

Conference Engrossed

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1153

AN ACT

AMENDING SECTION 28-2166, ARIZONA REVISED STATUTES; RELATING TO VEHICLE RENTAL LIABILITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2166, Arizona Revised Statutes, is amended to
3 read:

4 28-2166. Registration of vehicle rented without a driver;
5 liability insurance; joint liability; violation;
6 classification; definition

7 A. The department of transportation shall not allow an owner who is
8 engaged in the business of renting or who intends to rent a motor vehicle **IN**
9 **THIS STATE** without a driver to register **OR TO RENT** the motor vehicle until
10 either:

11 1. The owner has procured public liability insurance with an insurance
12 company approved by the department of insurance.

13 2. The owner has furnished to the department of transportation
14 satisfactory proof of the owner's ability to respond in damages in the amount
15 of fifteen thousand dollars if one motor vehicle is registered and ten
16 thousand dollars for each additional motor vehicle. Proof of the ability to
17 respond in damages in the amount of one hundred thousand dollars is
18 sufficient for any number of motor vehicles.

19 B. The policy of insurance required by subsection A shall:

20 1. Insure the renter against:

21 (a) Liability arising from the renter's negligence in the operation of
22 the rented motor vehicle in an amount of at least fifteen thousand dollars
23 for any one person injured or killed and thirty thousand dollars for any
24 number more than one injured or killed in any one accident.

25 (b) Liability of the renter for property damage in the amount of at
26 least ten thousand dollars for any one accident.

27 2. Cover the liability of the renter to a passenger in the rented
28 motor vehicle unless the owner gives the renter a written notice that the
29 policy does not cover the liability.

30 C. **SUBJECT TO THE PROVISIONS OF SUBSECTION D OF THIS SECTION**, the
31 public liability insurance or the obligation of a self-insured owner pursuant
32 to this section is primary coverage to any other available **LIABILITY**
33 insurance coverage **THAT IS AVAILABLE AND APPLICABLE** for any damages and
34 injury caused by a renter. ~~UNLESS ONE OF THE FOLLOWING APPLY:~~

35 **1. IT IS DISCLOSED IN THE RENTAL AGREEMENT TO THE RENTER THE**
36 **FOLLOWING:**

37 **"THE OWNER DOES NOT EXTEND ANY OF ITS MOTOR VEHICLE FINANCIAL**
38 **RESPONSIBILITY OR PROVIDE PUBLIC LIABILITY INSURANCE COVERAGE TO THE RENTER,**
39 **AUTHORIZED DRIVERS OR ANY OTHER DRIVER."**

40 **THIS DISCLOSURE SHALL BE BY ONE OF THE FOLLOWING METHODS:**

41 **(a) IN AT LEAST TEN POINT BOLD TYPE IN THE RENTAL OR LEASE AGREEMENT**
42 **AND AFFIRMATIVELY ACKNOWLEDGED BY THE RENTER.**

43 **(b) IN THE TERMS OF THE MASTER AGREEMENT MAINTAINED WITH THE RENTER.**

44 **(c) AT THE TIME A RESERVATION IS MADE BY A RENTER ONLINE, THE**
45 **DISCLOSURE IS MADE IN A CONSPICUOUS MANNER.**

1 2. THE RENTER PURCHASED PUBLIC LIABILITY INSURANCE FROM THE OWNER THAT
2 PROVIDES COVERAGE THAT COMPLIES WITH SUBSECTION B OF THIS SECTION TO RENTERS
3 AND AUTHORIZED DRIVERS OF RENTAL MOTOR VEHICLES FOR LIABILITY THAT ARISES
4 FROM THE OPERATION OF THE RENTAL MOTOR VEHICLE. ANY LIABILITY INSURANCE
5 PURCHASED FROM THE OWNER PURSUANT TO THIS SUBSECTION SHALL APPLY AND BE
6 EXHAUSTED PRIOR TO ANY OTHER APPLICABLE AND AVAILABLE LIABILITY INSURANCE
7 COVERAGE.

8 D. The owner regulated by this section:

9 ~~1. Is not an insurer and has no obligation to provide a defense after
10 the owner has tendered its limits to either the insured party or the next
11 available coverage for a renter in a situation if a renter has caused
12 property damage or personal injuries. The obligation of any other insurance
13 company to provide a defense if a renter is alleged to have caused property
14 damages or personal injuries shall be determined in accordance with the
15 specific provisions of the applicable policy.~~

16 1. SHALL RESPOND TO THE THIRD PARTY CLAIM, PROVIDE FINANCIAL
17 RESPONSIBILITY AS PRESCRIBED IN SUBSECTION B OF THIS SECTION AND PROVIDE A
18 DEFENSE FOR ALL CLAIMS FOR DAMAGES OR LIABILITY ARISING OUT OF THE OWNERSHIP,
19 MAINTENANCE OR USE OF A MOTOR VEHICLE IF THERE IS AN ACCIDENT, THERE ARE
20 DAMAGES OR INJURIES THAT ARE CAUSED BY THE RENTER AND ONE OF THE FOLLOWING:

21 (a) THE RENTER DOES NOT HAVE ANY OTHER LIABILITY COVERAGE WHICH IS
22 AVAILABLE AND APPLICABLE TO THE LOSS.

23 (b) THE OWNER HAS NOT FULLY AND ACCURATELY PROVIDED TO THE CLAIMANT
24 THE CONTACT INFORMATION REGARDING THE RENTER, INCLUDING THE NAME, ADDRESS,
25 APPLICABLE INSURANCE COMPANY AND THE POLICY NUMBER OR THE INSURANCE COMPANY'S
26 CLAIM NUMBER, WITHIN TWENTY DAYS AFTER THE OWNER IS NOTIFIED OF THE CLAIM.

27 2. AFTER THE OWNER HAS ASSUMED DEFENSE OF THE CLAIM UNDER THIS
28 SUBSECTION, CANNOT TENDER THE CLAIM TO THE EXCESS INSURER WITHOUT THE WRITTEN
29 AGREEMENT FROM THE EXCESS INSURER AND THE EXCESS INSURER IS NOT RESPONSIBLE
30 FOR ANY COSTS INCURRED BY THE OWNER BEFORE THE TENDER IS ACCEPTED.

31 3. HAS NO OBLIGATION TO PROVIDE A DEFENSE AFTER THE OWNER HAS PAID ITS
32 COVERAGE LIMITS, IF THE RENTER DOES NOT HAVE ANY OTHER LIABILITY COVERAGE
33 THAT IS AVAILABLE AND APPLICABLE TO THE LOSS.

34 ~~2-~~ 4. In any situation in which damages or injuries are caused by a
35 person who is operating a motor vehicle and who is not authorized by the
36 written rental agreement to do so, has a right of subrogation against the
37 person who rented the motor vehicle for damages that are caused to the owner
38 and that arose out of the unauthorized operation of the owner's motor
39 vehicle.

40 ~~3-~~ 5. Except as provided in paragraph ~~2-~~ 4 of this subsection, has no
41 other right of subrogation against the person who rented the motor vehicle.

42 E. IN A SITUATION WHERE THE OWNER DOES NOT PROVIDE PRIMARY COVERAGE,
43 THE PUBLIC LIABILITY INSURANCE OR THE OBLIGATION OF THE SELF-INSURED OWNER
44 PURSUANT TO THIS SECTION SHALL PROVIDE EXCESS COVERAGE UP TO THE LIMITS
45 PRESCRIBED IN SUBSECTION B OF THIS SECTION.

1 ~~E.~~ F. The department of transportation shall cancel the registration
2 of a motor vehicle rented without a driver if the owner has failed to comply
3 with this section.

4 ~~F.~~ G. The owner of a motor vehicle who rents it to another without a
5 driver, other than as a bona fide transaction involving the sale of the motor
6 vehicle, without having procured the required public liability insurance or
7 without qualifying as a self-insurer pursuant to section 28-4007 with at
8 least the minimum limits prescribed in subsection A of this section is
9 jointly and severally liable with the renter for damage caused by the
10 negligence of the renter operating the motor vehicle.

11 ~~G.~~ H. The owner of a motor vehicle who rents a motor vehicle without
12 a driver, other than as a bona fide transaction involving the sale of the
13 motor vehicle, without first complying with this section is guilty of a class
14 2 misdemeanor.

15 ~~H.~~ I. As used in this section, AN owner WHO IS engaged in the
16 business of renting or who intends to rent a motor vehicle without a driver
17 does not include a person who operates a golf course that rents golf carts
18 that are intended to be used primarily for playing a round of golf and that
19 are only incidentally operated or moved on a highway.

20 ~~I.~~ J. As used in this section, "renter" includes any person operating
21 a motor vehicle with permission of the person who has rented it.

22 Sec. 2. Effective date; applicability

23 A. Section 28-2166, Arizona Revised Statutes, as amended by this act,
24 is effective from and after October 31, 2012.

25 B. Section 28-2166, Arizona Revised Statutes, as amended by this act,
26 does not apply to claims arising out of rental or lease agreements entered
27 into before November 1, 2012.