

SENATE, No. 1732

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED FEBRUARY 5, 2018

Sponsored by:

Senator JOSEPH P. CRYAN

District 20 (Union)

Senator JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

SYNOPSIS

Clarifies that violation of “New Jersey Insurance Fraud Prevention Act” results in loss of motor vehicle liability insurance coverage in certain circumstances; provides certain coverage for innocent persons in event of fraudulent actions by policyholders.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/29/2019)

1 AN ACT concerning motor vehicle liability insurance and amending
2 P.L.1952, c.173.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. Section 26 of P.L.1952, c.173 (C.39:6-48) is amended to
8 read as follows:

9 26. No motor vehicle liability policy shall be issued or delivered
10 in this State, as proof of financial responsibility, unless such policy
11 discloses the name, address and business of the insured, the
12 coverage afforded by the policy, the premium charged therefor, the
13 policy period, the limit of liability and the agreement that the
14 insurance thereunder is provided in accordance with the coverage
15 defined in [sections twenty-four and twenty-five of this act and in]
16 this section and is subject to all of the provisions of [this act]
17 P.L.1952, c.173 (C.39:6-23 et seq.).

18 The motor vehicle liability policy shall be subject to the
19 following provisions which need not be contained therein:

20 (a) The liability of a company under a motor vehicle liability
21 policy shall become absolute when loss or damage covered by the
22 policy occurs and the satisfaction by the insured of a final judgment
23 of the loss or damage shall not be a condition precedent to the right
24 or duty of the carrier to make payment on account of the loss or
25 damage. No such policy shall be canceled or annulled as respects
26 any loss or damage by any agreement between the carrier and the
27 insured after the insured has become responsible for the loss or
28 damage and any such cancellation or annulment shall be void.
29 Upon the recovery of a final judgment against a person for the loss
30 or damage if the judgment debtor was at the accrual of the cause of
31 action insured against liability therefor under a motor vehicle
32 liability policy, the judgment creditor shall be entitled to have the
33 insurance money applied to the satisfaction of the judgment. The
34 policy may provide that the insured or a person covered by the
35 policy shall reimburse the company for payments made on account
36 of an accident, claim or suit involving a breach of the terms,
37 provisions or conditions of the policy; and, if the policy provides
38 for limits in excess of the limits designated in this section the
39 insurance carrier may plead against the judgment creditor, with
40 respect to the amount of the excess limits of liability any defenses
41 which it may be entitled to plead against the insured. The policy
42 may further provide for the prorating of the insurance thereunder
43 with other applicable valid and collectible insurance.

44 (b) (1) Notwithstanding anything to the contrary provided for in
45 subsection (a) of this section or any other law, whenever a person

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 violates any provision of the “New Jersey Insurance Fraud
2 Prevention Act,” P.L.1983, c.320 (C.17:33A-1 et seq.), the carrier
3 whose motor vehicle liability policy would otherwise provide
4 coverage for that person or any other innocent person who was
5 injured shall not be responsible for any loss or damage claimed by
6 that person or by the innocent person, in situations in which the
7 policy was voided due to a violation of the “New Jersey Insurance
8 Fraud Prevention Act.”

9 (2) An innocent person injured by a motor vehicle for which the
10 applicable policy was voided due to a violation of the “New Jersey
11 Insurance Fraud Prevention Act,” shall have primary recourse from
12 the uninsured portion of any private passenger automobile insurance
13 policy for which the innocent person is eligible for coverage or, if
14 that policy was voided or if no such coverage exists, then from the
15 Unsatisfied Claim and Judgment Fund in accordance with the
16 “Unsatisfied Claim and Judgment Fund Law,” P.L.1952, c.174
17 (C.39:6-61 et seq.) and any other applicable law.

18 (3) Nothing in this subsection (b) shall be construed to interfere
19 with or eliminate any cause of action the innocent person may have
20 against the person who engaged in fraudulent conduct.

21 (c) The policy, any written application therefor and any rider or
22 indorsement which shall not conflict with the provisions of this act
23 shall constitute the entire contract between the parties.

24 Effective as of the date such proof is furnished and to the extent
25 of the coverage required by **[this act]** P.L.1952, c.173 (C.39:6-23 et
26 seq.) and to the extent of the limits of liability specified in **[section**
27 **twenty-four of this act]** law, any policy of motor vehicle liability
28 insurance furnished as proof of financial responsibility **[pursuant to**
29 **section eighteen of this act]**, either by the filing of a certificate
30 signed by a duly licensed agent of the company issuing the policy
31 **[as provided in the said section]**, or otherwise, shall be deemed
32 amended to conform with and to contain all the provisions required
33 by **[this act]** P.L.1952, c.173 (C.39:6-23 et seq.), any provision of
34 the policy or certificate to the contrary notwithstanding.

35 An insurance carrier authorized to issue motor vehicle liability
36 policies as provided for in **[this act]** P.L.1952, c.173 (C.39:6-23 et
37 seq.) may, pending the issuance of the policy, execute an
38 agreement, to be known as a binder; or may, in lieu of the policy,
39 issue an indorsement to an existing policy, each of which shall be
40 construed to provide indemnity or protection in like manner and to
41 the same extent as the policy. **[The provisions of said sections**
42 **twenty-four and twenty-five and this section shall apply to the**
43 **binders and indorsements.]**

44 (cf: P.L.1952, c.173, s.26)

45
46 2. This act shall take effect on the 90th day next following
47 enactment.

STATEMENT

This bill amends the “Motor Vehicle Security-Responsibility Law,” to clarify that a violation of the “New Jersey Insurance Fraud Prevention Act” results in the loss of motor vehicle liability insurance coverage in certain circumstances, and that innocent persons who are injured have primary recourse under uninsured motorist coverage or from the Unsatisfied Claim and Judgment Fund.

Specifically, the bill provides that whenever a person violates any provision of the “New Jersey Insurance Fraud Prevention Act,” P.L.1983, c.320 (C.17:33A-1 et seq.), the carrier whose motor vehicle liability policy would otherwise provide coverage for that person or any innocent person that was injured, shall not be responsible for any loss or damage claimed by that person or by the innocent person, in situations in which the policy was voided due to a violation of the “New Jersey Insurance Fraud Prevention Act.”

The bill also provides that an innocent person injured by a vehicle for which the applicable policy was voided for a violation of the “New Jersey Insurance Fraud Prevention Act” shall have primary recourse from the uninsured portion of any private passenger automobile insurance policy for which the innocent person is eligible for coverage or, if that policy was voided or if no such coverage exists, then from the Unsatisfied Claim and Judgment Fund in accordance with any applicable law, including the “Unsatisfied Claim and Judgment Fund Law,” P.L.1952, c.174 (C.39:6-61 et seq.).

The bill also provides that nothing in the bill shall be construed to interfere with or eliminate any cause of action the innocent person may have against the person who engaged in fraudulent conduct.

The bill also makes technical changes, including the deletion of references to certain statutes that have been repealed.