

STATE OF NEW YORK

5144

2017-2018 Regular Sessions

IN ASSEMBLY

February 6, 2017

Introduced by M. of A. WEPRIN -- read once and referred 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 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:

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 broad 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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1 action or life settlement act may be fraudulent, or has knowledge that a
2 fraudulent insurance transaction or fraudulent life settlement act is
3 about to take place, or has taken place shall, within thirty days after
4 determination by such person that the transaction appears to be fraudu-
5 lent, send to the superintendent on a form prescribed by the superinten-
6 dent, the information requested by the form and such additional informa-
7 tion relative to the factual circumstances of the transaction and the
8 parties involved as the superintendent may require. The superintendent
9 shall accept reports of suspected fraudulent insurance transactions or
10 fraudulent life settlement acts from any self insurer, including but not
11 limited to self insurers providing health insurance coverage or those
12 defined in section fifty of the workers' compensation law, and shall
13 treat such reports as any other received pursuant to this section. The
14 superintendent shall accept reports of suspected fraudulent insurance
15 transactions from any self insurer including, but not limited to, self
16 insurers providing health insurance coverage, those providing motor
17 vehicle liability insurance or those defined in section fifty of the
18 workers' compensation law, and shall treat such reports as any other
19 received pursuant to this section.

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

22 § 2133. ~~Forged~~ False insurance documents and forged insurance iden-
23 tification cards. Any insurance company, insurance agent, insurance
24 broker or other person who or which, personally or by the action of an
25 employee or agent, knowingly possesses, transfers or uses: (a) any docu-
26 ment which purports to evince insurance coverage when such coverage is
27 not in effect or is in effect at limits less than those stated in the
28 document; or (b) a forged insurance identification card for a motor
29 vehicle, having knowledge, personally or through such employee or agent,
30 of the fact that such insurance identification card, when issued, did
31 not actually represent an owner's policy of liability insurance or a
32 financial security bond issued by an insurance company licensed to do
33 business in this state covering the motor vehicle identified on such
34 card, shall be liable for payment to the people of this state of a civil
35 penalty in a sum not exceeding one thousand dollars for the first such
36 violation and a sum not exceeding five thousand dollars for each subse-
37 quent violation. For the purposes of this section the term "forged
38 insurance identification card" means a written insurance identification
39 card which has been falsely made, completed or altered, and the term
40 "falsely made, completed or altered" shall have the same meaning as set
41 forth in section 170.00 of the penal law.

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

44 5. A prescription of a duly licensed physician or other person author-
45 ized to issue the same for any drug or any instrument or device used in
46 the taking or administering of drugs for which a prescription is
47 required by law~~[-]; or~~

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

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

51 § 170.15 Forgery in the first degree.

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

55 1. Ten or more written instruments; or

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

3 [~~1-~~] (a) Part of an issue of money, stamps, securities or other valu-
4 able instruments issued by a government or governmental instrumentality;
5 or

6 [~~2-~~] (b) Part of an issue of stock, bonds or other instruments repres-
7 enting interests in or claims against a corporate or other organization
8 or its property.

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

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

12 § 175.50 Offering a false application for motor vehicle insurance or
13 registration.

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

20 Offering a false application for motor vehicle insurance or registra-
21 tion is a class E felony.

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

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

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

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

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

37 § 176.15 Insurance fraud in the fourth degree.

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

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

43 2. operates a motor vehicle on a public highway, when such motor vehi-
44 cle is insured by a policy issued under the laws of another state, when
45 such person maintains his or her principal residence in this state or
46 such motor vehicle is principally garaged in this state, and such insur-
47 ance policy was issued upon any written or oral statement by such person
48 that he or she principally resides in such other state or that such
49 motor vehicle is principally garaged in such other state.

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

51 § 9. The vehicle and traffic law is amended by adding a new section
52 201-a to read as follows:

53 § 201-a. Access to information. The department shall allow law
54 enforcement personnel access to any individual's street address provided
55 pursuant to paragraph b of subdivision one of section four hundred one
56 and subdivision one of section five hundred two of this chapter.

§ 10. 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

1 years of age and has signed such application attesting to the truth and
2 veracity of the facts stated therein.

3 § 11. Subdivision 1 of section 502 of the vehicle and traffic law, as
4 separately amended by chapters 465 and 487 of the laws of 2012, is
5 REPEALED and a new subdivision 1 is added 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 commis-
17 sioner 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 commercial
37 driver's license who will operate a commercial motor vehicle in inter-
38 state commerce shall certify that such applicant meets the requirements
39 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 § 12. Subdivision 1 of section 502 of the vehicle and traffic law, as
56 added by section eleven of this act, is amended to read as follows:

1 1. Application for license. Application for a driver's license shall
2 be made to the commissioner. The fee prescribed by law may be submitted
3 with such application. The applicant shall furnish such proof of identi-
4 ty, age, address of his or her residence and fitness as may be required
5 by the commissioner. When providing his or her address of residence, the
6 applicant shall provide the street address at which he or she resides.
7 Each applicant shall sign his or her application attesting to the truth
8 and veracity of the facts stated therein. The commissioner may also
9 provide that the application procedure shall include the taking of a
10 photo image or images of the applicant in accordance with rules and
11 regulations prescribed by the commissioner. In addition, the commission-
12 er also shall require that the applicant provide his or her social secu-
13 rity number and ~~[shall]~~ provide space on the application so that the
14 applicant may register in the New York state organ and tissue donor
15 registry under section forty-three hundred ten of the public health law
16 ~~[with the following stated on the application in clear and conspicuous~~
17 ~~type:~~

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

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

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

52 (a) section twelve of this act shall take effect October 3, 2017; and

53 (b) sections four, five, six, seven and eight of this act shall take
54 effect on the first of November next succeeding the date on which it
55 shall have become a law.