

**NEW YORK STATE
INSURANCE DEPARTMENT**

**FIRST AMENDMENT TO REGULATION NO. 68-B
(11 NYCRR 65-2)**

RIGHTS AND LIABILITIES OF SELF-INSURERS

I, James J. Wrynn, Superintendent of Insurance of the State of New York, pursuant to the authority granted by Sections 201, 301, 5103 and 5221 of the Insurance Law, do hereby promulgate the following First Amendment to Subpart 65-2 of Title 11 of the Official Compilation of Codes, Rules and Regulations of the State of New York (Regulation No. 68-B), to take effect upon publication in the State Register to read as follows:

(Matter in bracket is deleted; new matter is underlined)

The "Exclusions" provision set forth in Subdivision (j) of Section 65-2.3 is amended to read as follows:

Exclusions

This requirement for payment by a self-insurer of first-party benefits does not apply to personal injury sustained by:

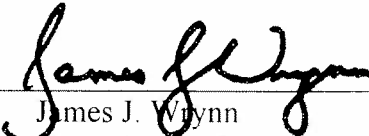
(j) any person as a result of operating a motor vehicle while in an intoxicated condition or while his or her ability to operate such vehicle is impaired by the use of a drug (within the meaning of section 1192 of the New York Vehicle and Traffic Law) except that coverage shall apply to necessary emergency health services rendered in a general hospital, as defined in section 2801(10) of the New York Public Health Law, including ambulance services attendant thereto and related medical screening. However, where the person has been convicted of violating section 1192 of the New York Vehicle and Traffic Law while operating a motor vehicle in an intoxicated condition or while his or her ability to operate such vehicle is impaired by the use of a drug, and the conviction is a final determination, the self-insurer has a cause of action against such person for the amount of first party benefits that are paid or payable; or



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I, James J. Wynn, Superintendent of Insurance of the State of New York, do hereby certify that the foregoing is the First Amendment to Subpart 65-2 of Title 11 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (Regulation No. 68-B), entitled "Rights and Liabilities of Self-Insurers", promulgated by me on April 26, 2011 pursuant to the authority granted by Sections 201, 301, 5103 and 5221 of the Insurance Law, to take effect upon publication in the State Register.

Pursuant to the provisions of the State Administrative Procedure Act, prior notice of the proposed regulation was published in the State Register on January 26, 2011. No other publication or prior notice is required by statute.


James J. Wynn
Superintendent of Insurance

Dated: April 26, 2011