

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HOUSE BILL 2327

AN ACT

AMENDING SECTION 20-1631, ARIZONA REVISED STATUTES; RELATING TO THE
DEFINITION OF MOTOR VEHICLE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 20-1631, Arizona Revised Statutes, is amended to
3 read:
4 20-1631. Definition of motor vehicle; cancellation of or
5 failure to renew coverage; limitations; limitation
6 of liability; exceptions; insurance producers
7 A. In this article, unless the context otherwise requires, "motor
8 vehicle" means a licensed land, motor-driven vehicle but does not mean:
9 1. A private passenger or station wagon type vehicle used as a public
10 or livery conveyance or rented to others.
11 2. Any other four-wheel motor vehicle of a load capacity of fifteen
12 hundred pounds or less that is used in the business of transporting
13 passengers for hire, used in business primarily to transport property or
14 equipment, used as a public or livery conveyance or rented to others.
15 3. Any motor vehicle with a load capacity of more than fifteen hundred
16 pounds.
17 4. ANY MOTOR VEHICLE PRINCIPALLY GARAGED OUTSIDE THIS STATE.
18 B. A motor vehicle used as a public or livery conveyance or rented to
19 others does not include a motor vehicle used in the course of volunteer work
20 for a tax-exempt organization as described in section 43-1201, SUBSECTION A,
21 paragraph 4.
22 C. An insurer shall not cancel or refuse to renew a motor vehicle
23 insurance policy solely because of the location of residence, age, race,
24 color, religion, sex, national origin or ancestry of anyone who is an
25 insured.
26 D. An insurer shall not issue a motor vehicle insurance policy in this
27 state unless the cancellation and renewal conditions of the policy or the
28 endorsement on the policy includes the limitations required by this
29 section. After a policy issued in this state has been in effect for sixty
30 days, or if the policy is a renewal, effective immediately, the company shall
31 not exercise its right to cancel or fail to renew the insurance afforded
32 under the policy unless:
33 1. The named insured fails to discharge when due any of the
34 obligations of the named insured in connection with the payment of premium
35 for this policy or any installment of the premium.
36 2. The insurance was obtained through fraudulent misrepresentation.
37 3. The named insured, any person who resides in the same household as
38 the named insured and customarily operates a motor vehicle insured under the
39 policy or any other person who regularly and frequently operates a motor
40 vehicle insured under the policy:
41 (a) Has had the person's driver license suspended or revoked during
42 the policy period.
43 (b) Becomes permanently disabled, either physically or mentally, and
44 such individual does not produce a certificate from a physician or a
45 registered nurse practitioner testifying to such person's ability to operate
46 a motor vehicle.

1 (c) Is or has been convicted during the thirty-six months immediately
2 preceding the effective date of the policy or during the policy period of:

3 (i) Criminal negligence resulting in death, homicide or assault and
4 arising out of the operation of a motor vehicle.

5 (ii) Operating a motor vehicle while in an intoxicated condition or
6 while under the influence of drugs.

7 (iii) Leaving the scene of an accident.

8 (iv) Making false statements in an application for a driver license.

9 (v) Reckless driving.

10 4. The insurer is placed in rehabilitation or receivership by the
11 insurance supervisory official in its state of domicile or by a court of
12 competent jurisdiction or the director has suspended the insurer's
13 certificate of authority based on its financially hazardous condition.

14 5. The named insured, any person who resides in the same household as
15 the named insured and customarily operates a motor vehicle insured under the
16 policy or any other person who regularly and frequently operates a motor
17 vehicle insured under the policy uses a motor vehicle rated or insured under
18 the policy as a private passenger motor vehicle regularly and frequently for
19 commercial purposes.

20 6. The director determines that the continuation of the policy would
21 place the insurer in violation of the laws of this state or would jeopardize
22 the solvency of the insurer.

23 7. If the insured and the insured's family members are eligible for
24 insurance based solely on the insured's employment with the insurer,
25 employment of the insured with that insurer is terminated and the insurer
26 exercises its right to nonrenew the policy within twelve months following the
27 insured's termination of employment.

28 E. In addition to the authorization to fail to renew insurance
29 provided by subsection D of this section, an insurer may exercise its right
30 to fail to renew a motor vehicle insurance policy pursuant to this
31 subsection. An insurer shall provide notice of the nonrenewal to the named
32 insured as prescribed by section 20-1632 at least forty-five days before the
33 nonrenewal. A named insured who disputes the nonrenewal of the named
34 insured's policy may file an objection with the director pursuant to section
35 20-1633. An insurer shall not fail to renew more than one-half of one per
36 cent of its policies annually pursuant to this subsection. An insurer may
37 fail to renew a motor vehicle insurance policy if the named insured, any
38 person who resides in the same household as the named insured and who
39 customarily operates a motor vehicle insured under the policy or any other
40 person who regularly and frequently operates a motor vehicle insured under
41 the policy has had at any time during the thirty-six months immediately
42 before the notice of nonrenewal three or more at-fault accidents under any
43 motor vehicle insurance policy issued by this insurer in which the property
44 damage paid by the insurer for each accident that occurred prior to January
45 1, 2000 is more than one thousand eight hundred dollars. For accidents
46 occurring on or after January 1, 2000, the department of insurance shall

1 annually adjust and publish, to the nearest ten dollars, the threshold amount
2 of property damages in this subsection by the percentage change in the all
3 items component of the consumer price index for all urban consumers of the
4 United States department of labor, bureau of labor statistics. The insurer
5 shall not exercise its right to fail to renew the insurance under this
6 subsection unless the same individual has had all the accidents that make the
7 policy subject to nonrenewal under this subsection. The insurer shall not
8 exercise its right to fail to renew a motor vehicle insurance policy pursuant
9 to this subsection due to the accident record of the named insured if the
10 named insured has been insured for standard automobile bodily injury coverage
11 for at least ten consecutive years with the same insurer prior to the most
12 recent accident that makes the policy subject to nonrenewal under this
13 subsection. For the purposes of this subsection, "at-fault" means the
14 insured is at least fifty per cent responsible for the accident.

15 F. The company shall not cancel or fail to renew the insurance when a
16 person other than the named insured has violated subsection D, paragraph 3 of
17 this section, or fail to renew the insurance pursuant to subsection E of this
18 section due to the driving record of an individual other than the named
19 insured, if the named insured in writing agrees to exclude as insured the
20 person by name when operating a motor vehicle and further agrees to exclude
21 coverage to the named insured for any negligence that may be imputed by law
22 to the named insured arising out of the maintenance, operation or use of a
23 motor vehicle by the excluded person. The written agreement that excludes
24 coverage under a policy for a named individual is effective for each renewal
25 of the policy by the insurer and remains in effect until the insurer agrees
26 in writing to provide coverage for the named individual who was previously
27 excluded from coverage.

28 G. This article does not apply to any policy that has been in effect
29 less than sixty days at the time notice of cancellation is mailed or
30 delivered by the insurer unless the policy is a renewal policy, or to
31 policies:

32 1. Insuring any motor vehicle other than a private passenger motor
33 vehicle as defined in section 20-117.

34 2. Insuring the motor vehicle hazard of garages, motor vehicle sales
35 agencies, repair shops, service stations or public parking places.

36 3. Providing insurance only on an excess basis.

37 H. If a consumer purchases motor vehicle insurance coverage from an
38 insurance producer licensed in this state, the insurance producer that owns
39 the policy expiration shall remain the insurance producer of record for that
40 insured. In the event the insurer terminates the insurance producer's
41 contract, the insurance producer shall continue to provide customary services
42 to the insured. The insurer shall provide the insurance producer with a
43 minimum degree of authority necessary to provide customary services to the
44 insured and shall provide the same level of compensation for these services
45 that were in effect prior to the termination of the insurance producer
46 contract.

1 I. Subsection H of this section shall not apply if one or more of the
2 following conditions exist:

3 1. The insurance producer of record has had its license suspended or
4 revoked by the department.

5 2. The insurance producer of record is indebted to the insurer.

6 3. The insured has supplied the insurer with a written request that
7 its insurance producer of record be changed to another insurance producer of
8 the insurer.

9 4. The insurance producer of record has authorized transfer of this
10 account to another licensed insurance producer of the insurer.

11 5. The director has determined after a public hearing that
12 continuation of this relationship is not in the best interest of the public.

13 6. The insurance producer of record is under an exclusive contract or
14 contract requiring the insurance producer to submit all eligible business to
15 an insurer or group of insurers under a common management.

16 J. Subsection H of this section shall not apply to any transaction in
17 which the expiration of the policies is owned by the insurer.

18 K. Notwithstanding any law to the contrary, the issuance at renewal of
19 revised policy provisions to modify an existing policy by adding coverages or
20 policy provisions, modifying coverages or policy provisions, or eliminating
21 coverages or policy provisions is not a nonrenewal or cancellation of the
22 policy if the modification of a basic coverage does not eliminate the
23 essential benefit of that basic coverage. If the modification of the basic
24 coverage eliminates the essential benefit of the basic coverage, the director
25 shall order the insurer to remove the modification from the policy. This
26 subsection does not allow the insurer, without the written consent of the
27 insured, to eliminate the basic coverages of the policy or to reduce the
28 monetary limits of any of the basic coverages of the policy that were
29 selected and agreed on. This subsection does not limit a policyholder from
30 continuing to renew uninsured or underinsured motorist coverage pursuant to
31 section 20-259.01. For the purposes of this subsection, "basic coverage"
32 means any of the following:

33 1. Bodily injury coverage.

34 2. Property damage coverage.

35 3. Uninsured motorist coverage.

36 4. Underinsured motorist coverage.

37 5. Medical payments coverage.

38 6. Comprehensive coverage.

39 7. Collision coverage.

40 L. For the purposes of this section, "fail to renew" or "nonrenewal"
41 does not include the issuance and delivery of a new policy within the same
42 insurer or an insurer under the same ownership or management as the original
43 insurer as provided in this subsection. An insurer may transfer up to one
44 per cent of its policies to an affiliated insurer within one calendar year if
45 under a policy to be transferred one or more of the insureds that are insured
46 under the policy have individually within the past thirty-six months had two

1 or more at-fault accidents under any motor vehicle insurance policy issued by
2 this insurer in which the property damage paid by the insurer for each
3 accident exceeded one thousand five hundred dollars or individually have had
4 three or more moving violations. Moving violations for which an insured
5 completes an approved traffic school program shall not be considered as a
6 moving violation under this section. A company shall not transfer a policy
7 if a named insured agrees in writing to exclude as an insured a person or
8 persons who each individually meet the criteria for transfer pursuant to this
9 subsection and further agrees to exclude coverage for any negligence that may
10 be imputed by law to the named insured arising out of the maintenance,
11 operation or use of a motor vehicle by such excluded person or persons. An
12 insurer shall transfer only those individuals responsible for the at-fault
13 accidents or moving violations, and the excluded or transferred insured's
14 driving record shall not be used in determining rates, surcharges or premiums
15 for the nonexcluded or nontransferred insured. The one per cent limit set
16 forth in this subsection shall not apply to transfers of policies from the
17 original insurer to another insurer under the same ownership or management as
18 the original insurer if the rates charged by the other insurer are the same
19 as or lower than the rates charged by the original insurer. No insurer shall
20 transfer policyholders because of their location of residence, age, race,
21 color, religion, sex, national origin or ancestry. Transfers by an insurer
22 pursuant to this subsection shall not be construed to permit a new
23 unrestricted sixty day period for cancellation or nonrenewal.

24 M. Except as provided in this subsection, an insurer shall not refuse
25 to renew a policy until after August 31, 1998, based on an insured's failure
26 to maintain membership in a bona fide association, until both the insurer and
27 bona fide association have complied with this subsection and shall not refuse
28 to renew any coverage continuously in effect before September 1, 1998,
29 subject to all the following:

30 1. In addition to any other reason provided in this section, an
31 insurer may refuse to renew an insurance policy issued pursuant to this
32 article if all of the following conditions apply:

33 (a) The insurer clearly discloses to the applicant and the insured in
34 the application for insurance and insurance policy that both the payment of
35 dues and current membership in the bona fide association are prerequisites to
36 obtaining or renewing the insurance.

37 (b) Any money paid to the bona fide association as a membership fee:

38 (i) Is not used by the insurer directly or indirectly to defray any
39 costs or expenses in connection with the sale or purchase of the insurance.

40 (ii) Is set independently of any factor used by the insurer to make
41 any judgment or determination about the eligibility of any individual,
42 including the member, an employee of a member or a dependent of a member, to
43 purchase or renew the insurance.

44 (c) The bona fide association has filed a certification with the
45 director verifying the eligibility of the insurer to refuse to renew an
46 insurance policy based on membership in the bona fide association.

1 2. To qualify as a bona fide association pursuant to this subsection,
2 the association shall meet all of the requirements of this paragraph. The
3 association shall file a statement with the director at least thirty days
4 before the commencement of the offer or sale of insurance as provided by this
5 subsection verifying that the association meets the requirements of this
6 paragraph. The association shall update the filing required by this
7 paragraph at least thirty days before the effective date of any material
8 change in the information contained in the statement, and shall file a
9 separate notice with the director if the insurance described in the statement
10 is no longer available through the association. The statement shall include
11 the following information:

12 (a) That the association has been in active existence for at least
13 five consecutive years immediately before the filing of the statement.

14 (b) That the association has been formed and maintained in good faith
15 for purposes other than obtaining or providing insurance and does not
16 condition membership in the association on the purchase of insurance.

17 (c) That the association has articles of incorporation and bylaws or
18 other similar governing documents.

19 (d) That the association does not condition membership in the
20 association or set membership fees on the eligibility of any individual,
21 including the member, an employee of the member or a dependent of the member,
22 to purchase or renew the insurance, or on any factor that the insurer could
23 not lawfully consider when setting rates.

24 (e) That the association has a relationship with a specific insurer or
25 insurers and identifies the insurer or insurers.

26 3. Membership fees collected by the bona fide association are not
27 premiums of the insurer that issued the coverage unless the bona fide
28 association:

29 (a) Uses any portion of the membership fees directly or indirectly to
30 defray any costs or expenses in connection with the sale or purchase of the
31 insurance.

32 (b) Sets or adjusts membership fees for any member of the bona fide
33 association based on any factor used by the insurer that issues the insurance
34 to make any judgment or determination about the eligibility of any
35 individual, including the member, an employee of the member or a dependent of
36 the member, to purchase or renew the insurance.

37 4. If the membership fees constitute premiums pursuant to paragraph 3
38 of this subsection, an insurer shall not refuse to renew a policy as
39 otherwise permitted by this subsection.