

# STATE OF NEW YORK

8505

## IN ASSEMBLY

January 4, 2024

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

AN ACT to amend 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; and to amend a chapter of the laws of 2023 amending the insurance law and the vehicle and traffic law relating to owner's policies of liability insurance issued by a risk retention group not chartered within this state, as proposed in legislative bills numbers S.5959-B and A.5718-B, in relation to a study and reporting on the impact of such bill, required reporting by certain risk retention groups of examinations, audits, or other investigations, performed by another state's insurance commissioner and the effectiveness thereof

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

1 Section 1. Paragraphs (b), (c) and (d) of subdivision 4 of section 311  
2 of the vehicle and traffic law, paragraphs (b) and (c) as amended by a  
3 chapter of the laws of 2023 amending the insurance law and the vehicle  
4 and traffic law relating to owner's policies of liability insurance  
5 issued by a risk retention group not chartered within this state, as  
6 proposed in legislative bills numbers S.5959-B and A.5718-B, are amended  
7 to read as follows:

8 (b) In the case of a vehicle registered in this state, a policy issued  
9 by (i) an insurer duly authorized to transact business in this state or  
10 (ii) where a vehicle is registered by a not-for-profit organization that  
11 is tax-exempt under section 501(c)(3) of the federal internal revenue  
12 code, a risk retention group not chartered in this state but which is  
13 registered with the superintendent under the federal liability risk  
14 retention act of 1986, comprised entirely of organizations that are  
15 tax-exempt under section 501(c)(3) of the federal internal revenue code  
16 and where the risk retention group qualifies as a charitable risk pool  
17 under section 501(n) of the federal internal revenue code, provided that  
18 the vehicle being registered does not have a seating capacity of more  
19 than fifteen passengers, is not a limousine or luxury limousine, and

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

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1 where such vehicles are not solely for personal use by a director, offi-  
2 cer, authorized person, or key person, their relatives or related  
3 parties; or

4 (c) In the case of a vehicle lawfully registered in another state, or  
5 in both this state and another state, (i) a policy issued by an author-  
6 ized insurer, or (ii) where a vehicle is registered by a not-for-profit  
7 organization that is tax-exempt under section 501(c)(3) of the federal  
8 internal revenue code, a risk retention group not chartered in this  
9 state but which is registered with the superintendent under the federal  
10 liability risk retention act of 1986, comprised entirely of organiza-  
11 tions that are tax-exempt under section 501(c)(3) of the federal inter-  
12 nal revenue code and where the risk retention group qualifies as a char-  
13 itable risk pool under section 501(n) of the federal internal revenue  
14 code, provided that the vehicle being registered does not have a seat-  
15 ing capacity of more than fifteen passengers, is not a limousine or  
16 luxury limousine, and where such vehicles are not solely for personal  
17 use by a director, officer, authorized person, or key person, their  
18 relatives or related parties, or (iii) a policy issued by an unauthor-  
19 ized insurer authorized to transact business in another state if such  
20 unauthorized insurer files with the commissioner in form to be approved  
21 by them a statement consenting to service of process and declaring its  
22 policies shall be deemed to be varied to comply with the requirements of  
23 this article; and

24 (d) The form of which has been approved by the superintendent, except  
25 in the case of a risk retention group not chartered in this state. No  
26 such policy shall be issued or delivered in this state until a copy of  
27 the form of policy shall have been on file with the superintendent for  
28 at least thirty days, unless sooner approved in writing by the super-  
29 intendent, nor if within said period of thirty days the superintendent  
30 shall have notified the carrier in writing that in [~~his~~] the superinten-  
31 dent's opinion, specifying the reasons therefor, the form of policy does  
32 not comply with the laws of this state.

33 § 2. The opening paragraph of subdivision 1 of section 370 of the  
34 vehicle and traffic law, as amended by a chapter of the laws of 2023  
35 amending the insurance law and the vehicle and traffic law relating to  
36 owner's policies of liability insurance issued by a risk retention group  
37 not chartered within this state, as proposed in legislative bills  
38 numbers S.5959-B and A.5718-B, is amended to read as follows:

39 Every person, firm, association or corporation engaged in the business  
40 of carrying or transporting passengers for hire in any motor vehicle or  
41 motorcycle, except street cars, and motor vehicles or motorcycles owned  
42 and operated by a municipality, and except as otherwise provided in this  
43 section, which shall be operated over, upon or along any public street  
44 or highway of the state of New York shall file with the commissioner of  
45 motor vehicles for each motor vehicle or motorcycle intended to be so  
46 operated evidence, in such form as the commissioner may prescribe, of a  
47 corporate surety bond or a policy of insurance: (a) approved as to form  
48 by the superintendent of financial services in a company authorized to  
49 do business in the state, approved by the superintendent as to solvency  
50 and responsibility; or (b) where a vehicle is registered by a not-for-  
51 profit organization that is tax-exempt under section 501(c)(3) of the  
52 federal internal revenue code, a risk retention group not chartered in  
53 this state but which is registered with the superintendent of financial  
54 services under the federal liability risk retention act of 1986,  
55 comprised entirely of organizations that are tax-exempt under section  
56 501(c)(3) of the federal internal revenue code and where the risk

1 retention group qualifies as a charitable risk pool under section 501(n)  
2 of the federal internal revenue code, provided that the vehicle being  
3 registered does not have a seating capacity of more than fifteen  
4 passengers, is not a limousine or luxury limousine, and where such vehi-  
5 cles are not solely for personal use by a director, officer, authorized  
6 person, or key person, their relatives or related parties. Such surety  
7 bond or policy of insurance shall be conditioned for the payment of a  
8 minimum sum, hereinafter called minimum liability, on a judgment or  
9 judgments for damages, including damages for care and loss of services,  
10 because of bodily injury to, or death of any one person in any one acci-  
11 dent, and subject to such minimum liability a maximum sum, hereinafter  
12 called maximum liability on a judgment or judgments for damages, includ-  
13 ing damages for care and loss of services because of bodily injury to,  
14 or death of two or more persons in any one accident and for the payment  
15 of a minimum sum, called minimum liability on all judgments for damages  
16 because of injury to or destruction of property of others in any one  
17 accident, recovered against such person, firm, association or corpo-  
18 ration upon claims arising out of the same transaction or transactions  
19 connected with the same subject of action, to be apportioned ratably  
20 among the judgment creditors according to the amount of their respective  
21 judgments for damage or injury caused in the operation, maintenance, use  
22 or the defective construction of such motor vehicle or motorcycle as  
23 follows:

24 § 3. Section 6 of a chapter of the laws of 2023 amending the insurance  
25 law and the vehicle and traffic law relating to owner's policies of  
26 liability insurance issued by a risk retention group not chartered with-  
27 in this state, as proposed in legislative bills numbers S.5959-B and  
28 A.5718-B, is amended and a new section 6-a is added to read as follows:

29 § 6. [~~Three years after the effective date of this act, the~~] The  
30 superintendent of financial services, in consultation with the commis-  
31 sioner of motor vehicles, shall study the impact of this act to deter-  
32 mine the efficacy of risk retention groups not chartered in this state  
33 issuing vehicle insurance policies. Such study shall examine certain  
34 factors, including, but not limited to: the quality [~~and practicability~~]  
35 of coverage on automotive accidents covered under such insurance poli-  
36 cies, the magnitude of need and interest in these types of insurance  
37 policies across the state, [~~customer satisfaction and fiscal surety~~  
38 ~~using such policies,~~] the ability of the state to regulate such policies  
39 through the federal [~~limited~~] liability risk retention act of 1986, and  
40 other data as is practicable that would assess the potential impact on  
41 nonprofits that could be covered by the expansion of eligibility of  
42 these policies for organizations that are tax-exempt under section  
43 501(c)(3) of the federal internal revenue code. Such superintendent  
44 shall report the findings and any recommendations of such study to the  
45 governor and the legislature no later than [~~four years after the effec-~~  
46 ~~tive date of this act~~] September 1, 2027. A risk retention group not  
47 chartered in this state that issues an insurance policy pursuant to  
48 sections three hundred eleven and three hundred seventy of the vehicle  
49 and traffic law shall submit to the superintendent of financial  
50 services, upon the superintendent's request, the information necessary  
51 for the superintendent to complete this study.

52 § 6-a. Pursuant to 15 U.S. Code 3902(a)(1)(E) any risk retention  
53 group not chartered in this state but which is registered with the  
54 superintendent of financial services under the federal liability risk  
55 retention act of 1986, comprised entirely of organizations that are  
56 tax-exempt under section 501(c)(3) of the federal internal revenue code

1 and where the risk retention group qualifies as a charitable risk pool  
2 under section 501(n) of the federal internal revenue code, shall report  
3 to the department of financial services any examination, audit, or other  
4 investigation, performed by another state's insurance commissioner and  
5 its findings, including any enforcement actions filed or settlements  
6 entered into, within 60 days to avoid unjustified duplication and unjus-  
7 tified repetition of such act.

8 § 4. Section 7 of a chapter of the laws of 2023 amending the insurance  
9 law and the vehicle and traffic law relating to owner's policies of  
10 liability insurance issued by a risk retention group not chartered with-  
11 in this state, as proposed in legislative bills numbers S.5959-B and  
12 A.5718-B, is amended to read as follows:

13 § 7. This act shall take effect [~~on the one hundred eightieth day~~  
14 ~~after it shall have become a law~~] March 1, 2024.

15 § 5. This act shall take effect immediately; provided however, that  
16 sections one, two and three of this act shall take effect on the same  
17 date and in the same manner as a chapter of the laws of 2023 amending  
18 the insurance law and the vehicle and traffic law relating to owner's  
19 policies of liability insurance issued by a risk retention group not  
20 chartered within this state, as proposed in legislative bills numbers  
21 S.5959-B and A.5718-B, takes effect.