

COMMITTEE ON INSURANCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2135

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section. 1. Section 20-736, Arizona Revised Statutes, is amended to
3 read:

4 20-736. Transfer of direct obligations; assignment; notice;
5 findings; approval; applicability

6 A. An authorized insurer shall not transfer or assign the insurer's
7 direct obligations under any insurance contract or policy, including
8 annuities and any guaranteed investment contract, on subjects located,
9 resident or to be performed in this state, that were incurred or assumed
10 under the insurer's authority to transact business as an insurer in this
11 state or under a certificate of exemption pursuant to section 20-401.05 to
12 any other insurer or other party by operation of law, including any law that
13 permits the division of a corporation into two or more resulting
14 corporations, unless the affected contract holder or policyholder consents to
15 or fails to reject the transfer or assignment within one hundred eighty days
16 after receiving a fair, adequate and nonmisleading notice of the transfer or
17 assignment or unless the director approves the transfer or assignment
18 pursuant to this section.

19 B. The director shall not approve any transfer or assignment described
20 in subsection A of this section unless the director makes all of the
21 following findings:

22 1. The transaction is fair, reasonable and not contrary to law.

23 2. The transaction will not substantially reduce the security of and
24 service to be rendered to contract holders and policyholders in this state.

25 3. The transaction will not be hazardous to or prejudicial against
26 insureds in this state.

27 4. The nature and details of the transaction have been adequately
28 disclosed.

29 5. The transaction will not have an adverse effect on the financial
30 condition of any insurer.

31 6. The persons who will control the operation of the insurer or other
32 party to which the obligations to contract holders and policyholders in this
33 state are transferred or assigned possess sufficient competence, experience
34 and integrity.

1 7. The plans or proposals for administration of the contracts and
2 policies subject to the transfer or assignment are fair and reasonable.

3 8. The insurer or other party to which or through which the
4 obligations to contract holders and policyholders in this state are
5 transferred or assigned are at all material times authorized or exempted
6 pursuant to section 20-401.05 to transact that kind or kinds of insurance in
7 this state and are in compliance with all applicable legal requirements.

8 9. The transfer or assignment will not impair any rights to recovery
9 from any insurance guaranty fund or similar association.

10 C. Nothing in this section limits or otherwise affects:

11 1. The lawful administration of a delinquency proceeding or other
12 similar proceeding initiated against an insurer for the purpose of
13 liquidating, rehabilitating, reorganizing or conserving the insurer.

14 2. The powers of the receiver or other similar entity in the
15 delinquency proceeding or other similar proceeding.

16 3. The jurisdiction of a court presiding over the delinquency
17 proceeding or other similar proceeding.

18 4. The exercise of powers and duties as prescribed by the Arizona
19 property and casualty insurance guaranty fund, the Arizona life and
20 disability insurance guaranty fund or any similar organization in any other
21 state.

22 D. In order to carry out the requirements of this section, the
23 director may use independent contractor examiners, analysts and other
24 technical and professional services in accordance with sections 20-148 and
25 20-159. All examination and examination related expenses related to the
26 implementation of this section shall be borne by the insurer from which the
27 obligations would be transferred or assigned by virtue of the transaction,
28 and shall be paid by the insurance examiners' revolving fund pursuant to
29 section 20-159.

30 E. This section does not apply to:

31 1. The transfer of private passenger automobile insurance policies
32 from one insurer to an affiliated insurer pursuant to section 20-1631,
33 subsection L, [PARAGRAPH 1](#).

34 2. The transfer or assignment of the direct obligations of an
35 authorized insurer pursuant to a contract of assumption reinsurance.

36 3. The transfer or assignment of the direct obligations of an
37 authorized insurer pursuant to a provision of a bona fide indemnity
38 reinsurance contract by which the reinsurer becomes directly liable under the
39 policies or contracts to which the reinsurance contract relates.

1 4. A transfer or assignment resulting from a division or merger of a
2 corporation that was filed for regulatory approval in the corporation's state
3 of domicile on or before December 31, 1996.

4 Sec. 2. Section 20-1631, Arizona Revised Statutes, is amended to read:
5 20-1631. Definition of motor vehicle; cancellation of or
6 failure to renew coverage; limitations; limitation
7 of liability; exceptions; insurance producers

8 A. In this article, unless the context otherwise requires, "motor
9 vehicle" means a licensed land, motor-driven vehicle but does not mean:

10 1. A private passenger or station wagon type vehicle used as a public
11 or livery conveyance or rented to others, **EXCEPT FOR A PRIVATE AUTOMOBILE**
12 **THAT IS USED AS A TRANSPORTATION NETWORK VEHICLE BY AN INDIVIDUAL WHO HAS**
13 **BEEN ISSUED A TRANSPORTATION NETWORK ENDORSEMENT TO THE INDIVIDUAL'S MOTOR**
14 **VEHICLE INSURANCE POLICY.**

15 2. Any other four-wheel motor vehicle of a load capacity of fifteen
16 hundred pounds or less that is used in the business of transporting
17 passengers for hire, used in business primarily to transport property or
18 equipment, used as a public or livery conveyance or rented to others.

19 3. Any motor vehicle with a load capacity of more than fifteen hundred
20 pounds.

21 B. A motor vehicle used as a public or livery conveyance or rented to
22 others does not include a motor vehicle used in the course of volunteer work
23 for a tax-exempt organization as described in section 43-1201, subsection A,
24 paragraph 4.

25 C. An insurer shall not cancel or refuse to renew a motor vehicle
26 insurance policy solely because of the location of residence, age, race,
27 color, religion, sex, national origin or ancestry of anyone who is an
28 insured.

29 D. An insurer shall not issue a motor vehicle insurance policy in this
30 state unless the cancellation and renewal conditions of the policy or the
31 endorsement on the policy includes the limitations required by this
32 section. After a policy issued in this state has been in effect for sixty
33 days, or if the policy is a renewal, effective immediately, the company shall
34 not exercise its right to cancel or fail to renew the insurance afforded
35 under the policy unless:

36 1. The named insured fails to discharge when due any of the
37 obligations of the named insured in connection with the payment of premium
38 for this policy or any installment of the premium.

39 2. The insurance was obtained through fraudulent misrepresentation.

1 3. The named insured, any person who resides in the same household as
2 the named insured and customarily operates a motor vehicle insured under the
3 policy or any other person who regularly and frequently operates a motor
4 vehicle insured under the policy:

5 (a) Has had the person's driver license suspended or revoked during
6 the policy period.

7 (b) Develops a permanent disability, either physically or mentally,
8 and such individual does not produce a certificate from a physician or a
9 registered nurse practitioner testifying to such person's ability to operate
10 a motor vehicle.

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

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

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

17 (iii) Leaving the scene of an accident.

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

19 (v) Reckless driving.

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

24 5. The named insured, any person who resides in the same household as
25 the named insured and customarily operates a motor vehicle insured under the
26 policy or any other person who regularly and frequently operates a motor
27 vehicle insured under the policy uses a motor vehicle rated or insured under
28 the policy as a private passenger motor vehicle regularly and frequently for
29 commercial purposes, EXCEPT FOR A PRIVATE AUTOMOBILE THAT IS USED AS A
30 TRANSPORTATION NETWORK VEHICLE IF THE NAMED INSURED HAS PROCURED A
31 TRANSPORTATION NETWORK ENDORSEMENT TO THE POLICY PROVIDING COVERAGE FOR THE
32 USE.

33 6. The director determines that the continuation of the policy would
34 place the insurer in violation of the laws of this state or would jeopardize
35 the solvency of the insurer.

36 7. If the insured and the insured's family members are eligible for
37 insurance based solely on the insured's employment with the insurer,
38 employment of the insured with that insurer is terminated and the insurer
39 exercises its right to nonrenew the policy within twelve months following the
40 insured's termination of employment.

1 E. In addition to the authorization to fail to renew insurance
2 provided by subsection D of this section, an insurer may exercise its right
3 to fail to renew a motor vehicle insurance policy pursuant to this
4 subsection. An insurer shall provide notice of the nonrenewal to the named
5 insured as prescribed by section 20-1632 at least forty-five days before the
6 nonrenewal. A named insured who disputes the nonrenewal of the named
7 insured's policy may file an objection with the director pursuant to section
8 20-1633. An insurer shall not fail to renew more than one-half of one ~~per~~
9 ~~cent~~ PERCENT of its policies annually pursuant to this subsection. An
10 insurer may fail to renew a motor vehicle insurance policy if the named
11 insured, any person who resides in the same household as the named insured
12 and who customarily operates a motor vehicle insured under the policy or any
13 other person who regularly and frequently operates a motor vehicle insured
14 under the policy has had at any time during the thirty-six months immediately
15 before the notice of nonrenewal three or more at-fault accidents under any
16 motor vehicle insurance policy issued by this insurer in which the property
17 damage paid by the insurer for each accident that occurred prior to January
18 1, 2000 is more than one thousand eight hundred dollars. For accidents
19 occurring on or after January 1, 2000, the department of insurance shall
20 annually adjust and publish, to the nearest ten dollars, the threshold amount
21 of property damages in this subsection by the percentage change in the all
22 items component of the consumer price index for all urban consumers of the
23 United States department of labor, bureau of labor statistics. The insurer
24 shall not exercise its right to fail to renew the insurance under this
25 subsection unless the same individual has had all the accidents that make the
26 policy subject to nonrenewal under this subsection. The insurer shall not
27 exercise its right to fail to renew a motor vehicle insurance policy pursuant
28 to this subsection due to the accident record of the named insured if the
29 named insured has been insured for standard automobile bodily injury coverage
30 for at least ten consecutive years with the same insurer prior to the most
31 recent accident that makes the policy subject to nonrenewal under this
32 subsection. For the purposes of this subsection, "at-fault" means the
33 insured is at least fifty ~~per-cent~~ PERCENT responsible for the accident.

34 F. The company shall not cancel or fail to renew the insurance when a
35 person other than the named insured has violated subsection D, paragraph 3 of
36 this section, or fail to renew the insurance pursuant to subsection E of this
37 section due to the driving record of an individual other than the named
38 insured, if the named insured in writing agrees to exclude as insured the
39 person by name when operating a motor vehicle and further agrees to exclude
40 coverage to the named insured for any negligence that may be imputed by law

1 to the named insured arising out of the maintenance, operation or use of a
2 motor vehicle by the excluded person. The written agreement that excludes
3 coverage under a policy for a named individual is effective for each renewal
4 of the policy by the insurer and remains in effect until the insurer agrees
5 in writing to provide coverage for the named individual who was previously
6 excluded from coverage.

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

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

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

15 3. Providing insurance only on an excess basis.

16 H. If a consumer purchases motor vehicle insurance coverage from an
17 insurance producer licensed in this state, the insurance producer that owns
18 the policy expiration shall remain the insurance producer of record for that
19 insured. In the event the insurer terminates the insurance producer's
20 contract, the insurance producer shall continue to provide customary services
21 to the insured. The insurer shall provide the insurance producer with a
22 minimum degree of authority necessary to provide customary services to the
23 insured and shall provide the same level of compensation for these services
24 that were in effect prior to the termination of the insurance producer
25 contract.

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

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

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

31 3. The insured has supplied the insurer with a written request that
32 its insurance producer of record be changed to another insurance producer of
33 the insurer.

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

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

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

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

3 K. Notwithstanding any law to the contrary, the issuance at renewal of
4 revised policy provisions to modify an existing policy by adding coverages or
5 policy provisions, modifying coverages or policy provisions, or eliminating
6 coverages or policy provisions is not a nonrenewal or cancellation of the
7 policy if the modification of a basic coverage does not eliminate the
8 essential benefit of that basic coverage. If the modification of the basic
9 coverage eliminates the essential benefit of the basic coverage, the director
10 shall order the insurer to remove the modification from the policy. This
11 subsection does not allow the insurer, without the written consent of the
12 insured, to eliminate the basic coverages of the policy or to reduce the
13 monetary limits of any of the basic coverages of the policy that were
14 selected and agreed on. This subsection does not limit a policyholder from
15 continuing to renew uninsured or underinsured motorist coverage pursuant to
16 section 20-259.01. For the purposes of this subsection, "basic coverage"
17 means any of the following:

- 18 1. Bodily injury coverage.
- 19 2. Property damage coverage.
- 20 3. Uninsured motorist coverage.
- 21 4. Underinsured motorist coverage.
- 22 5. Medical payments coverage.
- 23 6. Comprehensive coverage.
- 24 7. Collision coverage.

25 L. For the purposes of this section, "~~fail to renew~~" or "~~nonrenewal~~"
26 does not include:

27 1. The issuance and delivery of a new policy within the same insurer
28 or an insurer under the same ownership or management as the original insurer
29 as provided in this subsection. An insurer may transfer up to one ~~per cent~~
30 PERCENT of its policies to an affiliated insurer within one calendar year if
31 under a policy to be transferred one or more of the insureds that are insured
32 under the policy have individually within the past thirty-six months had two
33 or more at-fault accidents under any motor vehicle insurance policy issued by
34 this insurer in which the property damage paid by the insurer for each
35 accident exceeded one thousand five hundred dollars or individually have had
36 three or more moving violations. Moving violations for which an insured
37 completes an approved traffic school program shall not be considered as a
38 moving violation under this section. A company shall not transfer a policy
39 if a named insured agrees in writing to exclude as an insured a person or
40 persons who each individually meet the criteria for transfer pursuant to this

1 subsection and further agrees to exclude coverage for any negligence that may
2 be imputed by law to the named insured arising out of the maintenance,
3 operation or use of a motor vehicle by such excluded person or persons. An
4 insurer shall transfer only those individuals responsible for the at-fault
5 accidents or moving violations, and the excluded or transferred insured's
6 driving record shall not be used in determining rates, surcharges or premiums
7 for the nonexcluded or nontransferred insured. The one ~~per-cent~~ PERCENT
8 limit set forth in this subsection shall not apply to transfers of policies
9 from the original insurer to another insurer under the same ownership or
10 management as the original insurer if the rates charged by the other insurer
11 are the same as or lower than the rates charged by the original insurer. No
12 insurer shall transfer policyholders because of their location of residence,
13 age, race, color, religion, sex, national origin or ancestry. Transfers by
14 an insurer pursuant to this subsection shall not be construed to permit a new
15 unrestricted sixty day period for cancellation or nonrenewal.

16 2. THE CANCELLATION, TERMINATION OR REMOVAL BY AN INSURER OF AN
17 ENDORSEMENT TO A MOTOR VEHICLE INSURANCE POLICY THAT PROVIDES COVERAGES,
18 DIRECTLY OR INDIRECTLY, RELATED TO THE PROVISION OF TRANSPORT NETWORK
19 SERVICES AS DEFINED IN SECTION 28-101.

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

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

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

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

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

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

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

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

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

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

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

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

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

29 3. Membership fees collected by the bona fide association are not
30 premiums of the insurer that issued the coverage unless the bona fide
31 association:

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

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

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

4 Sec. 3. Section 28-101, Arizona Revised Statutes, is amended to read:

5 28-101. Definitions

6 In this title, unless the context otherwise requires:

7 1. "Alcohol" means any substance containing any form of alcohol,
8 including ethanol, methanol, propynol and isopropynol.

9 2. "Alcohol concentration" if expressed as a percentage means either:

10 (a) The number of grams of alcohol per one hundred milliliters of
11 blood.

12 (b) The number of grams of alcohol per two hundred ten liters of
13 breath.

14 3. "All-terrain vehicle" means either of the following:

15 (a) A motor vehicle that satisfies all of the following:

16 (i) Is designed primarily for recreational nonhighway all-terrain
17 travel.

18 (ii) Is fifty or fewer inches in width.

19 (iii) Has an unladen weight of one thousand two hundred pounds or
20 less.

21 (iv) Travels on three or more nonhighway tires.

22 (v) Is operated on a public highway.

23 (b) A recreational off-highway vehicle that satisfies all of the
24 following:

25 (i) Is designed primarily for recreational nonhighway all-terrain
26 travel.

27 (ii) Is sixty-five or fewer inches in width.

28 (iii) Has an unladen weight of one thousand eight hundred pounds or
29 less.

30 (iv) Travels on four or more nonhighway tires.

31 4. "Authorized emergency vehicle" means any of the following:

32 (a) A fire department vehicle.

33 (b) A police vehicle.

34 (c) An ambulance or emergency vehicle of a municipal department or
35 public service corporation that is designated or authorized by the department
36 or a local authority.

37 (d) Any other ambulance, fire truck or rescue vehicle that is
38 authorized by the department in its sole discretion and that meets liability
39 insurance requirements prescribed by the department.

1 5. "Aviation fuel" means all flammable liquids composed of a mixture
2 of selected hydrocarbons expressly manufactured and blended for the purpose
3 of effectively and efficiently operating an internal combustion engine for
4 use in an aircraft but does not include fuel for jet or turbine powered
5 aircraft.

6 6. "Bicycle" means a device, including a racing wheelchair, that is
7 propelled by human power and on which a person may ride and that has either:

8 (a) Two tandem wheels, either of which is more than sixteen inches in
9 diameter.

10 (b) Three wheels in contact with the ground, any of which is more than
11 sixteen inches in diameter.

12 7. "Board" means the transportation board.

13 8. "Bus" means a motor vehicle designed for carrying sixteen or more
14 passengers, including the driver.

15 9. "Business district" means the territory contiguous to and including
16 a highway if there are buildings in use for business or industrial purposes
17 within any six hundred feet along the highway, including hotels, banks or
18 office buildings, railroad stations and public buildings that occupy at least
19 three hundred feet of frontage on one side or three hundred feet collectively
20 on both sides of the highway.

21 10. "Combination of vehicles" means a truck or truck tractor and
22 semitrailer and any trailer that it tows but does not include a forklift
23 designed for the purpose of loading or unloading the truck, trailer or
24 semitrailer.

25 11. "Controlled substance" means a substance so classified under
26 section 102(6) of the controlled substances act (21 United States Code
27 section 802(6)) and includes all substances listed in schedules I through V
28 of 21 Code of Federal Regulations part 1308.

29 12. "Conviction" means:

30 (a) An unvacated adjudication of guilt or a determination that a
31 person violated or failed to comply with the law in a court of original
32 jurisdiction or by an authorized administrative tribunal.

33 (b) An unvacated forfeiture of bail or collateral deposited to secure
34 the person's appearance in court.

35 (c) A plea of guilty or no contest accepted by the court.

36 (d) The payment of a fine or court costs.

37 13. "County highway" means a public road **THAT IS** constructed and
38 maintained by a county.

1 14. "Dealer" means a person who is engaged in the business of buying,
2 selling or exchanging motor vehicles, trailers or semitrailers and who has an
3 established place of business.

4 15. "Department" means the department of transportation acting
5 directly or through its duly authorized officers and agents.

6 16. "Director" means the director of the department of transportation.

7 17. "Drive" means to operate or be in actual physical control of a
8 motor vehicle.

9 18. "Driver" means a person who drives or is in actual physical
10 control of a vehicle.

11 19. "Driver license" means a license that is issued by a state to an
12 individual and that authorizes the individual to drive a motor vehicle.

13 20. "Electric personal assistive mobility device" means a
14 self-balancing two nontandem wheeled device with an electric propulsion
15 system that limits the maximum speed of the device to fifteen miles per hour
16 or less and that is designed to transport only one person.

17 21. "Farm" means any lands primarily used for agriculture production.

18 22. "Farm tractor" means a motor vehicle designed and used primarily
19 as a farm implement for drawing implements of husbandry.

20 23. "Foreign vehicle" means a motor vehicle, trailer or semitrailer
21 that is brought into this state other than in the ordinary course of business
22 by or through a manufacturer or dealer and that has not been registered in
23 this state.

24 24. "Golf cart" means a motor vehicle that has not less than three
25 wheels in contact with the ground, that has an unladen weight of less than
26 one thousand eight hundred pounds, that is designed to be and is operated at
27 not more than twenty-five miles per hour and that is designed to carry not
28 more than four persons including the driver.

29 25. "Hazardous material" means a material, and its mixtures or
30 solutions, that the United States department of transportation determines
31 under 49 Code of Federal Regulations is, or any quantity of a material listed
32 as a select agent or toxin under 42 Code of Federal Regulations part 73 that
33 is, capable of posing an unreasonable risk to health, safety and property if
34 transported in commerce and that is required to be placarded or marked as
35 required by the department's safety rules prescribed pursuant to chapter 14
36 of this title.

37 26. "Implement of husbandry" means a vehicle designed primarily for
38 agricultural purposes and used exclusively in the conduct of agricultural
39 operations, including an implement or vehicle whether self-propelled or
40 otherwise that meets both of the following conditions:

1 (a) Is used solely for agricultural purposes including the preparation
2 or harvesting of cotton, alfalfa, grains and other farm crops.

3 (b) Is only incidentally operated or moved on a highway whether as a
4 trailer or self-propelled unit. For the purposes of this subdivision,
5 "incidentally operated or moved on a highway" means travel between a farm and
6 another part of the same farm, from one farm to another farm or between a
7 farm and a place of repair, supply or storage.

8 27. "Limousine" means a motor vehicle providing prearranged ground
9 transportation service for an individual passenger, or a group of passengers,
10 that is arranged in advance or is operated on a regular route or between
11 specified points and includes ground transportation under a contract or
12 agreement for services that includes a fixed rate or time and is provided in
13 a motor vehicle with a seating capacity not exceeding fifteen passengers
14 including the driver.

15 28. "Livery vehicle" means a motor vehicle that:

16 (a) Has a seating capacity not exceeding fifteen passengers including
17 the driver.

18 (b) Provides passenger services for a fare determined by a flat rate
19 or flat hourly rate between geographic zones or within a geographic area.

20 (c) Is available for hire on an exclusive or shared ride basis.

21 (d) May do any of the following:

22 (i) Operate on a regular route or between specified places.

23 (ii) Offer prearranged ground transportation service as defined in
24 section 28-141.

25 (iii) Offer on demand ground transportation service pursuant to a
26 contract with a public airport, licensed business entity or organization.

27 29. "Local authority" means any county, municipal or other local board
28 or body exercising jurisdiction over highways under the constitution and laws
29 of this state.

30 30. "Manufacturer" means a person engaged in the business of
31 manufacturing motor vehicles, trailers or semitrailers.

32 31. "Moped" means a bicycle that is equipped with a helper motor if
33 the vehicle has a maximum piston displacement of fifty cubic centimeters or
34 less, a brake horsepower of one and one-half or less and a maximum speed of
35 twenty-five miles per hour or less on a flat surface with less than a one ~~per~~
36 ~~cent~~ PERCENT grade.

37 32. "Motor driven cycle" means a motorcycle, including every motor
38 scooter, with a motor that produces not more than five horsepower.

39 33. "Motor vehicle":

40 (a) Means either:

1 (i) A self-propelled vehicle.

2 (ii) For the purposes of the laws relating to the imposition of a tax
3 on motor vehicle fuel, a vehicle that is operated on the highways of this
4 state and that is propelled by the use of motor vehicle fuel.

5 (b) Does not include a motorized wheelchair, an electric personal
6 assistive mobility device or a motorized skateboard. For the purposes of
7 this subdivision:

8 (i) "Motorized skateboard" means a self-propelled device that has a
9 motor, a deck on which a person may ride and at least two tandem wheels in
10 contact with the ground.

11 (ii) "Motorized wheelchair" means a self-propelled wheelchair that is
12 used by a person for mobility.

13 34. "Motor vehicle fuel" includes all products that are commonly or
14 commercially known or sold as gasoline, including casinghead gasoline,
15 natural gasoline and all flammable liquids, and that are composed of a
16 mixture of selected hydrocarbons expressly manufactured and blended for the
17 purpose of effectively and efficiently operating internal combustion engines.
18 Motor vehicle fuel does not include inflammable liquids that are specifically
19 manufactured for racing motor vehicles and that are distributed for and used
20 by racing motor vehicles at a racetrack, use fuel as defined in section
21 28-5601, aviation fuel, fuel for jet or turbine powered aircraft or the
22 mixture created at the interface of two different substances being
23 transported through a pipeline, commonly known as transmix.

24 35. "Motorcycle" means a motor vehicle that has a seat or saddle for
25 the use of the rider and that is designed to travel on not more than three
26 wheels in contact with the ground but ~~excluding~~ EXCLUDES a tractor and a
27 moped.

28 36. "Neighborhood electric vehicle" means a self-propelled
29 electrically powered motor vehicle to which all of the following apply:

30 (a) The vehicle is emission free.

31 (b) The vehicle has at least four wheels in contact with the ground.

32 (c) The vehicle complies with the definition and standards for low
33 speed vehicles set forth in federal motor vehicle safety standard 500 and 49
34 Code of Federal Regulations sections 571.3(b) and 571.500, respectively.

35 37. "Nonresident" means a person who is not a resident of this state
36 as defined in section 28-2001.

37 38. "Off-road recreational motor vehicle" means a motor vehicle that
38 is designed primarily for recreational nonhighway all-terrain travel and that
39 is not operated on a public highway. Off-road recreational motor vehicle

1 does not mean a motor vehicle used for construction, building trade, mining
2 or agricultural purposes.

3 39. "Operator" means a person who drives a motor vehicle on a highway,
4 who is in actual physical control of a motor vehicle on a highway or who is
5 exercising control over or steering a vehicle being towed by a motor vehicle.

6 40. "Owner" means:

7 (a) A person who holds the legal title of a vehicle.

8 (b) If a vehicle is the subject of an agreement for the conditional
9 sale or lease with the right of purchase on performance of the conditions
10 stated in the agreement and with an immediate right of possession vested in
11 the conditional vendee or lessee, the conditional vendee or lessee.

12 (c) If a mortgagor of a vehicle is entitled to possession of the
13 vehicle, the mortgagor.

14 41. "Pedestrian" means any person afoot. A person who uses an
15 electric personal assistive mobility device or a manual or motorized
16 wheelchair is considered a pedestrian unless the manual wheelchair qualifies
17 as a bicycle. For the purposes of this paragraph, "motorized wheelchair"
18 means a self-propelled wheelchair that is used by a person for mobility.

19 42. "Power sweeper" means an implement, with or without motive power,
20 that is only incidentally operated or moved on a street or highway and that
21 is designed for the removal of debris, dirt, gravel, litter or sand whether
22 by broom, vacuum or regenerative air system from asphaltic concrete or cement
23 concrete surfaces, including parking lots, highways, streets and warehouses,
24 and a vehicle on which the implement is permanently mounted.

25 43. "Public transit" means the transportation of passengers on
26 scheduled routes by means of a conveyance on an individual passenger
27 fare-paying basis excluding transportation by a ~~sight-seeing~~ SIGHTSEEING bus,
28 school bus or taxi or a vehicle not operated on a scheduled route basis.

29 44. "Reconstructed vehicle" means a vehicle that has been assembled or
30 constructed largely by means of essential parts, new or used, derived from
31 vehicles or makes of vehicles of various names, models and types or that, if
32 originally otherwise constructed, has been materially altered by the removal
33 of essential parts or by the addition or substitution of essential parts, new
34 or used, derived from other vehicles or makes of vehicles. For the purposes
35 of this paragraph, "essential parts" means integral and body parts, the
36 removal, alteration or substitution of which will tend to conceal the
37 identity or substantially alter the appearance of the vehicle.

38 45. "Residence district" means the territory contiguous to and
39 including a highway not comprising a business district if the property on the

1 highway for a distance of three hundred feet or more is in the main improved
2 with residences or residences and buildings in use for business.

3 46. "Right-of-way" when used within the context of the regulation of
4 the movement of traffic on a highway means the privilege of the immediate use
5 of the highway. Right-of-way when used within the context of the real
6 property on which transportation facilities and appurtenances to the
7 facilities are constructed or maintained means the lands or interest in lands
8 within the right-of-way boundaries.

9 47. "School bus" means a motor vehicle that is designed for carrying
10 more than ten passengers and that is either:

11 (a) Owned by any public or governmental agency or other institution
12 and operated for the transportation of children to or from home or school on
13 a regularly scheduled basis.

14 (b) Privately owned and operated for compensation for the
15 transportation of children to or from home or school on a regularly scheduled
16 basis.

17 48. "Semitrailer" means a vehicle that is with or without motive
18 power, other than a pole trailer, that is designed for carrying persons or
19 property and for being drawn by a motor vehicle and that is constructed so
20 that some part of its weight and that of its load rests on or is carried by
21 another vehicle. For the purposes of this paragraph, "pole trailer" has the
22 same meaning prescribed in section 28-601.

23 49. "State" means a state of the United States and the District of
24 Columbia.

25 50. "State highway" means a state route or portion of a state route
26 that is accepted and designated by the board as a state highway and that is
27 maintained by the state.

28 51. "State route" means a right-of-way whether actually used as a
29 highway or not that is designated by the board as a location for the
30 construction of a state highway.

31 52. "Street" or "highway" means the entire width between the boundary
32 lines of every way if a part of the way is open to the use of the public for
33 purposes of vehicular travel.

34 53. "Taxi" means a motor vehicle that has a seating capacity not
35 exceeding fifteen passengers, including the driver, that is registered as a
36 taxi in this state or any other state, that provides passenger services and
37 that:

38 (a) Does not primarily operate on a regular route or between specified
39 places.

1 (b) Offers local transportation for a fare determined on the basis of
2 the distance traveled or prearranged ground transportation service as defined
3 in section 28-141 for a predetermined fare.

4 54. "Traffic survival school" means a school that offers educational
5 sessions to drivers who are required to attend and successfully complete
6 educational sessions pursuant to this title that are designed to improve the
7 safety and habits of drivers and that are approved by the department.

8 55. "Trailer" means a vehicle that is with or without motive power,
9 other than a pole trailer, that is designed for carrying persons or property
10 and for being drawn by a motor vehicle and that is constructed so that no
11 part of its weight rests on the towing vehicle. A semitrailer equipped with
12 an auxiliary front axle commonly known as a dolly is deemed to be a trailer.
13 For the purposes of this paragraph, "pole trailer" has the same meaning
14 prescribed in section 28-601.

15 56. "TRANSPORTATION NETWORK COMPANY" HAS THE SAME MEANING PRESCRIBED
16 IN SECTION 41-2051.

17 57. "TRANSPORTATION NETWORK SERVICE" HAS THE SAME MEANING PRESCRIBED
18 IN SECTION 41-2051.

19 58. "TRANSPORTATION NETWORK VEHICLE" HAS THE SAME MEANING PRESCRIBED
20 IN SECTION 41-2051.

21 ~~56.~~ 59. "Truck" means a motor vehicle designed or used primarily for
22 the carrying of property other than the effects of the driver or passengers
23 and includes a motor vehicle to which has been added a box, a platform or
24 other equipment for such carrying.

25 ~~57.~~ 60. "Truck tractor" means a motor vehicle that is designed and
26 used primarily for drawing other vehicles and that is not constructed to
27 carry a load other than a part of the weight of the vehicle and load drawn.

28 ~~58.~~ 61. "Vehicle" means a device in, on or by which a person or
29 property is or may be transported or drawn on a public highway, excluding
30 devices moved by human power or used exclusively on stationary rails or
31 tracks.

32 ~~59.~~ 62. "Vehicle transporter" means either:

33 (a) A truck tractor capable of carrying a load and drawing a
34 semitrailer.

35 (b) A truck tractor with a stinger-steered fifth wheel capable of
36 carrying a load and drawing a semitrailer or a truck tractor with a dolly
37 mounted fifth wheel that is securely fastened to the truck tractor at two or
38 more points and that is capable of carrying a load and drawing a semitrailer.

1 Sec. 4. Section 28-141, Arizona Revised Statutes, is amended to read:

2 28-141. Prearranged ground transportation; applicability;
3 definitions

4 A. The department shall not require a license or impose a fee on a
5 motor vehicle providing prearranged ground transportation service if the
6 motor carrier providing the service does all of the following:

7 1. Meets all applicable registration requirements for the interstate
8 transportation of passengers under the ICC termination act of 1995 (P.L.
9 104-88; 109 Stat. 879; 49 United States Code sections 13901 through 13908).

10 2. Meets all applicable vehicle and intrastate passenger licensing
11 requirements of the state in which the vehicle is domiciled or registered to
12 do business.

13 3. Provides the service pursuant to a contract for either of the
14 following:

15 (a) Transportation from this state, including intermediate stops, to a
16 destination in another state.

17 (b) Transportation from this state, including intermediate stops in
18 another state, to a destination in this state.

19 B. For the purposes of this section:

20 1. "Intermediate stop" means a pause in the transportation in order
21 for one or more passengers to engage in personal or business activity, but
22 only if the driver providing the transportation to the passenger does not,
23 before resuming the transportation of the passenger or at least one of the
24 passengers, provide transportation to any other person not included among the
25 passengers being transported when the pause began.

26 2. "Prearranged ground transportation service" means transportation
27 for a passenger or a group of passengers that is arranged in advance, ~~or~~ that
28 is operated on a regular route or between specified points **OR THAT IS**
29 **ARRANGED THROUGH AN ONLINE-ENABLED APPLICATION OR PLATFORM.**

30 Sec. 5. Section 41-2051, Arizona Revised Statutes, is amended to read:

31 41-2051. Definitions

32 In this chapter, unless the context otherwise requires:

33 1. "Biodiesel" means a diesel fuel substitute that is produced from
34 nonpetroleum renewable resources as defined by the United States
35 environmental protection agency and that meets the registration requirements
36 for fuels and fuel additives established by the United States environmental
37 protection agency pursuant to section 211 of the clean air act, as defined in
38 section 49-401.01.

1 2. "Biodiesel blend" means a motor fuel that is ~~comprised~~ COMPOSED of
2 biodiesel and diesel fuel and that is designated by the letter "B", followed
3 by the numeric value of the volume percentage of biodiesel in the blend.

4 3. "Biofuel" means a solid, liquid or gaseous fuel that is derived
5 from biomass and that can be used directly for heating or power or as a motor
6 fuel.

7 4. "Biofuel blend" means a motor fuel that is ~~comprised~~ COMPOSED of a
8 biofuel, that is combined with a petroleum based fuel and that is designated
9 by the volume percentage of biofuel in the blend.

10 5. "Biomass" means biological material, such as plant or animal
11 matter, excluding organic material that has been transformed by geological
12 processes into substances such as coal or petroleum or derivatives thereof,
13 that may be transformed into biofuel.

14 6. "Certification" means the process of determining the accuracy of a
15 commercial device to the standards of this state by a registered service
16 representative or the department.

17 7. "Commercial device" means any weighing, measuring, metering or
18 counting device that is used to determine the direct cost of things sold or
19 offered or exposed for sale, or used to establish a fee for service if the
20 cost is based on weight, measure or count, except that it does not include
21 those devices used for in-house packaging, inventory control or law
22 enforcement purposes.

23 8. "Commodity" means any merchandise, product or substance produced or
24 distributed for sale to or use by others.

25 9. "Correct" as used in connection with weights and measures means
26 conformance to all applicable requirements of this chapter.

27 10. "Department" means the department of weights and measures.

28 11. "Diesel fuel" means a refined middle distillate that is used as a
29 fuel in a compression-ignition internal combustion engine and that meets the
30 specifications of ASTM D975.

31 12. "Director" means the director of the department of weights and
32 measures.

33 13. "E85" means a fuel ethanol gasoline blend that meets the
34 specifications of ASTM D5798.

35 14. "Inspector" means state officials of the department of weights and
36 measures.

37 15. "Limousine" means a motor vehicle providing prearranged ground
38 transportation service for an individual passenger, or a group of passengers,
39 that is arranged in advance or is operated on a regular route or between
40 specified points and includes ground transportation under a contract or

1 agreement for services that includes a fixed rate or time and is provided in
2 a motor vehicle with a seating capacity not exceeding fifteen passengers,
3 including the driver.

4 16. "Liquid fuel measuring device" means any meter, pump, tank, gauge
5 or apparatus used for volumetrically determining the quantity of any internal
6 combustion engine fuel, liquefied petroleum gas or low-viscosity heating oil.

7 17. "Livery vehicle" means a motor vehicle that:

8 (a) Has a seating capacity not exceeding fifteen passengers, including
9 the driver.

10 (b) Provides passenger services for a fare determined by a flat rate
11 or flat hourly rate between geographic zones or within a geographic area.

12 (c) Is available for hire on an exclusive or shared-ride basis.

13 (d) May do any of the following:

14 (i) Operate on a regular route or between specified places.

15 (ii) Offer prearranged ground transportation service as defined in
16 section 28-141.

17 (iii) Offer on demand ground transportation service pursuant to a
18 contract with a public airport, licensed business entity or organization.

19 (e) IS NOT A TRANSPORTATION NETWORK VEHICLE.

20 18. "Misfuel" means the act of dispensing into the fuel tank of a
21 motor vehicle a motor fuel that was not intended to be used in the engine of
22 that motor vehicle.

23 19. "Motor fuel" means a petroleum or a petroleum-based substance that
24 is motor gasoline, aviation gasoline, number one or number two diesel fuel or
25 any grade of oxygenated gasoline typically used in the operation of a motor
26 engine, including biodiesel blends, biofuel blends and the ethanol blend E85
27 as defined in ASTM D5798.

28 20. "Package" means any commodity enclosed in a container or wrapped
29 in any manner in advance of sale in units suitable for either wholesale or
30 retail trade.

31 21. "Person" means both the plural and the singular, as the case
32 demands, and includes individuals, partnerships, corporations, companies,
33 societies and associations.

34 22. "Public weighmaster" means any person who is engaged in any of the
35 following:

36 (a) The business of weighing any object or thing for the public
37 generally for hire or for internal use and issuing for that weighing a weight
38 certificate intended to be accepted as an accurate weight ~~upon~~ ON which a
39 purchase or sale is to be based or on which a service fee is to be charged.

1 (b) The business of weighing for-hire motor vehicles, trailers or
2 semitrailers and issuing weight certificates intended to be accepted as an
3 accurate weight for the purpose of determining the amount of any tax, fee or
4 other assessment on the vehicles.

5 23. "Reference standards" means the physical standards of the state
6 that serve as the legal reference from which all other standards and weights
7 and measures are derived.

8 24. "Registered service agency" means any agency, firm, company or
9 corporation that for hire, award, commission or any other payment of any kind
10 installs, services, repairs or reconditions a commercial device or tests or
11 repairs vapor recovery systems or vapor recovery components and that has been
12 issued a license by the department.

13 25. "Registered service representative" means any individual who for
14 hire, award, commission or any other payment of any kind installs, services,
15 repairs or reconditions a commercial device or tests or repairs vapor
16 recovery systems or vapor recovery components and who has been issued a
17 license by the department.

18 26. "Retail seller" means a person whose business purpose is to sell,
19 expose or offer for sale or use any package or commodity by weight, measure
20 or count.

21 27. "Sale from bulk" means the sale of commodities when the quantity
22 is determined at the time of sale.

23 28. "Secondary standards" means the physical standards that are
24 traceable to the reference standards through comparisons, using acceptable
25 laboratory procedures, and that are used in the enforcement of weights and
26 measures laws and rules.

27 29. "Taxi" means a motor vehicle that has a seating capacity not
28 exceeding fifteen passengers, including the driver, that is registered as a
29 taxi in this state or any other state, that provides passenger services and
30 that:

31 (a) Does not primarily operate on a regular route or between specified
32 places.

33 (b) Offers local transportation for a fare determined on the basis of
34 the distance traveled or prearranged ground transportation service as defined
35 in section 28-141 for a predetermined fare.

36 (c) IS NOT A TRANSPORTATION NETWORK VEHICLE.

37 30. "Taxi meter" means a commercial device that meets the requirements
38 of the national institute of standards and technology handbook 44 as
39 prescribed by section 41-2064.

1 31. "TRANSPORTATION NETWORK COMPANY" MEANS A COMPANY THAT PROVIDES
2 PREARRANGED GROUND TRANSPORTATION SERVICES FOR COMPENSATION, DONATION OR TIPS
3 USING AN ONLINE-ENABLED APPLICATION OR PLATFORM.

4 32. "TRANSPORTATION NETWORK SERVICE" MEANS THE PROVISION OF A
5 TRANSPORTATION SERVICE BY A PARTICIPATING DRIVER THROUGH A TRANSPORTATION
6 NETWORK.

7 33. "TRANSPORTATION NETWORK VEHICLE" MEANS A VEHICLE THAT IS USED BY A
8 PARTICIPATING DRIVER TO PROVIDE TRANSPORTATION NETWORK SERVICES, THAT HAS AT
9 LEAST FOUR DOORS AND THAT IS DESIGNED TO CARRY NOT MORE THAN EIGHT
10 PASSENGERS, INCLUDING THE DRIVER.

11 ~~31.~~ 34. "Weight" as used in connection with any commodity means net
12 weight.

13 ~~32.~~ 35. "Weights" or "measures", or both, means all weights,
14 measures, meters or counters of every kind, instruments and devices for
15 weighing, measuring, metering or counting and any appliance and accessories
16 associated with any or all such instruments and devices."

17 Amend title to conform

and, as so amended, it do pass

KAREN FANN
Chairman

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2/18/15
H:laa

2135kf
02/16/2015
03:26 PM
C: ns