STATE OF NEW YORK

7333

2019-2020 Regular Sessions

IN ASSEMBLY

April 25, 2019

Introduced by M. of A. JEAN-PIERRE -- read once and referred to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the insurance law, in relation to requiring limousines operating in this state to adopt certain safety measures and be properly insured

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

Section 1. Paragraph (a) of subdivision 4 of section 311 of the vehicle and traffic law, as amended by chapter 305 of the laws of 1995, is amended to read as follows:

(a) Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the superintendent at least ninety days prior to effective date of this act. The superintendent before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this state and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies as defined in section three hundred forty-five of this [~~chapter~~] *title*, issued within this state at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this article shall prohibit any insurer from affording coverage under an owner's policy of liability insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and

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

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costs, with respect to each such motor vehicle except a tow truck **or limousine**, of twenty-five thousand dollars because of bodily injuries to and fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to and one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident provided, however, that such policy need not be for a period coterminous with the registration period of the vehicle insured. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of at least three hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. **The limit, exclusive of interests and costs, with regard to a limousine shall be a combined single limit of at least one million five hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property in any one accident, or the limit required by local law or regulation, whichever is greater.** Any insurer authorized to issue an owner's policy of liability insurance as provided for in this article may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this article shall apply to such binders, renewal endorsements or evidences of renewal. Every such policy issued insuring private passenger vehicles and every renewal policy, renewal endorsement, or other evidence of renewal issued shall have attached thereto a rating information form which clearly specifies and defines the rating classification assigned thereto, including any applicable merit rating plan; and

§ 2. Section 311 of the vehicle and traffic law is amended by adding a new subdivision 11 to read as follows:

11. "Limousine" means a livery vehicle that has a seating capacity of eight or more passengers and which provides prearranged passenger transportation on a dedicated, nonscheduled, charter basis, where the charge is based on a flat rate or per unit of time or mileage, or a vehicle classified as a luxury limousine as defined by the taxi and limousine commission of New York city or Westchester county or licensed by a municipality of Nassau county and registered with Nassau county. Service by a limousine that begins and ends in this state is deemed intra-state even if it passes outside this state during a portion of the trip. This does not include a taxicab that is not operated on a regular route or between specified points, a vehicle carrying less than sixteen individuals in a single daily round trip to commute to and from work, or a motor vehicle transporting only school children and teachers to or from a school or an extracurricular activity organized and funded by a school district.

§ 3. Section 312 of the vehicle and traffic law is amended by adding a new subdivision 6 to read as follows:

6. (a) No limousine shall operate as such in this state unless, upon the registration of the limousine with the department, the application for such registration is accompanied by proof of financial security required by section three hundred eleven of this article which shall be

evidence by proof of insurance or evidence of a financial security bond, a financial security deposit or qualification as a self-insurer under section three hundred sixteen of this article; provided, that if directed by regulation of the commissioner, upon renewal of registration an application accompanied by a certificate of registration or renewal stub in force immediately preceding the date of application for renewal, together with a statement in a form prescribed by the commissioner certifying that there is in effect proof of financial security, shall meet the requirements of this section.

(b) The owner, and registrant if the registrant is different from the owner, of such limousine shall maintain proof of financial security continuously throughout the registration period, and failure to produce proof of financial security when requested to do so upon demand of a magistrate, motor vehicle inspector, peace officer acting pursuant to his or her special duties, or police officer, while such vehicle is being operated upon the public highways of this state, shall be presumptive evidence of operating a motor vehicle without proof of financial security. Upon the production of proof of financial security such presumption is removed. Production of proof of financial security may be made by mailing such proof to the court having jurisdiction in the matter, and any necessary response by such court or acknowledgment of the production of such proof may also be made by mail.

(c) When insurance with respect to any limousine is terminated or canceled, the owner shall surrender forthwith the registration certificate and number plates of the vehicle to the commissioner unless proof of financial security otherwise is maintained in compliance with this article and section three hundred seventy of this title.

(d) Where the owner of a limousine fails to maintain the proof of financial security required by this section, if the owner of any limousine is a corporation, limited liability corporation, or other business entity, the officers of such corporation or entity may be held personally liable for any judgment entered against any driver and/or registrant of the limousine for damages sustained as a result of personal injury, wrongful death and/or property damage suffered as a result of the use and operation of the limousine.

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

(3) Shall insure the insured, the vehicle operator, or such other person against loss from the liability imposed by law for damages, including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of such motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and cost, with respect to each such motor vehicle, except a tow truck or a limousine as defined in subdivision eleven of section three hundred eleven of this title, of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of three hundred thou-

sand dollars because of bodily injury [~~of~~] or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. The limit, exclusive of interest and costs, with respect to a limousine as defined in subdivision eleven of section three hundred eleven of this title shall be a combined single limit of at least one million five hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, or the limit required by local law or regulation, whichever is greater.

§ 5. Paragraphs (a) and (b) of subdivision 1 of section 370 of the vehicle and traffic law, paragraph (a) as amended by chapter 305 of the laws of 1995 and paragraph (b) as amended by chapter 613 of the laws of 2002, are amended to read as follows:

(a) For damages for and incident to death or injuries to persons: For each motorcycle and for each motor vehicle which is intended pursuant to this subdivision to be operated in a business of carrying or transporting passengers for hire having a seating capacity of not more than seven passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of fifty thousand dollars for bodily injury, and a minimum liability of fifty thousand dollars and a maximum liability of one hundred thousand dollars for death; for each motor vehicle which is intended pursuant to this subdivision to be operated in a business of carrying or transporting passengers for hire having a seating capacity of not less than eight nor more than [~~twelve~~] fourteen passengers, a bond or insurance policy with a [~~minimum liability~~] combined single limit of [~~twenty-five~~] at least one million five hundred thousand dollars [~~and a maximum liability of eighty thousand dollars~~] for bodily injury[~~, and a minimum liability of fifty thousand dollars and a maximum liability of one hundred fifty thousand dollars for~~] or death to one or more persons because of injury or destruction of property in any one accident, or the limit required by local law or regulation, whichever is greater; [~~for each motor vehicle having a seating capacity of not less than thirteen nor more than twenty passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of one hundred twenty thousand dollars for bodily injury and a minimum liability of fifty thousand dollars and a maximum liability of one hundred fifty thousand dollars for death; for each motor vehicle having a seating capacity of not less than twenty-one nor more than thirty passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of one hundred sixty thousand dollars for bodily injury and a minimum liability of fifty thousand dollars and a maximum liability of two hundred thousand dollars for death; for each motor vehicle having a seating capacity of more than thirty passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of two hundred thousand dollars for bodily injury and a minimum liability of fifty thousand dollars and a maximum liability of two hundred fifty thousand dollars for death;~~]

(b) For damages for and incident to injury to or destruction of property; for each motor vehicle and each motorcycle having a seating capacity of fewer than eight passengers, a bond or insurance policy with a minimum liability of ten thousand dollars.

Such bond or policy of insurance shall contain a provision for a continuing liability thereunder, notwithstanding any recovery thereon.

Any such bond or policy of insurance shall also contain a provision that such bond or policy of insurance shall inure to the benefit of any person legally operating the motor vehicle or motorcycle in the business of the owner and with his permission, in the same manner and under the same conditions and to the same extent as to the owner. If at any time, in the judgment of the commissioner, such bond or policy is not sufficient for any cause the commissioner may require the owner of such motor vehicle or motorcycle to replace such bond or policy with another approved by the commissioner. A corporate surety or an insurance company evidence of whose bond or policy has been so filed, must file a notice in the office of the commissioner that upon the expiration of twenty days from such filing such surety will cease to be liable upon such bond, or in the case of such insurance company, that upon the expiration of such time such policy will be cancelled; provided, however, that where the owner of such motor vehicle or motorcycle has replaced coverage with another insurer, the expiration date shall be the date the new coverage has commenced; further provided that where such owner has had a total loss, the expiration date shall be the earlier of twenty days or when the plates have been turned in to the commissioner. The commissioner shall thereupon notify the owner of such motor vehicle or motorcycle of the filing of such notice, and unless such owner shall file a new bond or evidence of new bond or policy, as provided by this section, on or before such date as shall be specified by the commissioner, or shall place the number plates belonging to the motor vehicle or motorcycle in the custody of the commissioner or his agent within such time, to remain in such custody until a new bond or evidence of a new bond or policy is filed, the registration of such motor vehicle or motorcycle shall be revoked as of the date specified in said notice of the commissioner and no new registration shall be issued for a period of thirty days. Forthwith after his registration has been so revoked such owner shall return the number plates issued for such vehicle to the commissioner. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to such revocations.

Notwithstanding any contrary provision of this chapter, any such bond, or policy of insurance shall also provide for uninsured motorists coverage in the minimal amount and in the form provided for in subsection (f) of section three thousand four hundred twenty of the insurance law.

Nothing in this subdivision shall be construed to prevent compliance therewith by filing a combination of bonds or policies or of a bond and policy or evidence thereof if the commissioner approves and the requirements of this subdivision are otherwise met.

§ 6. Paragraph 1 and subparagraph (A) of paragraph 2 of subsection (f) of section 3420 of the insurance law, paragraph 1 as amended by chapter 305 of the laws of 1995 and subparagraph (A) of paragraph 2 as separately amended by chapters 547 and 568 of the laws of 1997, are amended to read as follows:

(1) No policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance and use of a motor vehicle **or limousine, as such term is defined in subdivision eleven of section three hundred eleven of the vehicle and traffic law,** by the insured shall be issued or delivered by any authorized insurer upon any motor vehicle **or limousine, as such term is defined in subdivision eleven of section three hundred eleven of the vehicle and traffic law,** then principally garaged or principally used in this state unless it contains a provision whereby the insurer agrees that it will pay to the insured, as defined

in such provision, subject to the terms and conditions set forth therein to be prescribed by the board of directors of the Motor Vehicle Accident Indemnification Corporation and approved by the superintendent, all sums, not exceeding a maximum amount or limit of twenty-five thousand dollars exclusive of interest and costs, on account of injury to and all sums, not exceeding a maximum amount or limit of fifty thousand dollars exclusive of interest and costs, on account of death of one person, in any one accident, and the maximum amount or limit, subject to such limit for any one person so injured of fifty thousand dollars or so killed of one hundred thousand dollars, exclusive of interest and costs, on account of injury to, or death of, more than one person in any one accident, which the insured or his legal representative shall be entitled to recover as damages from an owner or operator of an uninsured motor vehicle, unidentified motor vehicle which leaves the scene of an accident, a motor vehicle registered in this state as to which at the time of the accident there was not in effect a policy of liability insurance, a stolen vehicle, a motor vehicle operated without permission of the owner, an insured motor vehicle where the insurer disclaims liability or denies coverage or an unregistered vehicle because of bodily injury, sickness or disease, including death resulting therefrom, sustained by the insured, caused by accident occurring in this state and arising out of the ownership, maintenance or use of such motor vehicle. No payment for non-economic loss shall be made under such policy provision to a covered person unless such person has incurred a serious injury, as such terms are defined in section five thousand one hundred two of this chapter. Such policy shall not duplicate any element of basic economic loss provided for under article fifty-one of this chapter. No payments of first party benefits for basic economic loss made pursuant to such article shall diminish the obligations of the insurer under this policy provision for the payment of non-economic loss and economic loss in excess of basic economic loss. Notwithstanding any inconsistent provisions of section three thousand four hundred twenty-five of this article, any such policy which does not contain the aforesaid provisions shall be construed as if such provisions were embodied therein.

(A) Any such policy shall, at the option of the insured, also provide supplementary uninsured/underinsured motorists insurance for bodily injury, in an amount up to the bodily injury liability insurance limits of coverage provided under such policy, subject to a maximum of two hundred fifty thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to five hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, or a combined single limit policy of five hundred thousand dollars because of bodily injury to or death of one or more persons in any one accident**; and any such policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance, and use of a limousine, as such term is defined in subdivision eleven of section three hundred eleven of the vehicle and traffic law, shall provide supplementary uninsured/underinsured motorists insurance for bodily injury, in an amount of a combined single limit of one million five hundred thousand dollars because of bodily injury or death of one or more persons in any one accident**. Provided however, an insurer issuing **any** such policy, **except a policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any natural person arising out of the ownership, maintenance, and use of a limousine, as such term**

is defined in subdivision eleven of section three hundred eleven of the vehicle and traffic law, in lieu of offering to the insured the coverages stated above, may provide supplementary uninsured/underinsured motorists insurance for bodily injury, in an amount up to the bodily injury liability insurance limits of coverage provided under such policy, subject to a maximum of one hundred thousand dollars because of bodily injury to or death of one person in any one accident and, subject to such limit for one person, up to three hundred thousand dollars because of bodily injury to or death of two or more persons in any one accident, or a combined single limit policy of three hundred thousand dollars because of bodily injury to or death of one or more persons in any one accident, if such insurer also makes available a personal umbrella policy with liability coverage limits up to at least five hundred thousand dollars which also provides coverage for supplementary uninsured/underinsured motorists claims. Supplementary uninsured/underinsured motorists insurance shall provide coverage, in any state or Canadian province, if the limits of liability under all bodily injury liability bonds and insurance policies of another motor vehicle liable for damages are in a lesser amount than the bodily injury liability insurance limits of coverage provided by such policy. Upon written request by any insured covered by supplemental uninsured/underinsured motorists insurance or his duly authorized representative and upon disclosure by the insured of the insured's bodily injury and supplemental uninsured/underinsured motorists insurance coverage limits, the insurer of any other owner or operator of another motor vehicle against which a claim has been made for damages to the insured shall disclose, within forty-five days of the request, the bodily injury liability insurance limits of its coverage provided under the policy or all bodily injury liability bonds. The time of the insured to make any supplementary uninsured/underinsured motorist claim, shall be tolled during the period the insurer of any other owner or operator of another motor vehicle that may be liable for damages to the insured, fails to so disclose its coverage. As a condition precedent to the obligation of the insurer to pay under the supplementary uninsured/underinsured motorists insurance coverage, the limits of liability of all bodily injury liability bonds or insurance policies applicable at the time of the accident shall be exhausted by payment of judgments or settlements.

§ 7. This act shall take effect immediately; provided, however, that within sixty days after such effective date all limousines subject to the provisions of this act shall have in full force and effect an insurance policy or other permissible bond, deposit, or qualification as required by this act, and shall provide satisfactory proof of such coverage to the commissioner of motor vehicles.