Conference Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 317

HOUSE BILL 2270

AN ACT

AMENDING SECTIONS 20-103 AND 20-331, ARIZONA REVISED STATUTES; AMENDING SECTION 20-2901, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 162, SECTION 9; AMENDING SECTION 20-2902, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2004, CHAPTER 162, SECTION 10; AMENDING LAWS 2004, CHAPTER 162, SECTION 14; RELATING TO THE TRANSACTION OF INSURANCE BUSINESS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-103, Arizona Revised Statutes, is amended to
3 read:
4 20-103. Definition of insurance; exceptions
5 A. For the purposes of this title, except as otherwise provided,
6 "insurance" is a contract by which one undertakes to indemnify another or to
7 pay a specified amount upon determinable contingencies.
8 B. Private ambulance service contracts or private fire protection
9 service contracts are not insurance, and this title does not apply to those
10 contracts.
11 C. Charitable gift annuities that are issued pursuant to section
12 20-119 are not insurance and, except as provided in section 20-119, this
13 title does not apply to agreements for those annuities.
14 D. COLLISION DAMAGE WAIVERS ARE NOT INSURANCE, AND THIS TITLE DOES NOT
15 APPLY TO THOSE WAIVERS.
16 Sec. 2. Section 20-331, Arizona Revised Statutes, is amended to read:
17 20-331. Rental car agents; definitions
18 A. The director may issue to a rental company that has complied with
19 the requirements of this section a license that authorizes the rental company
20 as a rental car agent to offer or sell insurance in connection with and
21 incidental to rental agreements. Notwithstanding section 20-290, subsection
22 B, a rental car agent is not required to have an individual licensee in each
23 office or other rental site or place where insurance is transacted.
24 B. An applicant for a rental car agent license shall file with the
25 director a written application that is in a form prescribed by the director
26 and that is signed by an officer of the applicant. The application shall
27 specify all locations at which the licensee may conduct business under the
28 license. The licensee shall provide the director at least thirty days' prior
29 notice before conducting business under the license at any additional
30 location.
31 C. A rental car agent may offer or sell insurance at the rental
32 company office or other rental site or process a preselection of coverage in
33 a master, corporate, group or individual rental agreement for any of the
34 following kinds or types of insurance, separately or in combination:
35 1. Accident and health or sickness insurance that provides coverage,
36 as applicable, to renters and other rental vehicle occupants for accidental
37 death or dismemberment and reimbursement for medical expenses that result
38 from an accident that occurs during the rental period.
39 2. Liability insurance that provides coverage, as applicable, to
40 renters and other authorized drivers of rental vehicles for liability that
41 arises from the operation of the rental vehicles, including uninsured and
42 underinsured motorist coverage separately or in combination with other
43 liability insurance.

3. Personal property insurance that provides coverage, as applicable, to renters and other vehicle occupants for the loss of or damage to personal effects that occurs during the rental period.

4. Vehicle breakdown coverage.

5. Physical damage insurance that provides coverage to renters and other authorized drivers of rental vehicles for property damage liability that arises from the operation of the vehicle.

D. A RENTAL CAR AGENT IS NOT SUBJECT TO THE CONTINUING EDUCATION REQUIREMENTS OF CHAPTER 18 OF THIS TITLE.

~~D.~~ E. A rental car agent shall not offer or sell insurance pursuant to this section unless:

1. The rental period of the rental agreement is ninety consecutive days or less.

2. The rental car agent provides brochures or other written materials to the prospective renter that:

(a) Summarize the material terms and conditions of coverage offered to renters, including the identity of the insurer.

(b) Describe the process for filing a claim.

3. The rental car agent makes the following disclosures to the renter and the renter acknowledges the disclosures in writing:

(a) That the insurance policies offered by the rental car agent may provide a duplication of coverage already provided by a renter's personal automobile insurance policy or by another source of coverage.

(b) That the purchase by the renter of the kinds of insurance prescribed in this section is not required in order to rent a vehicle.

4. Evidence of coverage is stated on the face of the rental agreement.

5. Costs for the insurance are separately itemized in the rental agreement.

6. The insurance is provided under a group or master policy issued to the rental company by an insurer authorized to transact the applicable kinds or types of insurance in this state or by a surplus lines insurer in accordance with article 5 of this chapter.

~~E.~~ F. Any salaried employee of a rental car agent may act on behalf and under the supervision of the rental car agent in matters relating to the conduct of business under the license issued pursuant to this section. The conduct of an employee or agent of a rental car agent acting within the scope of employment or agency is deemed the conduct of the rental car agent for purposes of this article.

~~F.~~ G. Each rental car agent licensed pursuant to this section shall conduct a training program that provides employees and agents of the rental company with basic instruction about the provisions of this section, including the kinds of coverage prescribed in this section.

~~G.~~ H. A rental car agent shall not:

1. Offer or sell insurance except in conjunction with and incidental to rental agreements.

2. Advertise, represent or otherwise portray itself or any of its employees or agents as licensed insurers or insurance producers.

3. Pay any person any compensation, fee or commission dependent on the placement of insurance under the license issued pursuant to this section.

~~H.~~ I. Nothing in this section prohibits production payments or incentive payments to an employee if the payments are not dependent on the sale of insurance.

~~I.~~ J. To the extent not inconsistent with this article, sections 20-281 and 20-289, section 20-290, subsection A and sections 20-291, 20-292, 20-295, 20-296, 20-297, 20-298, 20-299, 20-301 and 20-302 apply to rental car agents.

~~J.~~ K. For the purposes of this section:

1. "Rental agreement" means any written agreement that states the terms and conditions that govern the use of a vehicle provided by the rental company for rent or lease for a rental period of ninety days or less.

2. "Rental car agent" means a rental company that is licensed pursuant to this section.

3. "Rental company" means any firm or corporation in the business of renting vehicles to renters under a rental agreement.

4. "Rental period" means the term of the rental agreement.

5. "Rental vehicle" or "vehicle" means a motor vehicle operated by a driver who is not required to possess a commercial driver license to operate the motor vehicle and the motor vehicle is either:

(a) A private passenger motor vehicle, including a passenger van, minivan or sport utility vehicle.

(b) A cargo vehicle, including a cargo van, pickup truck and truck with a gross vehicle weight of less than twenty-six thousand pounds.

6. "Renter" means any person who obtains the use of a vehicle from a rental company under the terms of a rental agreement.

Sec. 3. Section 20-2901, Arizona Revised Statutes, as amended by Laws 2004, chapter 162, section 9, is amended to read:

20-2901. <u>Definitions</u>

In this article, unless the context otherwise requires:

1. "Applicant" means a provider organization that submits an application to the contractor to provide continuing education courses.

2. "Approved continuing education course" means any course that has been approved by at least five other states or that is approved by a contractor or automatically approved pursuant to section 20-2904.

3. "Approved provider" means an organization or individual that offers an approved continuing education course and that is authorized by the contractor to offer the course to a licensee for credit toward the licensee's continuing education requirements.

4. "Continuing education review committee" means the committee appointed by the director pursuant to section 20-2905 to establish minimum

standards that apply to approved providers and approved continuing education courses and minimum performance standards that apply to contractors.

5. "Contractor" means the person who has a contract with the department of insurance to approve continuing education providers and courses and to administer the continuing education program and who is paid through fees collected from approved providers when the approved providers apply for continuing education course approval.

6. "Credit hour" means the value assigned to an hour of instruction in an approved continuing education course.

7. "License period" means the period between the date ~~a~~ AN ARIZONA INSURANCE license is issued or last renewed and the expiration date of the ARIZONA INSURANCE license.

8. "Licensee" means an insurance producer, including a surplus lines broker, or a managing general agent as defined in chapter 2, article 3.1 of this title who at any time during the license period holds a current nonresident license to transact insurance in another state. Licensee does not include ~~a person who holds a nonresident license from this state,~~ any firm, corporation or other similar entity or an adjuster as defined in section 20-321.

9. "Nonresident applicant" means an insurance producer or a managing general agent or service representative who holds a resident license in another state and a nonresident license in this state and who is applying for the renewal of a nonresident license in this state.

10. "Provider organization" means a person that provides continuing education courses but has not yet been accepted as an approved provider pursuant to section 20-2904.

Sec. 4. Section 20-2902, Arizona Revised Statutes, as amended by Laws 2004, chapter 162, section 10, is amended to read:

20-2902. Continuing education requirements; nonresident license in another state; nonresident license in this state

A. To qualify for renewal of a resident license, each licensee ~~who is licensed in this state for~~ WHOSE EXPIRING LICENSE PERIOD IS AT LEAST one year ~~or more~~ BUT NOT MORE THAN TWO YEARS shall ~~quadrennially~~ complete ~~for each license period~~ a minimum of ~~forty~~ TWENTY credit hours of approved insurance continuing education courses offered by an approved provider. TO QUALIFY FOR RENEWAL OF A RESIDENT LICENSE, EACH LICENSEE WHOSE EXPIRING LICENSE PERIOD IS MORE THAN TWO YEARS SHALL COMPLETE A MINIMUM OF FORTY CREDIT HOURS OF APPROVED INSURANCE CONTINUING EDUCATION COURSES OFFERED BY AN APPROVED PROVIDER.

B. After the licensee completes an approved continuing education course, the approved provider shall furnish the licensee with a certificate of compliance in a form approved by the director that certifies that the licensee has taken and completed the course. The licensee and a person authorized to sign on behalf of the approved provider shall sign the certificate. The director may require that the licensee attach the signed

certificate of compliance to the application for renewal of the resident license. The director shall not renew the licensee's resident license unless the director has obtained evidence that the licensee has completed the credit hours prescribed in subsection A. The required credit hours apply to the same term as the license.

C. Pursuant to subsection B, the form approved by the director shall require at least the following information:

1. The licensee's name and the license number that is issued by the department.

2. The name of the approved provider.

3. The subjects and titles of the approved continuing education courses that the licensee completed.

4. The dates that the licensee completed the approved continuing education courses.

D. Except as provided in subsections E and F, a licensee seeking to renew a nonresident license shall submit proof to the director of having earned the continuing education credit requirements that are needed to satisfy the requirements of the nonresident licensee's resident state to comply with the continuing education requirements prescribed in this section.

E. If the nonresident licensee's resident state does not recognize credits earned by residents of this state, the nonresident applicant shall satisfy the continuing education prescribed in this section only by earning continuing education credits from an approved provider.

F. Subsections D and E do not apply to a nonresident licensee whose resident state does not have a continuing education requirement.

Sec. 5. Laws 2004, chapter 162, section 14 is amended to read:

Sec. 14. Licenses that expire January 1, 2005 through December 31, 2006; renewal requirements

This section applies to a license that expires beginning on January 1, 2005 through December 31, 2006. Notwithstanding any other law, for a license that is renewed pursuant to title 20, chapter 2, article 3, 3.1, 3.2, 3.3 or 3.4, Arizona Revised Statutes, or title 20, chapter 6, article 9, Arizona Revised Statutes, a licensee whose license number is an odd number shall meet the requirements for renewing a license as otherwise prescribed by title 20, Arizona Revised Statutes, except that:

1. The person shall pay one-half the quadrennial license fee that is prescribed pursuant to section 20-167, Arizona Revised Statutes, as amended by this act.

~~2. The person shall submit evidence of completing one-half of the number of hours of insurance continuing education that is required by section 20-2902, Arizona Revised Statutes, as amended by this act.~~

~~3.~~ 2. The director shall renew the license for two years.

Sec. 6. Effective date

Sections 20-2901 and 20-2902, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2004.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.

Passed the House February 25, 2004,

by the following vote: 40 Ayes,

20 Nays, 0 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate May 13, 2004,

by the following vote: 25 Ayes,

1 Nays, 4 Not Voting

Ken Bennett
President of the Senate

Charmin Billington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

_____
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

_____
Secretary of State

H.B. 2270

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 26, 20 04,

by the following vote: 55 Ayes,

2 Nays, 3 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 26, 20 04,

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Ken Bennett
President of the Senate

Thomas B. Betts
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR
This Bill was received by the Governor

this 27th day of May, 2004

at 8:35 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 3 day of

June, 20 04,

at 3:40 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE
This Bill was received by the Secretary of State

this 3 day of June, 20 04,

at 4:22 o'clock P. M.

Jeanne L. Brewer
Secretary of State

H.B. 2270