

## New York State Law Revision Commission

AN ACT to amend the insurance law, in relation to requiring insurers to provide notice to married insureds of certain limitations on liability coverage for injuries caused by an insured to his or her spouse, and making available, at the request of the insured, coverage for injuries to an insured's spouse caused by the insured.

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1           Section 1. Subsection (a) of section 3420 of the insurance law is amended to read as  
2   follows:

3           (a) No policy or contract insuring against liability for injury to person, except as stated  
4   provided in subsection (g) hereof, or against liability for injury to, or destruction of, property  
5   shall be issued or delivered in this state, unless it contains in substance the following provisions  
6   or provisions which are equally or more favorable to the insured and to judgment creditors so far  
7   as such provisions relate to judgment creditors:

8           Section 2. Subsection (g) of section 3420 of the insurance law is amended to read as  
9   follows:

10           (g) No policy or contract shall be deemed to insure against any liability of an insured  
11   because of death of or injuries to his or her spouse or because of injury to, or destruction of  
12   property of his or her spouse unless express provision relating specifically thereto is included in  
13   the policy as provided in subdivisions one and two of this subsection. This exclusion shall apply  
14   only where the injured spouse, to be entitled to recover, must prove the culpable conduct of the  
15   insured spouse.

16           (1) Upon written request of an insured, and upon payment of a reasonable premium

1       established in accordance with article 23 of the insurance law, an insurer issuing or delivering  
2       any policy that satisfies the requirements of article 6 of the vehicle and traffic law shall provide  
3       coverage against liability of an insured because of death of or injuries to his or her spouse up to  
4       the liability insurance limits provided under such policy even where the injured spouse, to be  
5       entitled to recover, must prove the culpable conduct of the insured spouse. Such insurance  
6       coverage shall be known as “supplemental spousal liability insurance”.

7           (2) Upon issuance of a motor vehicle liability policy that satisfies the requirements of  
8       article 6 of the vehicle and traffic law and that becomes effective on and after January 1, 2003,  
9       pursuant to regulations promulgated by the superintendent, the insurer shall notify the insured, in  
10       writing, of the availability of supplemental spousal liability insurance. Such notification shall be  
11       contained on the front of the premium notice in boldface type and include a concise statement  
12       that supplementary spousal coverage is available, an explanation of such coverage, and the  
13       insurer’s premium for such coverage. Subsequently, a notification of the availability of  
14       supplementary spousal liability coverage shall be provided at least once a year in motor vehicle  
15       liability policies issued pursuant to article six of the vehicle and traffic law, including those  
16       originally issued prior to January 1, 2003. Such notice must include a concise statement that  
17       supplementary spousal coverage is available, an explanation of such coverage, and the insurer’s  
18       premium for such coverage.

19           Section 3 . Subsection (e) of section 345 of the Motor Vehicle and Traffic Law is  
20       amended to read as follows:

21            (e) Such motor vehicle liability policy shall not insure any liability on account of bodily

1       injury to or death of an employee of the insured for which benefits are payable under any  
2       workmen's compensation law. Nor is any such policy required to insure any liability on account  
3       of (1) damage to property of others in charge of the insured or of his agents or employees, ~~or~~ (2)  
4       bodily injury to or death of the insured ~~or bodily injury to or death of the spouse of the insured~~,  
5       or (3) except as provided in subdivisions one and two of subsection (g) of section 3420 of the  
6       insurance law, bodily injury to or death of the spouse of the insured, or for injury to property of  
7       the spouse of the insured.

8               Section 4. Subsection 4 of section 388 of the vehicle and traffic law is amended to read  
9       as follows:

10               4. All bonds executed by or policies of insurance issued to the owner of any vehicle  
11       subject to the provisions of this section shall contain a provision for indemnity or security  
12       against the liability and responsibility provided in this section; but, except as provided in  
13       subdivisions one and two of subsection (g) of section 3420 of the insurance law, this provision  
14       shall not be construed as requiring that such a policy include insurance against any liability of  
15       the insured, being an individual, for death of or injuries to his or her spouse or for injury to  
16       property of his or her spouse, where the injured spouse, to be entitled to recover, must prove the  
17       culpable conduct of the insured spouse.