STATE OF NEW YORK

1395

2021-2022 Regular Sessions

IN ASSEMBLY

January 8, 2021

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

AN ACT to amend the insurance law, in relation to group policies for certain motor vehicles engaged in the business of carrying or transporting passengers for hire

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

Section 1. Section 3457 of the insurance law, as added by a chapter of the laws of 2020, amending the insurance law relating to group policies for motor vehicles engaged in the business of carrying and transporting passengers for-hire, as proposed in legislative bills numbers S. 8437 and A. 9761-A, is amended to read as follows:

§ 3457. [~~Group fleet policy for motor vehicles engaged in the business of carrying or transporting passengers for-hire. (a) (i) Every authorized insurer that issues or issues for delivery in this state a policy of commercial risk insurance insuring against losses or liabilities arising out of the ownership, operation, or use of a motor vehicle, shall establish and offer a group fleet policy insuring against the losses or liabilities arising out of the ownership of motor vehicles engaged in the business of carrying or transporting passengers for-hire, having a seating capacity of not less than eight passengers. Such group fleet policy shall provide coverage for more than one vehicle through one policy. Such group fleet policies shall be subject to all laws, rules and regulations applicable to policies of commercial risk insurance insuring against losses or liabilities arising out of the ownership, operation, or use of a motor vehicle engaged in the business of carrying or transporting passengers for-hire, having a seating capacity of not less than eight passengers, including but not limited to laws, rules and regulations establishing financial responsibility require-ments.~~

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

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~~(ii) For the purpose of this section, a "group fleet policy" shall mean, a policy issued by an authorized insurer in this state insuring against losses or liabilities arising out of ownership, operation, or use of a motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, and such policy shall cover more than one vehicle.~~

~~(b) The group fleet policy may be issued to:~~

~~(i) Any person, firm, association, corporation or other entity which shall be deemed the policyholder, where the policy insures the for-hire motor vehicles owned by such person, firm, association, corporation or other entity; or~~

~~(ii) An association where such association shall be deemed the policyholder; where all the eligible members of the association have the same profession, trade, or occupation, and the association has been organized and maintained in good faith for purposes principally other than that of obtaining insurance, and has been in active existence for at least two years, and where the policy insures the members of the association.~~

~~(c) An authorized insurer issuing policies pursuant to this section shall provide a multiple vehicle reduction based on the number of motor vehicles that will be covered under such policy. Such reduction shall be based on actuarially appropriate reductions as provided for in subsection (e) of this section. Each insurer required to provide such reduction shall submit a report to the superintendent at the end of each calendar year identifying the number of policies eligible for such discount and the number of policies to which such discount has been applied.~~

~~(d) A member of an association shall not be deemed to be an employee of such association solely because such member is covered under a group fleet policy issued to an association pursuant to this section.~~

~~(e) Authorized insurers required to establish group fleet policies pursuant to this section shall make such policies available for purchase no later than January first, two thousand twenty-one.~~

~~(f) The superintendent shall provide for an actuarially appropriate reduction in the rates of premiums for commercial risk insurance applicable to motor vehicles engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, for policies that provide coverage for multiple vehicles. Nothing in this section shall be construed to authorize any increase in premium rates for any other policy issued by such authorized insurer as a result of any group fleet policy premium rate.~~

~~(g) The superintendent may promulgate any rules and regulations necessary to implement the provisions of this section.~~]

Group insurance policies for certain for hire motor vehicles. (a) For purposes of this section, the following definitions shall apply:

(1) "Certificate" or "certificate of insurance" means any policy, contract or other evidence of insurance, or endorsement thereto, issued to a group member under a for hire motor vehicle group policy.

(2) "For hire motor vehicle" or "vehicle" means a motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, excluding the driver.

(3) "For hire motor vehicle group policy" or "group policy" means a group policy, including certificates issued to the group members, where the group policy provides insurance to the group members or both the group policyholder and the group members of the type described in para-

graph twelve, thirteen, fourteen, or nineteen of subsection (a) of section one thousand one hundred thirteen of this chapter.

(4) "Group member" means the owner of a for hire motor vehicle.

(5) "Group policyholder" means a sponsoring entity.

(6) "Owner" shall have the same meaning as set forth in section one hundred twenty-eight of the vehicle and traffic law.

(7) "Sponsoring entity" means:

(A) an association or other organization, or a trustee or trustees of a fund established, created, or maintained for the benefit of one or more associations or other organizations, where all the eligible members of the association or associations or other organization or organizations have the same profession, trade, or occupation, and the association or associations or other organization or organizations have been organized and maintained in good faith for purposes principally other than that of obtaining insurance, and have been in active existence for at least two years;

(B) an entity that owns for hire motor vehicles and leases them to drivers; or

(C) any other entity where the superintendent has determined in a regulation that the members are engaged in a common enterprise, or have an economic or social affinity or relationship, and that the issuance of the group policy would not be contrary to the best interests of the public.

(b) An authorized insurer may issue or issue for delivery in this state a group policy to a sponsoring entity as a group policyholder only in accordance with the provisions of this section.

(c)(1) A group policy shall provide coverage in satisfaction of the financial responsibility requirements set forth in section three thousand four hundred twenty of this article, section three hundred seventy of the vehicle and traffic law, article fifty-one of this chapter, and such other requirements or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a for hire motor vehicle.

(2) A group policy may provide:

(A) coverage for limits higher than the minimum limits required pursuant to section three hundred seventy of the vehicle and traffic law and paragraph two of subsection (f) of section three thousand four hundred twenty of this article;

(B) supplemental spousal liability insurance pursuant to subsection (g) of section three thousand four hundred twenty of this article; and

(C) motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of this chapter.

(3) A group policy, including certificates, shall be issued by an authorized insurer.

(4) A policyholder also may be an insured under a group policy.

(d) The premium for the group policy, including certificates, may be paid by the group policyholder from the funds contributed wholly by the group members or jointly by the group policyholder and the group members.

(e) Each policy written pursuant to this section shall provide per occurrence limits of coverage for each group member in an amount not less than that required by this article and may provide coverage for limits higher than the minimum limits required pursuant to law.

(f)(1) The insurer shall be responsible for mailing or delivery of a certificate of insurance to each group member insured under the group

policy. The insurer shall also be responsible for the mailing or delivery to each group member of an amended certificate of insurance or endorsement to the certificate whenever there is a change in limits, change in type of coverage, addition, reduction, or elimination of coverage or addition of an exclusion, under the group policy or certificate.

(2) The certificate shall contain in substance all material terms and conditions of coverage afforded to group members, unless the group policy is incorporated by reference and a copy of the group policy accompanies the certificate.

(g) A group policyholder shall comply with the provisions of section two thousand one hundred twenty-two of this chapter, in the same manner as an insurance agent or insurance broker, in any advertisement, sign, pamphlet, circular, card, or other public announcement referring to coverage under a group policy or certificate.

(h) A group policy shall not be subject to section three thousand four hundred twenty-five or section three thousand four hundred twenty-six of this article, provided that the following requirements shall apply with regard to termination of coverage:

(1) An insurer may cancel a group policy or certificate only if cancellation is based on one or more of the reasons set forth in subparagraph (A) through (D) or (F) through (H) of paragraph one of subsection (c) of section three thousand four hundred twenty-six of this article; provided, however, that:

(A) an insurer may cancel an individual certificate if the driver's license of the group member insured under that certificate is suspended or revoked during the period of coverage, other than a suspension issued pursuant to subdivision one of section five hundred ten-b of the vehicle and traffic law or one or more administrative suspensions arising from the same incident that has or have been terminated prior to the effective date of the cancellation; and

(B) an act or omission by a group member that would constitute the basis for cancellation of an individual certificate shall not constitute the basis for cancellation of the group policy.

(2) An insurer's cancellation of a group policy, including all certificates, shall not become effective until thirty days after the insurer mails or delivers written notice of cancellation to the group policyholder at the mailing address shown in the policy. The insurer shall also mail or deliver written notice of cancellation of the group policy, including all certificates, to the group member at the group member's mailing address. Such cancellation shall not become effective until thirty days after the insurer mails or delivers the written notice to the group member.

(3)(A) A group policyholder may cancel a group policy, including all certificates, or any individual certificate, for any reason upon at least thirty days written notice to the insurer and each group member; and

(B) the group policyholder shall mail or deliver written notice to each affected group member of the group policyholder's cancellation of the group policy or certificate and the effective date of cancellation. The group policyholder shall mail or deliver the written notice to the group member's mailing address at least thirty days prior to the effective date of cancellation.

(4)(A) Unless a group policy provides for a longer policy period, the policy and all certificates shall be issued or renewed for a one-year policy period.

(B) The group policyholder shall be entitled to renew the group policy and all certificates upon timely payment of the premium billed to the group policyholder for the renewal, unless:

(i) the insurer mails or delivers to the group policyholder and all group members written notice of nonrenewal or conditional renewal; and

(ii) the insurer mails or delivers the written notice at least sixty, but not more than one hundred twenty days, prior to the expiration date specified in the policy or, if no date is specified, the next anniversary date of the policy.

(5) Every notice of cancellation, nonrenewal, or conditional renewal shall set forth the specific reason or reasons for cancellation, nonrenewal, or conditional renewal and the insurer shall also mail or deliver the notice to the insurance producer that procured the group policy when the group policy and any certificates are cancelled, nonrenewed, or conditionally renewed.

(6)(A) If, prior to the effective date of cancellation, nonrenewal, or conditional renewal of the group policy, or cancellation of a certificate, whether initiated by the insurer, group policyholder, or group member in regard to the group member's certificate, coverage attaches pursuant to the terms of the group policy, then the coverage shall be effective until expiration of the applicable period of coverage provided in the group policy notwithstanding the cancellation, nonrenewal or conditional nonrenewal of the group policy.

(B) Notwithstanding subparagraph (A) of this paragraph, an insurer may terminate coverage under an individual certificate on the effective date of cancellation if the certificate is cancelled in accordance with the provisions of paragraph one of this subsection.

(i) An insurer shall not include a mandatory arbitration clause in a policy that provides financial responsibility coverage under this section, except as permitted in section five thousand one hundred five of this chapter.

(j) The superintendent may promulgate regulations pertaining to a for hire motor vehicle group policy, including regulations regarding payments of dividends or retrospective premium refunds, minimum number of group members, and other reasonable limitations.

§ 2. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2020, amending the insurance law relating to group policies for motor vehicles engaged in the business of carrying and transporting passengers for-hire, as proposed in legislative bills numbers S. 8437 and A. 9761-A, takes effect.