STATE OF NEW YORK

3027

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

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

AN ACT to amend the insurance law, in relation to making comprehensive motor vehicle insurance reparations applicable to motorcycles

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

Section 1. Subsection (f) of section 5102 of the insurance law is amended to read as follows:

(f) "Motor vehicle" means a motor vehicle as defined in section three hundred eleven of the vehicle and traffic law and also includes fire and police vehicles**, and motorcycles**. It shall not include any motor vehicle not required to carry financial security pursuant to article six, eight or forty-eight-A of the vehicle and traffic law [~~or a motorcycle, as defined in subsection (m) hereof~~].

§ 2. Subsections (a) and (f) of section 5103 of the insurance law, subsection (f) as amended by chapter 402 of the laws of 1986, are amended to read as follows:

(a) Every owner's policy of liability insurance issued on a motor vehicle in satisfaction of the requirements of article six or eight of the vehicle and traffic law shall also provide for; every owner who maintains another form of financial security on a motor vehicle in satisfaction of the requirements of such articles shall be liable for; and every owner of a motor vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of the vehicle and traffic law shall be liable for; the payment of first party benefits to:

(1) Persons, other than occupants of another motor vehicle [~~or a motorcycle~~], for loss arising out of the use or operation in this state of such motor vehicle. In the case of occupants of a bus other than operators, owners, and employees of the owner or operator of the bus, the coverage for first party benefits shall be afforded under the policy

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

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or policies, if any, providing first party benefits to the injured person and members of his **or her** household for loss arising out of the use or operation of any motor vehicle of such household. In the event there is no such policy, first party benefits shall be provided by the insurer of such bus.

(2) The named insured and members of his **or her** household[~~, other than occupants of a motorcycle,~~] for loss arising out of the use or operation of (i) an uninsured motor vehicle [~~or motorcycle~~], within the United States, its territories or possessions, or Canada; and (ii) an insured motor vehicle [~~or motorcycle~~] outside of this state and within the United States, its territories or possessions, or Canada.

(3) Any New York resident who is neither the owner of a motor vehicle with respect to which coverage for first party benefits is required by this article nor, as a member of a household, is entitled to first party benefits under paragraph two of this subsection, for loss arising out of the use or operation of the insured or self-insured motor vehicle outside of this state and within the United States, its territories or possessions, or Canada.

(4) The estate of any covered person, other than an occupant of another motor vehicle [~~or a motorcycle~~], a death benefit in the amount of two thousand dollars for the death of such person arising out of the use or operation of such motor vehicle which is in addition to any first party benefits for basic economic loss.

(f) Every owner's policy of liability insurance issued on [~~a motorcycle or~~] an all terrain vehicle in satisfaction of the requirements of [~~article six or eight of the vehicle and traffic law or~~] section twenty-four hundred seven of [~~such~~] **the vehicle and traffic** law shall also provide for; every owner who maintains another form of financial security on [~~a motorcycle or~~] an all terrain vehicle in satisfaction of the requirements of such [~~articles or~~] section shall be liable for; and every owner of [~~a motorcycle or~~] an all terrain vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of such law shall be liable for; the payment of first party benefits to persons, other than the occupants of such [~~motorcycle or~~] all terrain vehicle, another [~~motorcycle or~~] all terrain vehicle, or any motor vehicle, for loss arising out of the use or operation of the [~~motorcycle or~~] all terrain vehicle within this state. Every insurer and self-insurer may exclude from the coverage required by this subsection a person who intentionally causes his **or her** own injury or is injured while committing an act which would constitute a felony or while seeking to avoid lawful apprehension or arrest by a law enforcement officer.

§ 3. Subsections (a) and (b) of section 5104 of the insurance law are amended to read as follows:

(a) Notwithstanding any other law, in any action by or on behalf of a covered person against another covered person for personal injuries arising out of negligence in the use or operation of a motor vehicle in this state, there shall be no right of recovery for non-economic loss, except in the case of a serious injury, or for basic economic loss. [~~The owner, operator or occupant of a motorcycle which has in effect the financial security required by article six or eight of the vehicle and traffic law, or which is referred to in subdivision two of section three hundred twenty-one of such law, shall not be subject to an action by or on behalf of a covered person for recovery for non-economic loss, except in the case of a serious injury, or for basic economic loss.~~]

(b) In any action by or on behalf of a covered person, against a non-covered person, where damages for personal injuries arising out of the use or operation of a motor vehicle [~~or a motorcycle~~] may be recovered, an insurer which paid or is liable for first party benefits on account of such injuries has a lien against any recovery to the extent of benefits paid or payable by it to the covered person. No such action may be compromised by the covered person except with the written consent of the insurer, or with the approval of the court, or where the amount of such settlement exceeds fifty thousand dollars. The failure of such person to commence such action within two years after accrual gives the insurer a cause of action for the amount of first party benefits paid or payable against any person who may be liable to the covered person for his **or her** personal injuries. The insurer's cause of action shall be in addition to the cause of action of the covered person except that in any action subsequently commenced by the covered person for such injuries, the amount of his **or her** basic economic loss shall not be recoverable.

§ 4. This act shall take effect January 1, 2021.