STATE OF NEW YORK

5718--B

2023-2024 Regular Sessions

IN ASSEMBLY

March 22, 2023

Introduced by M. of A. KELLES, FAHY, LEVENBERG, GONZALEZ-ROJAS, ARDILA, McMAHON, OTIS, BRONSON, LUNSFORD, EPSTEIN, CLARK, SHRESTHA, BURDICK, REYES, CONRAD, SHIMSKY, STIRPE, JACOBSON, SIMONE, STECK, BURGOS, BORES -- Multi-Sponsored by -- M. of A. SIMON -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the vehicle and traffic law, in relation to owner's policies of liability insurance issued by a risk retention group not chartered within this state

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

Section 1. Section 5913 of the insurance law, as added by chapter 109 of the laws of 1988, is amended to read as follows:

§ 5913. Financial responsibility. [~~Wherever~~] **Except as provided in sections three hundred eleven and three hundred seventy of the vehicle and traffic law, wherever** pursuant to the laws of this state or any political subdivision of this state a demonstration of financial responsibility is required as a condition for obtaining a license or permit to undertake specified activities, if any such requirement may not be satisfied by obtaining insurance coverage from an insurer not authorized to do business in this state, such requirement may not be satisfied by purchasing insurance from a risk retention group not chartered in this state. **Every insurance policy issued by a risk retention group not chartered in this state pursuant to sections three hundred eleven and three hundred seventy of the vehicle and traffic law shall contain the notice set forth in section five thousand nine hundred five of this article.**

§ 2. Paragraphs (b) and (c) of subdivision 4 of section 311 of the vehicle and traffic law, paragraph (c) as amended by chapter 200 of the laws of 1974, are amended to read as follows:

(b) In the case of a vehicle registered in this state, a policy issued by **(i)** an insurer duly authorized to transact business in this state **or**

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

LBD10375-11-3

(ii) a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code; or

(c) In the case of a vehicle lawfully registered in another state, or in both this state and another state, [~~either~~] (i) a policy issued by an authorized insurer, or (ii) a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, or (iii) a policy issued by an unauthorized insurer authorized to transact business in another state if such unauthorized insurer files with the commissioner in form to be approved by [~~him~~] them a statement consenting to service of process and declaring its policies shall be deemed to be varied to comply with the requirements of this article; and

§ 3. The opening paragraph of subdivision 5 of section 311 of the vehicle and traffic law, as amended by chapter 569 of the laws of 1981, is amended to read as follows:

The term "certificate of insurance" shall mean any evidence issued by or on behalf of an insurance company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance on the motor vehicle or vehicles designated therein. Such certificate shall contain information as required by the commissioner including at least the following except as otherwise provided:

§ 4. Subdivision 10 of section 311 of the vehicle and traffic law, as amended by chapter 103 of the laws of 1972, is amended to read as follows:

10. "Insurance Identification Card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance or a financial security bond on the motor vehicle or vehicles designated therein. Such card shall contain such information and shall be valid during such period as may be prescribed by the commissioner. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer under section three hundred sixteen of this [~~chapter~~] article, the term "insurance identification card" shall mean a card issued by the department which evidences that such deposit has been filed or that such owner has so qualified.

§ 5. The opening paragraph of subdivision 1 of section 370 of the vehicle and traffic law, as amended by chapter 20 of the laws of 2002 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

Every person, firm, association or corporation engaged in the business of carrying or transporting passengers for hire in any motor vehicle or

motorcycle, except street cars, and motor vehicles or motorcycles owned and operated by a municipality, and except as otherwise provided in this section, which shall be operated over, upon or along any public street or highway of the state of New York shall file with the commissioner of motor vehicles for each motor vehicle or motorcycle intended to be so operated evidence, in such form as the commissioner may prescribe, of a corporate surety bond or a policy of insurance[~~,~~]**: (a)** approved as to form by the superintendent of financial services in a company authorized to do business in the state, approved by the superintendent as to solvency and responsibility[~~,~~]**; or (b) a risk retention group not chartered in this state but which is registered with the superintendent of financial services under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code. Such surety bond or policy of insurance shall be** conditioned for the payment of a minimum sum, hereinafter called minimum liability, on a judgment or judgments for damages, including damages for care and loss of services, because of bodily injury to, or death of any one person in any one accident, and subject to such minimum liability a maximum sum, hereinafter called maximum liability on a judgment or judgments for damages, including damages for care and loss of services because of bodily injury to, or death of two or more persons in any one accident and for the payment of a minimum sum, called minimum liability on all judgments for damages because of injury to or destruction of property of others in any one accident, recovered against such person, firm, association or corporation upon claims arising out of the same transaction or transactions connected with the same subject of action, to be apportioned ratably among the judgment creditors according to the amount of their respective judgments for damage or injury caused in the operation, maintenance, use or the defective construction of such motor vehicle or motorcycle as follows:

§ 6. Three years after the effective date of this act, the superintendent of financial services, in consultation with the commissioner of motor vehicles, shall study the impact of this act to determine the efficacy of risk retention groups not chartered in this state issuing vehicle insurance policies. Such study shall examine certain factors, including, but not limited to: the quality and practicability of coverage on automotive accidents covered under such insurance policies, the magnitude of need and interest in these types of insurance policies across the state, customer satisfaction and fiscal surety using such policies, the ability of the state to regulate such policies through the federal limited risk retention act, and other data as is practicable that would assess the potential impact on nonprofits that could be covered by the expansion of eligibility of these policies for organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code. Such superintendent shall report the findings and any recommendations of such study to the governor and the legislature no later than four years after the effective date of this act.

§ 7. This act shall take effect on the one hundred eightieth day after it shall have become a law.