

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.