# STATE OF NEW YORK

5358

2019-2020 Regular Sessions

# IN ASSEMBLY

February 11, 2019

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

AN ACT to amend the insurance law, in relation to required inspections for automobile physical damage insurance covering private passenger automobiles

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

Section 1. Section 3411 of the insurance law, subsections (e) and (f) as added by chapter 805 of the laws of 1984 and subsection (i) as amended by chapter 161 of the laws of 1996, is amended to read as follows:

§ 3411. Automobile physical damage insurance covering private passenger automobiles; standard provisions; [~~required inspections;~~] duties of insurers and insureds. (a) The provisions of this section shall be applicable to all automobile physical damage insurance policies covering private passenger automobiles registered in this state, notwithstanding any other provisions of this chapter.

(b) In this article, "renewal" means the issuance and delivery by an insurer, at the end of the policy period, of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term. Any policy with a policy period or term of less than one year shall, for the purpose of determining each renewal date in this section, be considered as if written for a policy period or term of one year commencing with the annual anniversary date, and any policy written for a period or term of more than one year or any policy with no fixed expiration date shall, for the purpose of this section, be considered as if written for successive policy periods or terms of one year commencing with the annual anniversary date.

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

LBD07589-01-9

(c) [~~No policy providing automobile physical damage insurance for private passenger automobiles registered in this state shall be issued, delivered, or renewed unless it complies with this section.~~

~~(d) A newly issued policy shall not provide coverage for automobile physical damage perils prior to an inspection of the automobile by the insurer.~~

~~(e) For a renewal of a policy referred to in subsection (d) of this section, an insurer may require, as a condition of such renewal, that the automobile be made available for inspection.~~

~~(f)~~] If an insurer requests an inspection [~~pursuant to subsection (e) of this section~~], the insured shall make the automobile available for inspection by the insurer, upon reasonable notice. If the insured fails to make the automobile available for inspection, the insurer may refuse to continue such physical damage coverage.

[~~(g) If an automobile subject to the provisions of this section is acquired by the insured as a replacement for or an addition to an automobile insured for physical damage coverage, and the insured requests physical damage coverage for the replacement or additional automobile, such coverage for physical damage shall not be effective before such inspection is made. If, at the time of the request for such coverage, the automobile is unavailable for inspection because of conditions of purchase or other circumstances and is thereafter made available for inspection, the insurer shall promptly inspect the automobile, and physical damage coverage shall not become effective before the inspection has been made.~~

~~(h)~~] (d) Where an inspection is made pursuant to this section, it shall be conducted by the insurer or its authorized representative and shall be recorded on a form prescribed by the superintendent. Such form shall be retained by the insurer with its policy records for such insured, and a copy of such form shall be made available to the insured upon request.

[~~(i)~~] (e) Payment of a physical damage claim shall not be conditioned upon the repair of the automobile, provided, however, the insured shall replace any inflatable restraint system (airbag), as defined in subparagraph (b) of S 4.1.5.1 of standard 208 of part 571 of title 49 of the code of federal regulations, that inflated and deployed, or that was stolen, which is included in a physical damage or theft claim. The insurer may request that the automobile be made available for inspection whether or not the automobile is repaired. The results of such inspection may form a basis for determining the value of the automobile in the event of a subsequent loss. If the automobile is repaired the insurer shall request the repair invoice and shall require the insured and the automobile repairer to certify, under penalties of perjury, whether the applicable deductible has been paid to the automobile repairer, whether any repairs have been made and whether the repairs did not include all items allowed by the insurer.

[~~(j)~~] (f) The superintendent may approve policy forms for physical damage coverage, for new and renewable business, which exclude coverage for specified items of personal property located in or upon the automobile.

[~~(k)~~] (g) Each insurer which offers physical damage insurance subject to the provisions of this section shall offer such insurance with a standard deductible of two hundred dollars for each occurrence. The insured shall, however, at the inception of the policy or at the annual anniversary date, or at the time of the replacement or addition of an automobile, have the option of purchasing a policy with a lesser deduct-

ible, but in no event may the insurer sell a policy with a deductible of less than fifty dollars for fire, theft or comprehensive insurance coverages (one hundred dollars for assigned risk policies issued pursuant to paragraph two of subsection (a) of section five thousand three hundred three of this chapter) and one hundred dollars for collision insurance coverage except that window glass coverage may be sold without a deductible. Each insurer which offers physical damage insurance subject to the provisions of this section shall also offer physical damage coverages with co-insurance or deductible provisions or combinations thereof as the superintendent may prescribe, including but not limited to deductibles of two hundred fifty dollars, five hundred dollars and one thousand dollars.

[~~(l)~~] **(h)** Every insurer subject to the provisions of this section shall report to the commissioner of motor vehicles any evidence of overcharges, improper repairs or adjustments or other wrongdoing by motor vehicle repair shops, in order that the department of motor vehicles may properly discharge its responsibilities under the vehicle and traffic law to protect consumers from dishonest, deceptive and fraudulent practices in the repair of automobiles, to protect the public from improper repairs and to eliminate unqualified motor vehicle repair shops.

[~~(m)~~] **(i)** (1) The superintendent, in regulations implementing the provisions of this section, shall also require that insurers take appropriate action to ensure that there is wide public dissemination of the provisions of this section relating to the rights and obligations of insureds and insurers.

(2) [~~The inspections provided for in this section may be dispensed with or deferred under circumstances specified in regulations of the superintendent. Such circumstances may include but are not limited to, the insuring of a new automobile, the insuring of an automobile whose inspection would constitute a serious hardship to the insurer, the insured or an applicant for insurance, and the insuring of an automobile for a limited specified period of time.~~

~~(3)~~] Inspections made pursuant to this section shall be made at locations and times reasonably convenient to the insured. The results of any inspection may be considered in determining the value of the automobile.

[~~(n)~~] **(j)** If the superintendent, after notice and hearing, finds that any insurer or its authorized representative has violated any provision of this section, he shall order the payment of a penalty, not to exceed five hundred dollars for each such offense. Each issuance, procurement or negotiation of a policy of insurance in violation of this section shall be a separate offense.

§ 2. This act shall take effect immediately.