STATE OF NEW YORK

8871

IN ASSEMBLY

January 25, 2024

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring third-party food delivery services maintain insurance through a group policy that covers bodily injury or death arising out of or resulting from qualifying accidents involving a delivery person

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

Section 1. Paragraph (d) of subdivision 1 of section 391-v of the general business law, as added by chapter 693 of the laws of 2021, is amended and three new paragraphs (e), (f), and (g) are added to read as follows:

(d) "Third-party food delivery platform" means the online or mobile platform of the third-party food delivery service on which a consumer can view products available for sale and place an order for a food service establishment's products ***or on which a delivery driver can accept and facilitate orders***.

(e) "Delivery driver" means any individual who conveys products from a food service establishment to a customer on behalf of a third-party food delivery service. For the purposes of this paragraph, multiple delivery drivers who share one account with a third-party food delivery service shall each qualify as a delivery driver.

(f) "Qualifying accident" means a vehicular accident involving a delivery driver that occurs while the delivery driver is logged into a third-party food delivery platform and working on behalf of a third-party food delivery service.

(g) "Qualifying vehicle" means any two or three-wheeled vehicle, other than a motorcycle that carries its own liability insurance per the requirements of article six of the vehicle and traffic law, at the time of the qualifying accident.

§ 2. Section 391-v of the general business law is amended by adding a new subdivision 3 to read as follows:

3. Each third-party food delivery service shall maintain insurance through a group policy that covers bodily injury or death arising out of

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

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or resulting from qualifying accidents involving a delivery person subject to the following provisions:

(a) Benefits shall be limited to only those qualifying accidents involving delivery persons who are operating a qualifying vehicle.

(b) Benefits shall be limited to payments for basic economic losses up to fifty thousand dollars per person. For the purpose of determining basic economic loss, qualifying expenses shall be determined in accordance with the definitions and limitations of section five thousand one hundred two of the insurance law.

(c) The policy of liability insurance maintained by the third-party food delivery service in accordance with this section shall provide for the payment on benefits for qualifying accidents to all persons, other than those explicitly excluded in this subdivision, for loss arising out of the use or operation of a qualifying vehicle by a delivery driver in New York. Persons eligible for benefits shall include, but are not limited to: (i) delivery drivers; (ii) pedestrians; and (iii) cyclists who are not delivery drivers who experience basic economic loss in accordance with the provisions of paragraph (b) of this subdivision. Persons shall be eligible for benefits irrespective of state residency or citizenship status so long as the qualifying accident occurs in New York. The payment of benefits shall be awarded irrespective of who was at fault, liable, or responsible for the qualifying accident. Occupants of a motor vehicle and occupants of a motorcycle that carries its own liability insurance per the requirements of article six of the vehicle and traffic law shall not be eligible for benefits.

(d) An insurer may exclude from coverage required by this section the following individuals:

(i) a delivery driver who intentionally causes his own injury or who is injured as a result of exhibiting dangerous conduct while in an intoxicated condition or while impaired by the use of a drug, or

(ii) any other person who intentionally causes his own injury or who is injured as a result of exhibiting dangerous conduct while in an intoxicated condition or while impaired by the use of a drug.

(e) Insurance maintained by any third-party food delivery service to satisfy the requirements of this section shall be offered without a deductible. A third-party food delivery service may maintain insurance to satisfy the requirements of this section through a third-party insurer, so long as the requirements of this section are met.

(f) Insurance offered by any third-party food delivery service to satisfy the requirements of this section shall be primary to any health insurance policies that would otherwise cover the basic economic losses defined in this section.

(g) A delivery driver shall receive benefits in accordance with this section irrespective of the delivery driver's immigration status or status as an independent contractor. A delivery driver interfacing with a third-party food delivery service at the time of a qualifying accident shall receive benefits in accordance with this section irrespective of whether the delivery driver's vehicle is in compliance with federal, state, or local requirements, including registration requirements.

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