§ 5103. Entitlement to first party benefits; additional financial security required. (a) Every owner's policy of liability insurance issued on a motor vehicle in satisfaction of the requirements of article six or eight of the vehicle and traffic law shall also provide for; every owner who maintains another form of financial security on a motor vehicle in satisfaction of the requirements of such articles shall be liable for; and every owner of a motor vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of the vehicle and traffic law shall be liable for; the payment of first party benefits to:

(1) Persons, other than occupants of another motor vehicle or a motorcycle, for loss arising out of the use or operation in this state of such motor vehicle. In the case of occupants of a bus other than operators, owners, and employees of the owner or operator of the bus, the coverage for first party benefits shall be afforded under the policy or policies, if any, providing first party benefits to the injured person and members of his household for loss arising out of the use or operation of any motor vehicle of such household. In the event there is no such policy, first party benefits shall be provided by the insurer of such bus.

(2) The named insured and members of his household, other than occupants of a motorcycle, for loss arising out of the use or operation of (i) an uninsured motor vehicle or motorcycle, within the United States, its territories or possessions, or Canada; and (ii) an insured motor vehicle or motorcycle outside of this state and within the United States, its territories or possessions, or Canada.

(3) Any New York resident who is neither the owner of a motor vehicle with respect to which coverage for first party benefits is required by this article nor, as a member of a household, is entitled to first party benefits under paragraph two of this subsection, for loss arising out of the use or operation of the insured or self-insured motor vehicle outside of this state and within the United States, its territories or possessions, or Canada.

(4) The estate of any covered person, other than an occupant of another motor vehicle or a motorcycle, a death benefit in the amount of two thousand dollars for the death of such person arising out of the use or operation of such motor vehicle which is in addition to any first

party benefits for basic economic loss.

(b) An insurer may exclude from coverage required by subsection (a) hereof a person who:

(1) Intentionally causes his own injury.

(2) Is injured as a result of operating a motor vehicle while in an intoxicated condition or while his ability to operate such vehicle is impaired by the use of a drug within the meaning of section eleven hundred ninety-two of the vehicle and traffic law; provided, however, that an insurer shall not exclude such person from coverage with respect to necessary emergency health services rendered in a general hospital, as defined in subdivision ten of section two thousand eight hundred one of the public health law, including ambulance services attendant thereto and related medical screening. Notwithstanding any other law, where the covered person is found to have violated section eleven hundred ninety-two of the vehicle and traffic law, the insurer has a cause of action for the amount of first party benefits paid or payable on behalf of such covered person against such covered person.

(3) Is injured while he is: (i) committing an act which would constitute a felony, or seeking to avoid lawful apprehension or arrest by a law enforcement officer, or (ii) operating a motor vehicle in a race or speed test, or (iii) operating or occupying a motor vehicle known to him to be stolen, or (iv) operating or occupying any motor vehicle owned by such injured person with respect to which the coverage required by subsection (a) hereof is not in effect, or (v) a pedestrian, through being struck by any motor vehicle owned by such injured pedestrian with respect to which the coverage required by subsection (a) hereof is not in effect, or (vi) repairing, servicing or otherwise maintaining a motor vehicle if such conduct is within the course of a business of repairing, servicing or otherwise maintaining a motor vehicle and the injury occurs on the business premises.

(4) Is injured while a motor vehicle is being used or operated by a TNC driver pursuant to article forty-four-B of the vehicle and traffic law, provided, however, that only the insurer issuing the owner's policy of liability insurance providing coverage for the motor vehicle being operated by a TNC driver may exclude such coverage and an insurer may not include this exclusion in a policy used to satisfy the requirements under article forty-four-B of the vehicle and traffic law.

5. Is injured while a motor vehicle is being used or operated by a shared vehicle driver pursuant to article forty of the general business law, provided, however, that only the insurer issuing the owner's policy of liability insurance providing coverage for the motor vehicle being used or operated by a shared vehicle driver may exclude such coverage and an insurer may not include this exclusion in a policy used to satisfy the requirements of article forty of the general business law.

(c) Insurance offered by any company to satisfy the requirements of subsection (a) hereof shall be offered (i) without a deductible and (ii) with a family deductible of up to two hundred dollars (which deductible shall apply only to the loss of the named insured and members of his household). The superintendent may approve a higher deductible in the case of insurance policies providing additional benefits or pursuant to a plan designed and implemented to coordinate first party benefits with other benefits.

(d) Insurance policy forms for insurance to satisfy the requirements of subsection (a) hereof shall be subject to approval pursuant to article twenty-three of this chapter. Minimum benefit standards for such policies and for self-insurers, and rights of subrogation, examination and other such matters, shall be established by regulation pursuant to section three hundred one of this chapter.

(e) Every owner's policy of liability insurance issued in satisfaction of article six or eight of the vehicle and traffic law shall also provide, when a motor vehicle covered by such policy is used or operated in any other state or in any Canadian province, insurance coverage for such motor vehicle at least in the minimum amount required by the laws of that state or province.

(f) Every owner's policy of liability insurance issued on a motorcycle or an all terrain vehicle in satisfaction of the requirements of article six or eight of the vehicle and traffic law or section twenty-four hundred seven of such law shall also provide for; every owner who maintains another form of financial security on a motorcycle or an all terrain vehicle in satisfaction of the requirements of such articles or section shall be liable for; and every owner of a motorcycle or an all terrain vehicle required to be subject to the provisions of this article by subdivision two of section three hundred twenty-one of such law shall

be liable for; the payment of first party benefits to persons, other than the occupants of such motorcycle or all terrain vehicle, another motorcycle or all terrain vehicle, or any motor vehicle, for loss arising out of the use or operation of the motorcycle or all terrain vehicle within this state. Every insurer and self-insurer may exclude from the coverage required by this subsection a person who intentionally causes his own injury or is injured while committing an act which would constitute a felony or while seeking to avoid lawful apprehension or arrest by a law enforcement officer.

(g) A company authorized to provide the insurance specified in paragraph three of subsection (a) of section one thousand one hundred thirteen of this chapter or a corporation organized pursuant to article forty-three of this chapter may, individually or jointly, with the approval of the superintendent upon a showing that the company or corporation is qualified to provide for all of the items of basic economic loss specified in paragraph one of subsection (a) of section five thousand one hundred two of this article, provide coverage for such items of basic economic loss to the extent that an insurer would be required to provide under this article. Where a policyholder elects to be covered under such an arrangement the insurer providing coverage for the automobile shall be furnished with the names of all persons covered by the company or corporation under the arrangement and such persons shall not be entitled to benefits for any of the items of basic economic loss specified in such paragraph. The premium for the automobile insurance policy shall be appropriately reduced to reflect the elimination of coverage for such items of basic economic loss. Coverage by the automobile insurer of such eliminated items shall be effected or restored upon request by the insured and payment of the premium for such coverage. All companies and corporations providing coverage for items of basic economic loss pursuant to the authorization of this subsection shall have only those rights and obligations which are applicable to an insurer subject to this article.

(h) Any policy of insurance obtained to satisfy the financial security requirements of article six or eight of the vehicle and traffic law which does not contain provisions complying with the requirements of this article, shall be construed as if such provisions were embodied therein.