

# STATE OF NEW YORK

5959--B

Cal. No. 1188

2023-2024 Regular Sessions

## IN SENATE

March 23, 2023

Introduced by Sens. WEBB, BROUK, COONEY, KENNEDY, RYAN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

3 § 5913. Financial responsibility. [~~Wherever~~] Except as provided in  
4 sections three hundred eleven and three hundred seventy of the vehicle  
5 and traffic law, wherever pursuant to the laws of this state or any  
6 political subdivision of this state a demonstration of financial respon-  
7 sibility is required as a condition for obtaining a license or permit to  
8 undertake specified activities, if any such requirement may not be  
9 satisfied by obtaining insurance coverage from an insurer not authorized  
10 to do business in this state, such requirement may not be satisfied by  
11 purchasing insurance from a risk retention group not chartered in this  
12 state. Every insurance policy issued by a risk retention group not  
13 chartered in this state pursuant to sections three hundred eleven and  
14 three hundred seventy of the vehicle and traffic law shall contain the  
15 notice set forth in section five thousand nine hundred five of this  
16 article.

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

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

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1 (b) In the case of a vehicle registered in this state, a policy issued  
2 by (i) an insurer duly authorized to transact business in this state or  
3 (ii) a risk retention group not chartered in this state but which is  
4 registered with the superintendent under the federal liability risk  
5 retention act of 1986, comprised entirely of organizations that are  
6 tax-exempt under section 501(c)(3) of the federal internal revenue code  
7 and where the risk retention group qualifies as a charitable risk pool  
8 under section 501(n) of the federal internal revenue code; or

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

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

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

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

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

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

1 Every person, firm, association or corporation engaged in the business  
2 of carrying or transporting passengers for hire in any motor vehicle or  
3 motorcycle, except street cars, and motor vehicles or motorcycles owned  
4 and operated by a municipality, and except as otherwise provided in this  
5 section, which shall be operated over, upon or along any public street  
6 or highway of the state of New York shall file with the commissioner of  
7 motor vehicles for each motor vehicle or motorcycle intended to be so  
8 operated evidence, in such form as the commissioner may prescribe, of a  
9 corporate surety bond or a policy of insurance[7]: (a) approved as to  
10 form by the superintendent of financial services in a company authorized  
11 to do business in the state, approved by the superintendent as to  
12 solvency and responsibility[7]; or (b) a risk retention group not char-  
13 tered in this state but which is registered with the superintendent of  
14 financial services under the federal liability risk retention act of  
15 1986, comprised entirely of organizations that are tax-exempt under  
16 section 501(c)(3) of the federal internal revenue code and where the  
17 risk retention group qualifies as a charitable risk pool under section  
18 501(n) of the federal internal revenue code. Such surety bond or policy  
19 of insurance shall be conditioned for the payment of a minimum sum,  
20 hereinafter called minimum liability, on a judgment or judgments for  
21 damages, including damages for care and loss of services, because of  
22 bodily injury to, or death of any one person in any one accident, and  
23 subject to such minimum liability a maximum sum, hereinafter called  
24 maximum liability on a judgment or judgments for damages, including  
25 damages for care and loss of services because of bodily injury to, or  
26 death of two or more persons in any one accident and for the payment of  
27 a minimum sum, called minimum liability on all judgments for damages  
28 because of injury to or destruction of property of others in any one  
29 accident, recovered against such person, firm, association or corpo-  
30 ration upon claims arising out of the same transaction or transactions  
31 connected with the same subject of action, to be apportioned ratably  
32 among the judgment creditors according to the amount of their respective  
33 judgments for damage or injury caused in the operation, maintenance, use  
34 or the defective construction of such motor vehicle or motorcycle as  
35 follows:

36 § 6. Three years after the effective date of this act, the superinten-  
37 dent of financial services, in consultation with the commissioner of  
38 motor vehicles, shall study the impact of this act to determine the  
39 efficacy of risk retention groups not chartered in this state issuing  
40 vehicle insurance policies. Such study shall examine certain factors,  
41 including, but not limited to: the quality and practicability of cover-  
42 age on automotive accidents covered under such insurance policies, the  
43 magnitude of need and interest in these types of insurance policies  
44 across the state, customer satisfaction and fiscal surety using such  
45 policies, the ability of the state to regulate such policies through the  
46 federal limited risk retention act, and other data as is practicable  
47 that would assess the potential impact on nonprofits that could be  
48 covered by the expansion of eligibility of these policies for organiza-  
49 tions that are tax-exempt under section 501(c)(3) of the federal inter-  
50 nal revenue code. Such superintendent shall report the findings and any  
51 recommendations of such study to the governor and the legislature no  
52 later than four years after the effective date of this act.

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