Committee on Insurance

House of Representatives Amendments to H.B. 2135

(Reference to printed bill)

Strike everything after the enacting clause and insert:

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

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

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

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

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

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

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

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

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

6. The persons who will control the operation of the insurer or other party to which the obligations to contract holders and policyholders in this state are transferred or assigned possess sufficient competence, experience and integrity."
7. The plans or proposals for administration of the contracts and policies subject to the transfer or assignment are fair and reasonable.

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

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

C. Nothing in this section limits or otherwise affects:

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

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

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

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

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

E. This section does not apply to:

1. The transfer of private passenger automobile insurance policies from one insurer to an affiliated insurer pursuant to section 20-1631, subsection L, PARAGRAPH 1.

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

3. The transfer or assignment of the direct obligations of an authorized insurer pursuant to a provision of a bona fide indemnity reinsurance contract by which the reinsurer becomes directly liable under the policies or contracts to which the reinsurance contract relates.
4. A transfer or assignment resulting from a division or merger of a corporation that was filed for regulatory approval in the corporation’s state of domicile on or before December 31, 1996.

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

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

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

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

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

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

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

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

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

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

2. The insurance was obtained through fraudulent misrepresentation.
3. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy:
   (a) Has had the person's driver license suspended or revoked during the policy period.
   (b) Develops a permanent disability, either physically or mentally, and such individual does not produce a certificate from a physician or a registered nurse practitioner testifying to such person's ability to operate a motor vehicle.
   (c) Is or has been convicted during the thirty-six months immediately preceding the effective date of the policy or during the policy period of:
      (i) Criminal negligence resulting in death, homicide or assault and arising out of the operation of a motor vehicle.
      (ii) Operating a motor vehicle while in an intoxicated condition or while under the influence of drugs.
      (iii) Leaving the scene of an accident.
      (iv) Making false statements in an application for a driver license.
      (v) Reckless driving.
4. The insurer is placed in rehabilitation or receivership by the insurance supervisory official in its state of domicile or by a court of competent jurisdiction or the director has suspended the insurer's certificate of authority based on its financially hazardous condition.
5. The named insured, any person who resides in the same household as the named insured and customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy uses a motor vehicle rated or insured under the policy as a private passenger motor vehicle regularly and frequently for commercial purposes, EXCEPT FOR A PRIVATE AUTOMOBILE THAT IS USED AS A TRANSPORTATION NETWORK VEHICLE IF THE NAMED INSURED HAS PROCURED A TRANSPORTATION NETWORK ENDORSEMENT TO THE POLICY PROVIDING COVERAGE FOR THE USE.
6. The director determines that the continuation of the policy would place the insurer in violation of the laws of this state or would jeopardize the solvency of the insurer.
7. If the insured and the insured's family members are eligible for insurance based solely on the insured's employment with the insurer, employment of the insured with that insurer is terminated and the insurer exercises its right to nonrenew the policy within twelve months following the insured's termination of employment.
E. In addition to the authorization to fail to renew insurance provided by subsection D of this section, an insurer may exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection. An insurer shall provide notice of the nonrenewal to the named insured as prescribed by section 20-1632 at least forty-five days before the nonrenewal. A named insured who disputes the nonrenewal of the named insured's policy may file an objection with the director pursuant to section 20-1633. An insurer shall not fail to renew more than one-half of one percent of its policies annually pursuant to this subsection. An insurer may fail to renew a motor vehicle insurance policy if the named insured, any person who resides in the same household as the named insured and who customarily operates a motor vehicle insured under the policy or any other person who regularly and frequently operates a motor vehicle insured under the policy has had at any time during the thirty-six months immediately before the notice of nonrenewal three or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident that occurred prior to January 1, 2000 is more than one thousand eight hundred dollars. For accidents occurring on or after January 1, 2000, the department of insurance shall annually adjust and publish, to the nearest ten dollars, the threshold amount of property damages in this subsection by the percentage change in the all items component of the consumer price index for all urban consumers of the United States department of labor, bureau of labor statistics. The insurer shall not exercise its right to fail to renew the insurance under this subsection unless the same individual has had all the accidents that make the policy subject to nonrenewal under this subsection. The insurer shall not exercise its right to fail to renew a motor vehicle insurance policy pursuant to this subsection due to the accident record of the named insured if the named insured has been insured for standard automobile bodily injury coverage for at least ten consecutive years with the same insurer prior to the most recent accident that makes the policy subject to nonrenewal under this subsection. For the purposes of this subsection, "at-fault" means the insured is at least fifty percent responsible for the accident.

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

G. This article does not apply to any policy that has been in effect
less than sixty days at the time notice of cancellation is mailed or
delivered by the insurer unless the policy is a renewal policy, or to
policies:
  1. Insuring any motor vehicle other than a private passenger motor
vehicle as defined in section 20-117.
  2. Insuring the motor vehicle hazard of garages, motor vehicle sales
agencies, repair shops, service stations or public parking places.
  3. Providing insurance only on an excess basis.

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

I. Subsection H of this section shall not apply if one or more of the
following conditions exist:
  1. The insurance producer of record has had its license suspended or
revoked by the department.
  2. The insurance producer of record is indebted to the insurer.
  3. The insured has supplied the insurer with a written request that
its insurance producer of record be changed to another insurance producer of
the insurer.
  4. The insurance producer of record has authorized transfer of this
account to another licensed insurance producer of the insurer.
  5. The director has determined after a public hearing that
continuation of this relationship is not in the best interest of the public.
  6. The insurance producer of record is under an exclusive contract or
contract requiring the insurance producer to submit all eligible business to
an insurer or group of insurers under a common management.
J. Subsection H of this section shall not apply to any transaction in which the expiration of the policies is owned by the insurer.

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

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

L. For the purposes of this section, “fail to renew” or “nonrenewal” does not include:

1. The issuance and delivery of a new policy within the same insurer or an insurer under the same ownership or management as the original insurer as provided in this subsection. An insurer may transfer up to one percent of its policies to an affiliated insurer within one calendar year if under a policy to be transferred one or more of the insureds that are insured under the policy have individually within the past thirty-six months had two or more at-fault accidents under any motor vehicle insurance policy issued by this insurer in which the property damage paid by the insurer for each accident exceeded one thousand five hundred dollars or individually have had three or more moving violations. Moving violations for which an insured completes an approved traffic school program shall not be considered as a moving violation under this section. A company shall not transfer a policy if a named insured agrees in writing to exclude as an insured a person or persons who each individually meet the criteria for transfer pursuant to this...
subsection and further agrees to exclude coverage for any negligence that may be imputed by law to the named insured arising out of the maintenance, operation or use of a motor vehicle by such excluded person or persons. An insurer shall transfer only those individuals responsible for the at-fault accidents or moving violations, and the excluded or transferred insured's driving record shall not be used in determining rates, surcharges or premiums for the nonexcluded or nontransferred insured. The one percent limit set forth in this subsection shall not apply to transfers of policies from the original insurer to another insurer under the same ownership or management as the original insurer if the rates charged by the other insurer are the same as or lower than the rates charged by the original insurer. No insurer shall transfer policyholders because of their location of residence, age, race, color, religion, sex, national origin or ancestry. Transfers by an insurer pursuant to this subsection shall not be construed to permit a new unrestricted sixty day period for cancellation or nonrenewal.

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

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

1. In addition to any other reason provided in this section, an insurer may refuse to renew an insurance policy issued pursuant to this article if all of the following conditions apply:
   (a) The insurer clearly discloses to the applicant and the insured in the application for insurance and insurance policy that both the payment of dues and current membership in the bona fide association are prerequisites to obtaining or renewing the insurance.
   (b) Any money paid to the bona fide association as a membership fee:
      (i) Is not used by the insurer directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.
      (ii) Is set independently of any factor used by the insurer to make any judgment or determination about the eligibility of any individual, including the member, an employee of a member or a dependent of a member, to purchase or renew the insurance.
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(c) The bona fide association has filed a certification with the director verifying the eligibility of the insurer to refuse to renew an insurance policy based on membership in the bona fide association.

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

   (a) That the association has been in active existence for at least five consecutive years immediately before the filing of the statement.
   (b) That the association has been formed and maintained in good faith for purposes other than obtaining or providing insurance and does not condition membership in the association on the purchase of insurance.
   (c) That the association has articles of incorporation and bylaws or other similar governing documents.
   (d) That the association does not condition membership in the association or set membership fees on the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance, or on any factor that the insurer could not lawfully consider when setting rates.
   (e) That the association has a relationship with a specific insurer or insurers and identifies the insurer or insurers.

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

   (a) Uses any portion of the membership fees directly or indirectly to defray any costs or expenses in connection with the sale or purchase of the insurance.
   (b) Sets or adjusts membership fees for any member of the bona fide association based on any factor used by the insurer that issues the insurance to make any judgment or determination about the eligibility of any individual, including the member, an employee of the member or a dependent of the member, to purchase or renew the insurance.
4. If the membership fees constitute premiums pursuant to paragraph 3 of this subsection, an insurer shall not refuse to renew a policy as otherwise permitted by this subsection.

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

28-101. Definitions
In this title, unless the context otherwise requires:
1. "Alcohol" means any substance containing any form of alcohol, including ethanol, methanol, propynol and isopropynol.
2. "Alcohol concentration" if expressed as a percentage means either:
   (a) The number of grams of alcohol per one hundred milliliters of blood.
   (b) The number of grams of alcohol per two hundred ten liters of breath.
3. "All-terrain vehicle" means either of the following:
   (a) A motor vehicle that satisfies all of the following:
      (i) Is designed primarily for recreational nonhighway all-terrain travel.
      (ii) Is fifty or fewer inches in width.
      (iii) Has an unladen weight of one thousand two hundred pounds or less.
      (iv) Travels on three or more nonhighway tires.
      (v) Is operated on a public highway.
   (b) A recreational off-highway vehicle that satisfies all of the following:
      (i) Is designed primarily for recreational nonhighway all-terrain travel.
      (ii) Is sixty-five or fewer inches in width.
      (iii) Has an unladen weight of one thousand eight hundred pounds or less.
      (iv) Travels on four or more nonhighway tires.
4. "Authorized emergency vehicle" means any of the following:
   (a) A fire department vehicle.
   (b) A police vehicle.
   (c) An ambulance or emergency vehicle of a municipal department or public service corporation that is designated or authorized by the department or a local authority.
   (d) Any other ambulance, fire truck or rescue vehicle that is authorized by the department in its sole discretion and that meets liability insurance requirements prescribed by the department.
5. "Aviation fuel" means all flammable liquids composed of a mixture of selected hydrocarbons expressly manufactured and blended for the purpose of effectively and efficiently operating an internal combustion engine for use in an aircraft but does not include fuel for jet or turbine powered aircraft.

6. "Bicycle" means a device, including a racing wheelchair, that is propelled by human power and on which a person may ride and that has either:
   (a) Two tandem wheels, either of which is more than sixteen inches in diameter.
   (b) Three wheels in contact with the ground, any of which is more than sixteen inches in diameter.

7. "Board" means the transportation board.

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

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

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

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

12. "Conviction" means:
   (a) An unvacated adjudication of guilt or a determination that a person violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal.
   (b) An unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court.
   (c) A plea of guilty or no contest accepted by the court.
   (d) The payment of a fine or court costs.

13. "County highway" means a public road THAT IS constructed and maintained by a county.
14. "Dealer" means a person who is engaged in the business of buying, selling or exchanging motor vehicles, trailers or semitrailers and who has an established place of business.

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

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

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

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

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

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

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

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

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

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

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

26. "Implement of husbandry" means a vehicle designed primarily for agricultural purposes and used exclusively in the conduct of agricultural operations, including an implement or vehicle whether self-propelled or otherwise that meets both of the following conditions:
(a) Is used solely for agricultural purposes including the preparation or harvesting of cotton, alfalfa, grains and other farm crops.
(b) Is only incidentally operated or moved on a highway whether as a trailer or self-propelled unit. For the purposes of this subdivision, "incidentally operated or moved on a highway" means travel between a farm and another part of the same farm, from one farm to another farm or between a farm and a place of repair, supply or storage.

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

28. "Livery vehicle" means a motor vehicle that:
   (a) Has a seating capacity not exceeding fifteen passengers including the driver.
   (b) Provides passenger services for a fare determined by a flat rate or flat hourly rate between geographic zones or within a geographic area.
   (c) Is available for hire on an exclusive or shared ride basis.
   (d) May do any of the following:
       (i) Operate on a regular route or between specified places.
       (ii) Offer prearranged ground transportation service as defined in section 28-141.
       (iii) Offer on demand ground transportation service pursuant to a contract with a public airport, licensed business entity or organization.

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

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

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

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

33. "Motor vehicle":
   (a) Means either:
(i) A self-propelled vehicle.

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

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

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

(ii) “Motorized wheelchair” means a self-propelled wheelchair that is used by a person for mobility.

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

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

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

(a) The vehicle is emission free.

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

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

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

38. “Off-road recreational motor vehicle” means a motor vehicle that is designed primarily for recreational nonhighway all-terrain travel and that is not operated on a public highway. Off-road recreational motor vehicle
does not mean a motor vehicle used for construction, building trade, mining or agricultural purposes.

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

40. "Owner" means:
   (a) A person who holds the legal title of a vehicle.
   (b) If a vehicle is the subject of an agreement for the conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, the conditional vendee or lessee.
   (c) If a mortgagor of a vehicle is entitled to possession of the vehicle, the mortgagor.

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

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

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

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

45. "Residence district" means the territory contiguous to and including a highway not comprising a business district if the property on the
highway for a distance of three hundred feet or more is in the main improved
with residences or residences and buildings in use for business.

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

47. "School bus" means a motor vehicle that is designed for carrying
more than ten passengers and that is either:
   (a) Owned by any public or governmental agency or other institution
       and operated for the transportation of children to or from home or school on
       a regularly scheduled basis.
   (b) Privately owned and operated for compensation for the
       transportation of children to or from home or school on a regularly scheduled
       basis.

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

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

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

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

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

53. "Taxi" means a motor vehicle that has a seating capacity not
    exceeding fifteen passengers, including the driver, that is registered as a
taxi in this state or any other state, that provides passenger services and
    that:
       (a) Does not primarily operate on a regular route or between specified
places.
(b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

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

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

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

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

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

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

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

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

62. "Vehicle transporter" means either:
(a) A truck tractor capable of carrying a load and drawing a semitrailer.
(b) A truck tractor with a stinger-steered fifth wheel capable of carrying a load and drawing a semitrailer or a truck tractor with a dolly mounted fifth wheel that is securely fastened to the truck tractor at two or more points and that is capable of carrying a load and drawing a semitrailer.
Sec. 4. Section 28-141, Arizona Revised Statutes, is amended to read:

28-141. **Prearranged ground transportation; applicability; definitions**

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


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

3. Provides the service pursuant to a contract for either of the following:
   
   (a) Transportation from this state, including intermediate stops, to a destination in another state.

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

B. For the purposes of this section:

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

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

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

41-2051. **Definitions**

In this chapter, unless the context otherwise requires:

1. "Biodiesel" means a diesel fuel substitute that is produced from nonpetroleum renewable resources as defined by the United States environmental protection agency and that meets the registration requirements for fuels and fuel additives established by the United States environmental protection agency pursuant to section 211 of the clean air act, as defined in section 49-401.01.
2. “Biodiesel blend” means a motor fuel that is comprised of biodiesel and diesel fuel and that is designated by the letter “B”, followed by the numeric value of the volume percentage of biodiesel in the blend.

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

4. “Biofuel blend” means a motor fuel that is comprised of a biofuel, that is combined with a petroleum based fuel and that is designated by the volume percentage of biofuel in the blend.

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

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

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

8. “Commodity” means any merchandise, product or substance produced or distributed for sale to or use by others.

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

10. “Department” means the department of weights and measures.

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

12. “Director” means the director of the department of weights and measures.

13. “E85” means a fuel ethanol gasoline blend that meets the specifications of ASTM D5798.


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

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

17. "Livery vehicle" means a motor vehicle that:
(a) Has a seating capacity not exceeding fifteen passengers, including
the driver.
(b) Provides passenger services for a fare determined by a flat rate
or flat hourly rate between geographic zones or within a geographic area.
(c) Is available for hire on an exclusive or shared-ride basis.
(d) May do any of the following:
(i) Operate on a regular route or between specified places.
(ii) Offer prearranged ground transportation service as defined in
section 28-141.
(iii) Offer on demand ground transportation service pursuant to a
contract with a public airport, licensed business entity or organization.
(e) IS NOT A TRANSPORTATION NETWORK VEHICLE.

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

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

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

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

22. "Public weighmaster" means any person who is engaged in any of the
following:
(a) The business of weighing any object or thing for the public
generally for hire or for internal use and issuing for that weighing a weight
certificate intended to be accepted as an accurate weight upon which a
purchase or sale is to be based or on which a service fee is to be charged.
(b) The business of weighing for-hire motor vehicles, trailers or semitrailers and issuing weight certificates intended to be accepted as an accurate weight for the purpose of determining the amount of any tax, fee or other assessment on the vehicles.

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

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

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

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

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

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

29. "Taxi" means a motor vehicle that has a seating capacity not exceeding fifteen passengers, including the driver, that is registered as a taxi in this state or any other state, that provides passenger services and that:
   
   (a) Does not primarily operate on a regular route or between specified places.
   
   (b) Offers local transportation for a fare determined on the basis of the distance traveled or prearranged ground transportation service as defined in section 28-141 for a predetermined fare.

   (c) IS NOT A TRANSPORTATION NETWORK VEHICLE.

30. "Taxi meter" means a commercial device that meets the requirements of the national institute of standards and technology handbook 44 as prescribed by section 41-2064.
31. "TRANSPORTATION NETWORK COMPANY" MEANS A COMPANY THAT PROVIDES PREARRANGED GROUND TRANSPORTATION SERVICES FOR COMPENSATION, DONATION OR TIPS USING AN ONLINE-ENABLED APPLICATION OR PLATFORM.

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

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

34. "Weight" as used in connection with any commodity means net weight.

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

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