation and  
19 approved by the superintendent, all sums, not exceeding a maximum amount  
20 or limit of [~~twenty-five~~] two hundred fifty thousand dollars exclusive  
21 of interest and costs, on account of injury to and all sums, not exceed-  
22 ing a maximum amount or limit of [~~fifty~~] five hundred thousand dollars  
23 exclusive of interest and costs, on account of death of one person, in  
24 any one accident, and the maximum amount or limit, subject to such limit  
25 for any one person so injured of [~~fifty~~] five hundred thousand dollars  
26 or so killed of one [~~hundred-thousand~~] million dollars, exclusive of  
27 interest and costs, on account of injury to, or death of, more than one  
28 person in any one accident, which the insured or his legal represen-  
29 tative shall be entitled to recover as damages from an owner or operator  
30 of an uninsured motor vehicle, unidentified motor vehicle which leaves  
31 the scene of an accident, a motor vehicle registered in this state as to  
32 which at the time of the accident there was not in effect a policy of  
33 liability insurance, a stolen vehicle, a motor vehicle operated without  
34 permission of the owner, an insured motor vehicle where the insurer  
35 disclaims liability or denies coverage or an unregistered vehicle  
36 because of bodily injury, sickness or disease, including death resulting  
37 therefrom, sustained by the insured, caused by accident occurring in  
38 this state and arising out of the ownership, maintenance or use of such  
39 motor vehicle. No payment for non-economic loss shall be made under such  
40 policy provision to a covered person unless such person has incurred a  
41 serious injury, as such terms are defined in section five thousand one  
42 hundred two of this chapter. Such policy shall not duplicate any element  
43 of basic economic loss provided for under article fifty-one of this  
44 chapter. No payments of first party benefits for basic economic loss  
45 made pursuant to such article shall diminish the obligations of the  
46 insurer under this policy provision for the payment of non-economic loss  
47 and economic loss in excess of basic economic loss. Notwithstanding any  
48 inconsistent provisions of section three thousand four hundred twenty-  
49 five of this article, any such policy which does not contain the afore-  
50 said provisions shall be construed as if such provisions were embodied  
51 therein.

52 § 4. Subsection (a) of section 5210 of the insurance law, as amended  
53 by chapter 305 of the laws of 1995, is amended to read as follows:

54 (a) When any qualified person who has complied with all the applicable  
55 requirements of this article recovers a final judgment in a court  
56 against a financially irresponsible motorist, for injury to, or death

1 of, any person arising out of the ownership, maintenance or use of the  
2 uninsured motor vehicle in this state, which remains unpaid, and all  
3 appeals have been concluded or the time for commencing them has expired,  
4 the judgment creditor may file a verified petition in the court in which  
5 the judgment was entered and, upon ten days' written notice to the  
6 corporation apply to the court for an order directing payment by the  
7 corporation of the amount unpaid on the judgment. However, there shall  
8 be no right of recovery by a covered person from the corporation for  
9 non-economic loss unless such person has incurred a serious injury, as  
10 such terms are defined in section five thousand one hundred two of this  
11 chapter. Such judgment exclusive of interest and costs shall not  
12 exceed:

13 (1) [~~twenty-five~~] two hundred fifty thousand dollars on account of  
14 injury to one person in any one accident, and

15 (2) [~~fifty~~] five hundred thousand dollars on account of death to one  
16 person in any one accident, and

17 (3) [~~fifty~~] five hundred thousand dollars on account of injury to more  
18 than one person in any one accident subject to the limit of twenty-five  
19 thousand dollars for any one person, and

20 (4) one [~~hundred-thousand~~] million dollars on account of death to more  
21 than one person in any one accident subject to the limit of fifty thou-  
22 sand dollars for any one person.

23 § 5. This act shall take effect on the one hundred eightieth day after  
24 is shall have become a law.