

STATE OF NEW YORK

4765

2019-2020 Regular Sessions

IN SENATE

March 25, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed 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:

1 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:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 § 5. Paragraphs (a) and (b) of subdivision 1 of section 370 of the
13 vehicle and traffic law, paragraph (a) as amended by chapter 305 of the
14 laws of 1995 and paragraph (b) as amended by chapter 613 of the laws of
15 2002, are amended to read as follows:

16 (a) For damages for and incident to death or injuries to persons: For
17 each motorcycle and for each motor vehicle which is intended pursuant to
18 this subdivision to be operated in a business of carrying or transport-
19 ing passengers for hire having a seating capacity of not more than seven
20 passengers, a bond or insurance policy with a minimum liability of twen-
21 ty-five thousand dollars and a maximum liability of fifty thousand
22 dollars for bodily injury, and a minimum liability of fifty thousand
23 dollars and a maximum liability of one hundred thousand dollars for
24 death; for each motor vehicle which is intended pursuant to this subdivi-
25 vision to be operated in a business of carrying or transporting passen-
26 gers for hire having a seating capacity of not less than eight nor more
27 than [~~twelve~~] fourteen passengers, a bond or insurance policy with a
28 [~~minimum liability~~] combined single limit of [~~twenty-five~~] at least one
29 million five hundred thousand dollars [~~and a maximum liability of eighty~~
30 ~~thousand dollars~~] for bodily injury [~~, and a minimum liability of fifty~~
31 ~~thousand dollars and a maximum liability of one hundred fifty thousand~~
32 ~~dollars for~~] or death to one or more persons because of injury or
33 destruction of property in any one accident, or the limit required by
34 local law or regulation, whichever is greater; [~~for each motor vehicle~~
35 ~~having a seating capacity of not less than thirteen nor more than twenty~~
36 ~~passengers, a bond or insurance policy with a minimum liability of twenty~~
37 ~~five thousand dollars and a maximum liability of one hundred twenty~~
38 ~~thousand dollars for bodily injury and a minimum liability of fifty~~
39 ~~thousand dollars and a maximum liability of one hundred fifty thousand~~
40 ~~dollars for death; for each motor vehicle having a seating capacity of~~
41 ~~not less than twenty-one nor more than thirty passengers, a bond or~~
42 ~~insurance policy with a minimum liability of twenty five thousand~~
43 ~~dollars and a maximum liability of one hundred sixty thousand dollars~~
44 ~~for bodily injury and a minimum liability of fifty thousand dollars and~~
45 ~~a maximum liability of two hundred thousand dollars for death; for each~~
46 ~~motor vehicle having a seating capacity of more than thirty passengers,~~
47 ~~a bond or insurance policy with a minimum liability of twenty five thou-~~
48 ~~sand dollars and a maximum liability of two hundred thousand dollars for~~
49 ~~bodily injury and a minimum liability of fifty thousand dollars and a~~
50 ~~maximum liability of two hundred fifty thousand dollars for death;]~~

51 (b) For damages for and incident to injury to or destruction of prop-
52 erty; for each motor vehicle and each motorcycle having a seating capac-
53 ity of fewer than eight passengers, a bond or insurance policy with a
54 minimum liability of ten thousand dollars.

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

1 Any such bond or policy of insurance shall also contain a provision that
2 such bond or policy of insurance shall inure to the benefit of any
3 person legally operating the motor vehicle or motorcycle in the business
4 of the owner and with his permission, in the same manner and under the
5 same conditions and to the same extent as to the owner. If at any time,
6 in the judgment of the commissioner, such bond or policy is not suffi-
7 cient for any cause the commissioner may require the owner of such motor
8 vehicle or motorcycle to replace such bond or policy with another
9 approved by the commissioner. A corporate surety or an insurance company
10 evidence of whose bond or policy has been so filed, must file a notice
11 in the office of the commissioner that upon the expiration of twenty
12 days from such filing such surety will cease to be liable upon such
13 bond, or in the case of such insurance company, that upon the expiration
14 of such time such policy will be cancelled; provided, however, that
15 where the owner of such motor vehicle or motorcycle has replaced cover-
16 age with another insurer, the expiration date shall be the date the new
17 coverage has commenced; further provided that where such owner has had a
18 total loss, the expiration date shall be the earlier of twenty days or
19 when the plates have been turned in to the commissioner. The commission-
20 er shall thereupon notify the owner of such motor vehicle or motorcycle
21 of the filing of such notice, and unless such owner shall file a new
22 bond or evidence of new bond or policy, as provided by this section, on
23 or before such date as shall be specified by the commissioner, or shall
24 place the number plates belonging to the motor vehicle or motorcycle in
25 the custody of the commissioner or his agent within such time, to remain
26 in such custody until a new bond or evidence of a new bond or policy is
27 filed, the registration of such motor vehicle or motorcycle shall be
28 revoked as of the date specified in said notice of the commissioner and
29 no new registration shall be issued for a period of thirty days. Forth-
30 with after his registration has been so revoked such owner shall return
31 the number plates issued for such vehicle to the commissioner. The
32 provisions of subdivision seven of section five hundred ten of this
33 chapter shall apply to such revocations.

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

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

42 § 6. Paragraph 1 and subparagraph (A) of paragraph 2 of subsection (f)
43 of section 3420 of the insurance law, paragraph 1 as amended by chapter
44 305 of the laws of 1995 and subparagraph (A) of paragraph 2 as separate-
45 ly amended by chapters 547 and 568 of the laws of 1997, are amended to
46 read as follows:

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

1 in such provision, subject to the terms and conditions set forth therein
2 to be prescribed by the board of directors of the Motor Vehicle Accident
3 Indemnification Corporation and approved by the superintendent, all
4 sums, not exceeding a maximum amount or limit of twenty-five thousand
5 dollars exclusive of interest and costs, on account of injury to and all
6 sums, not exceeding a maximum amount or limit of fifty thousand dollars
7 exclusive of interest and costs, on account of death of one person, in
8 any one accident, and the maximum amount or limit, subject to such limit
9 for any one person so injured of fifty thousand dollars or so killed of
10 one hundred thousand dollars, exclusive of interest and costs, on
11 account of injury to, or death of, more than one person in any one acci-
12 dent, which the insured or his legal representative shall be entitled to
13 recover as damages from an owner or operator of an uninsured motor vehi-
14 cle, unidentified motor vehicle which leaves the scene of an accident, a
15 motor vehicle registered in this state as to which at the time of the
16 accident there was not in effect a policy of liability insurance, a
17 stolen vehicle, a motor vehicle operated without permission of the
18 owner, an insured motor vehicle where the insurer disclaims liability or
19 denies coverage or an unregistered vehicle because of bodily injury,
20 sickness or disease, including death resulting therefrom, sustained by
21 the insured, caused by accident occurring in this state and arising out
22 of the ownership, maintenance or use of such motor vehicle. No payment
23 for non-economic loss shall be made under such policy provision to a
24 covered person unless such person has incurred a serious injury, as such
25 terms are defined in section five thousand one hundred two of this chap-
26 ter. Such policy shall not duplicate any element of basic economic loss
27 provided for under article fifty-one of this chapter. No payments of
28 first party benefits for basic economic loss made pursuant to such arti-
29 cle shall diminish the obligations of the insurer under this policy
30 provision for the payment of non-economic loss and economic loss in
31 excess of basic economic loss. Notwithstanding any inconsistent
32 provisions of section three thousand four hundred twenty-five of this
33 article, any such policy which does not contain the aforesaid provisions
34 shall be construed as if such provisions were embodied therein.

35 (A) Any such policy shall, at the option of the insured, also provide
36 supplementary uninsured/underinsured motorists insurance for bodily
37 injury, in an amount up to the bodily injury liability insurance limits
38 of coverage provided under such policy, subject to a maximum of two
39 hundred fifty thousand dollars because of bodily injury to or death of
40 one person in any one accident and, subject to such limit for one
41 person, up to five hundred thousand dollars because of bodily injury to
42 or death of two or more persons in any one accident, or a combined
43 single limit policy of five hundred thousand dollars because of bodily
44 injury to or death of one or more persons in any one accident; and any
45 such policy insuring against loss resulting from liability imposed by
46 law for bodily injury or death suffered by any natural person arising
47 out of the ownership, maintenance, and use of a limousine, as such term
48 is defined in subdivision eleven of section three hundred eleven of the
49 vehicle and traffic law, shall provide supplementary
50 uninsured/underinsured motorists insurance for bodily injury, in an
51 amount of a combined single limit of one million five hundred thousand
52 dollars because of bodily injury or death of one or more persons in any
53 one accident. Provided however, an insurer issuing any such policy,
54 except a policy insuring against loss resulting from liability imposed
55 by law for bodily injury or death suffered by any natural person arising
56 out of the ownership, maintenance, and use of a limousine, as such term

1 is defined in subdivision eleven of section three hundred eleven of the
2 vehicle and traffic law, in lieu of offering to the insured the cover-
3 ages stated above, may provide supplementary uninsured/underinsured
4 motorists insurance for bodily injury, in an amount up to the bodily
5 injury liability insurance limits of coverage provided under such poli-
6 cy, subject to a maximum of one hundred thousand dollars because of
7 bodily injury to or death of one person in any one accident and, subject
8 to such limit for one person, up to three hundred thousand dollars
9 because of bodily injury to or death of two or more persons in any one
10 accident, or a combined single limit policy of three hundred thousand
11 dollars because of bodily injury to or death of one or more persons in
12 any one accident, if such insurer also makes available a personal
13 umbrella policy with liability coverage limits up to at least five
14 hundred thousand dollars which also provides coverage for supplementary
15 uninsured/underinsured motorists claims. Supplementary
16 uninsured/underinsured motorists insurance shall provide coverage, in
17 any state or Canadian province, if the limits of liability under all
18 bodily injury liability bonds and insurance policies of another motor
19 vehicle liable for damages are in a lesser amount than the bodily injury
20 liability insurance limits of coverage provided by such policy. Upon
21 written request by any insured covered by supplemental
22 uninsured/underinsured motorists insurance or his duly authorized repre-
23 sentative and upon disclosure by the insured of the insured's bodily
24 injury and supplemental uninsured/underinsured motorists insurance
25 coverage limits, the insurer of any other owner or operator of another
26 motor vehicle against which a claim has been made for damages to the
27 insured shall disclose, within forty-five days of the request, the bodi-
28 ly injury liability insurance limits of its coverage provided under the
29 policy or all bodily injury liability bonds. The time of the insured to
30 make any supplementary uninsured/underinsured motorist claim, shall be
31 tolled during the period the insurer of any other owner or operator of
32 another motor vehicle that may be liable for damages to the insured,
33 fails to so disclose its coverage. As a condition precedent to the obli-
34 gation of the insurer to pay under the supplementary
35 uninsured/underinsured motorists insurance coverage, the limits of
36 liability of all bodily injury liability bonds or insurance policies
37 applicable at the time of the accident shall be exhausted by payment of
38 judgments or settlements.

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