

PROPOSED AMENDMENT

SENATE AMENDMENTS TO S.B. 1118

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2           “Section. 1. Section 20-1112, Arizona Revised Statutes, is amended to  
3 read:

4           20-1112. Standard provisions

5           A. Insurance contracts shall contain such standard provisions as are  
6 required by the applicable provisions of this title pertaining to contracts  
7 of particular kinds of insurance. The director ~~may~~ SHALL waive the required  
8 use of a particular standard provision in a particular insurance policy form  
9 if he finds such provision unnecessary for the protection of the insured and  
10 inconsistent with the purposes of the policy and the policy is otherwise  
11 approved by him.

12           B. No policy shall contain any provision inconsistent with or  
13 contradictory to any standard provision used or required to be used, but the  
14 director may approve any substitute policy or provision which, when viewed in  
15 its entirety, is substantially equivalent to or more favorable to the insured  
16 or beneficiary than the standard provisions or optional standard provisions  
17 otherwise required.

18           C. In lieu of the standard provisions required by the provisions of  
19 this title for contracts for particular kinds of insurance, substantially  
20 similar standard provisions required by the law of the domicile of a foreign  
21 or alien insurer may be used when approved by the director.

22           Sec. 2. Section 20-1631, Arizona Revised Statutes, is amended to read:

23           20-1631. Definition of motor vehicle; cancellation of or  
24 failure to renew coverage; limitations; limitation  
25 of liability; exceptions; insurance producers

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

28           1. A private passenger or station wagon type vehicle used as a public  
29 or livery conveyance or rented to others.

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

5           3. Any motor vehicle with a load capacity of more than fifteen hundred  
6 pounds.

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

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

15           D. An insurer shall not issue a motor vehicle insurance policy in this  
16 state unless the cancellation and renewal conditions of the policy or the  
17 endorsement on the policy includes the limitations required by this  
18 section. After a policy issued in this state has been in effect for sixty  
19 days, or if the policy is a renewal, effective immediately, the company shall  
20 not exercise its right to cancel or fail to renew the insurance afforded  
21 under the policy unless:

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

25           2. The insurance was obtained through fraudulent misrepresentation.

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

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

32           (b) Develops a permanent disability, either physically or mentally,  
33 and such individual does not produce a certificate from a physician or a

1 registered nurse practitioner testifying to such person's ability to operate  
2 a motor vehicle.

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

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

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

9 (iii) Leaving the scene of an accident.

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

11 (v) Reckless driving.

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

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

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

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

30 8. IF THE NAMED INSURED USES THE MOTOR VEHICLE TO PROVIDE  
31 TRANSPORTATION NETWORK SERVICES AS DEFINED BY A.R.S. § 41-2051, UNLESS THE  
32 POLICY SPECIFICALLY PROVIDES COVERAGE FOR THE PROVISION OF TRANSPORTATION  
33 NETWORK SERVICES.

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 of its policies annually pursuant to this subsection. An insurer may  
10 fail to renew a motor vehicle insurance policy if the named insured, any  
11 person who resides in the same household as the named insured and who  
12 customarily operates a motor vehicle insured under the policy or any other  
13 person who regularly and frequently operates a motor vehicle insured under  
14 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 responsible for the accident.

1           F. The company shall not cancel or fail to renew the insurance when a  
2 person other than the named insured has violated subsection D, paragraph 3 of  
3 this section, or fail to renew the insurance pursuant to subsection E of this  
4 section due to the driving record of an individual other than the named  
5 insured, if the named insured in writing agrees to exclude as insured the  
6 person by name when operating a motor vehicle and further agrees to exclude  
7 coverage to the named insured for any negligence that may be imputed by law  
8 to the named insured arising out of the maintenance, operation or use of a  
9 motor vehicle by the excluded person. The written agreement that excludes  
10 coverage under a policy for a named individual is effective for each renewal  
11 of the policy by the insurer and remains in effect until the insurer agrees  
12 in writing to provide coverage for the named individual who was previously  
13 excluded from coverage.

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

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

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

22           3. Providing insurance only on an excess basis.

23           H. If a consumer purchases motor vehicle insurance coverage from an  
24 insurance producer licensed in this state, the insurance producer that owns  
25 the policy expiration shall remain the insurance producer of record for that  
26 insured. In the event the insurer terminates the insurance producer's  
27 contract, the insurance producer shall continue to provide customary services  
28 to the insured. The insurer shall provide the insurance producer with a  
29 minimum degree of authority necessary to provide customary services to the  
30 insured and shall provide the same level of compensation for these services  
31 that were in effect prior to the termination of the insurance producer  
32 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.

- 1           2. Property damage coverage.
- 2           3. Uninsured motorist coverage.
- 3           4. Underinsured motorist coverage.
- 4           5. Medical payments coverage.
- 5           6. Comprehensive coverage.
- 6           7. Collision coverage.

7           L. For the purposes of this section, "fail to renew" or "nonrenewal"  
8 does not include the issuance and delivery of a new policy within the same  
9 insurer or an insurer under the same ownership or management as the original  
10 insurer as provided in this subsection. An insurer may transfer up to one  
11 per cent of its policies to an affiliated insurer within one calendar year if  
12 under a policy to be transferred one or more of the insureds that are insured  
13 under the policy have individually within the past thirty-six months had two  
14 or more at-fault accidents under any motor vehicle insurance policy issued by  
15 this insurer in which the property damage paid by the insurer for each  
16 accident exceeded one thousand five hundred dollars or individually have had  
17 three or more moving violations. Moving violations for which an insured  
18 completes an approved traffic school program shall not be considered as a  
19 moving violation under this section. A company shall not transfer a policy  
20 if a named insured agrees in writing to exclude as an insured a person or  
21 persons who each individually meet the criteria for transfer pursuant to this  
22 subsection and further agrees to exclude coverage for any negligence that may  
23 be imputed by law to the named insured arising out of the maintenance,  
24 operation or use of a motor vehicle by such excluded person or persons. An  
25 insurer shall transfer only those individuals responsible for the at-fault  
26 accidents or moving violations, and the excluded or transferred insured's  
27 driving record shall not be used in determining rates, surcharges or premiums  
28 for the nonexcluded or nontransferred insured. The one per cent limit set  
29 forth in this subsection shall not apply to transfers of policies from the  
30 original insurer to another insurer under the same ownership or management as  
31 the original insurer if the rates charged by the other insurer are the same  
32 as or lower than the rates charged by the original insurer. No insurer shall  
33 transfer policyholders because of their location of residence, age, race,

1 color, religion, sex, national origin or ancestry. Transfers by an insurer  
2 pursuant to this subsection shall not be construed to permit a new  
3 unrestricted sixty day period for cancellation or nonrenewal.

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

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

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

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

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

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

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

27 2. To qualify as a bona fide association pursuant to this subsection,  
28 the association shall meet all of the requirements of this paragraph. The  
29 association shall file a statement with the director at least thirty days  
30 before the commencement of the offer or sale of insurance as provided by this  
31 subsection verifying that the association meets the requirements of this  
32 paragraph. The association shall update the filing required by this  
33 paragraph at least thirty days before the effective date of any material

1 change in the information contained in the statement, and shall file a  
2 separate notice with the director if the insurance described in the statement  
3 is no longer available through the association. The statement shall include  
4 the following information:

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

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

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

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

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

19 3. Membership fees collected by the bona fide association are not  
20 premiums of the insurer that issued the coverage unless the bona fide  
21 association:

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

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

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

33 Sec. 3. Section 28-142, Arizona Revised Statutes, is amended to read:



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

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

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

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

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

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

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

22           12. "Director" means the director of the department of weights and  
23 measures.

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

26           14. "Inspector" means state officials of the department of weights and  
27 measures.

28           15. "Limousine" means a motor vehicle providing prearranged ground  
29 transportation service for an individual passenger, or a group of passengers,  
30 that is arranged in advance or is operated on a regular route or between  
31 specified points and includes ground transportation under a contract or  
32 agreement for services that includes a fixed rate or time and is provided in

1 a motor vehicle with a seating capacity not exceeding fifteen passengers,  
2 including the driver.

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

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

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

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

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

12 (d) May do any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 29. "Taxi" means a motor vehicle that has a seating capacity not  
32 exceeding fifteen passengers, including the driver, that is registered as a

1 taxi in this state or any other state, that provides passenger services and  
2 that:

3 (a) Does not primarily operate on a regular route or between specified  
4 places.

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

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

11 31. "TRANSPORTATION NETWORK COMPANY" MEANS AN ENTITY LICENSED PURSUANT  
12 TO THIS CHAPTER AND OPERATING IN ARIZONA THAT USES A DIGITAL NETWORK OR  
13 SOFTWARE APPLICATION SERVICE TO CONNECT PASSENGERS TO TRANSPORTATION NETWORK  
14 COMPANY SERVICES PROVIDED BY TRANSPORTATION NETWORK COMPANY DRIVERS. A  
15 TRANSPORTATION NETWORK COMPANY IS NOT DEEMED TO OWN, CONTROL, OPERATE OR  
16 MANAGE THE VEHICLES USED BY TRANSPORTATION NETWORK COMPANY DRIVERS AND IS NOT  
17 A TAXICAB ASSOCIATION OR A LIMOUSINE OR LIVERY VEHICLE OWNER. A  
18 TRANSPORTATION NETWORK COMPANY DOES NOT INCLUDE THE FOLLOWING:

19 (a) THIS STATE OR A COUNTY, A CITY, A TOWN OR A POLITICAL SUBDIVISION  
20 OF THIS STATE AND ANY RELATED ENTITY, A NONPROFIT AGENCY OR ANY OTHER PUBLIC  
21 BODY THAT COORDINATES, OPERATES, PROMOTES OR SPONSORS PUBLIC TRANSPORTATION,  
22 CARPOOL OR VANPOOL SERVICES.

23 (b) A PROGRAM THAT IS IN PLACE TO MEET FEDERAL AIR QUALITY STANDARDS  
24 PURSUANT TO SECTION 49-404.

25 (c) ANY INDIVIDUAL, COMPANY OR ACTIVITY THAT MEETS THE REQUIREMENTS OF  
26 A RENTAL CAR AGENT OR RENTAL COMPANY AS DEFINED IN SECTION 20-331 IF ALL OF  
27 THE FOLLOWING APPLY:

28 (i) TRANSPORTATION IS PROVIDED TO ANOTHER PERSON OR IS ARRANGED BY THE  
29 RENTAL CAR COMPANY BUT PROVIDED BY ANOTHER PERSON.

30 (ii) THE ROUTE IS PREDETERMINED.

31 (iii) ANY MONEY EXCHANGED BETWEEN THE PROVIDER OF THE TRANSPORTATION  
32 AND THE RECIPIENT DOES NOT EXCEED THE COST OF PROVIDING THE  
33 TRANSPORTATION.

