

State of Arizona
House of Representatives
Fifty-second Legislature
Second Regular Session
2016

CHAPTER 363
HOUSE BILL 2445

AN ACT

AMENDING SECTIONS 20-1631, 20-1632 AND 20-1633, ARIZONA REVISED STATUTES;
RELATING TO MOTOR VEHICLE INSURANCE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 20, chapter 6, article 11, Arizona Revised
4 Statutes, is changed from "CANCELLATION OR NON-RENEWAL OF AUTOMOBILE
5 INSURANCE" to "CANCELLATION OR NONRENEWAL OF MOTOR VEHICLE INSURANCE".

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

7 20-1631. Definition of motor vehicle; cancellation of or
8 failure to renew coverage; limitations; limitation
9 of liability; exceptions; insurance producers;
10 definitions

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

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

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 4. From and after February 29, 2016, a vehicle that otherwise
22 qualifies as a motor vehicle under this subsection but only while the driver
23 of the vehicle is logged in to a transportation network company's digital
24 network or software application to be a driver or is providing transportation
25 network services, unless expressly covered by the private passenger policy.

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

30 C. An insurer shall not cancel or refuse to renew a motor vehicle
31 insurance policy solely because of the location of residence, age, race,
32 color, religion, sex, national origin or ancestry of anyone who is an
33 insured. ~~—~~, EXCEPT THAT AN INSURER MAY REFUSE TO RENEW A MOTOR VEHICLE
34 INSURANCE POLICY IF A NAMED INSURED ESTABLISHES A PRIMARY RESIDENCE IN A
35 STATE OTHER THAN ARIZONA.

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

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

1 2. The insurance was obtained through fraudulent misrepresentation.

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

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

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

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

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

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

18 (iii) Leaving the scene of an accident.

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

20 (v) Reckless driving.

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

25 5. The named insured, any person who resides in the same household as
26 the named insured and customarily operates a motor vehicle insured under the
27 policy or any other person who regularly and frequently operates a motor
28 vehicle insured under the policy uses a motor vehicle rated or insured under
29 the policy as a private passenger motor vehicle regularly and frequently for
30 commercial purposes.

31 6. From and after February 29, 2016, the named insured, any person who
32 resides in the same household as the named insured and who customarily
33 operates a motor vehicle insured under the policy or any other person who
34 regularly and frequently operates a motor vehicle insured under the policy
35 uses a motor vehicle rated or insured under the policy to provide
36 transportation network services unless, while the driver is logged in to the
37 transportation network company's digital network or software application to
38 be a driver or is providing transportation network services, the named
39 insured either:

40 (a) Has procured an endorsement to the private passenger policy that
41 expressly provides such coverage.

42 (b) Is covered by a motor vehicle liability insurance policy issued by
43 another insurer expressly providing such coverage.

1 7. The director determines that the continuation of the policy would
2 place the insurer in violation of the laws of this state or would jeopardize
3 the solvency of the insurer.

4 ~~8. If the insured and the insured's family members are eligible for
5 insurance based solely on the insured's employment with the insurer,
6 employment of the insured with that insurer is terminated and the insurer
7 exercises its right to nonrenew the policy within twelve months following the
8 insured's termination of employment.~~

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

44 F. The company shall not cancel ~~or fail to renew~~ the insurance when a
45 person other than the named insured has violated subsection D, paragraph 3 of

1 this section, ~~or fail to renew the insurance pursuant to subsection E of this~~
2 ~~section due to the driving record of an individual other than the named~~
3 ~~insured~~, if the named insured in writing agrees to exclude as insured the
4 person by name when operating a motor vehicle and further agrees to exclude
5 coverage to the named insured for any negligence that may be imputed by law
6 to the named insured arising out of the maintenance, operation or use of a
7 motor vehicle by the excluded person. The written agreement that excludes
8 coverage under a policy for a named individual is effective for each renewal
9 of the policy by the insurer and remains in effect until the insurer agrees
10 in writing to provide coverage for the named individual who was previously
11 excluded from coverage.

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

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

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

20 3. Providing insurance only on an excess basis.

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

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

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

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

36 3. The insured has supplied the insurer with a written request that
37 its insurance producer of record be changed to another insurance producer of
38 the insurer.

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

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

43 6. The insurance producer of record is under an exclusive contract or
44 contract requiring the insurance producer to submit all eligible business to
45 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, **IF AN INSURER CHOOSES TO**
4 **RENEW A POLICY**, the issuance at renewal of revised policy provisions to
5 modify an existing policy by adding coverages or policy provisions, modifying
6 coverages or policy provisions, ~~or eliminating coverages or policy~~
7 ~~provisions is not a nonrenewal or cancellation of the policy if the~~
8 ~~modification of a basic coverage does not eliminate the essential benefit of~~
9 ~~that basic coverage. If the modification of the basic coverage eliminates~~
10 ~~the essential benefit of the basic coverage, the director shall order the~~
11 ~~insurer to remove the modification from the policy. This subsection does not~~
12 ~~allow the insurer, without the written consent of the insured, to eliminate~~
13 ~~the basic coverages of the policy or to reduce the monetary limits of any of~~
14 ~~the basic coverages of the policy that were selected and agreed on. **IF AN**~~
15 **INSURER CHOOSES TO RENEW A POLICY**, this subsection does not limit a
16 policyholder from continuing to renew uninsured or underinsured motorist
17 coverage pursuant to section 20-259.01. For the purposes of this subsection,
18 "basic coverage" means any of the following:

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

26 L. For the purposes of this section, fail to renew or nonrenewal does
27 not include 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 percent~~
30 ~~ANY~~ 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~~
41 ~~subsection and further agrees to exclude coverage for any negligence that may~~
42 ~~be imputed by law to the named insured arising out of the maintenance,~~
43 ~~operation or use of a motor vehicle by such excluded person or persons. An~~
44 ~~insurer shall transfer only those individuals responsible for the at-fault~~
45 ~~accidents or moving violations, and the excluded or transferred insured's~~

1 ~~driving record shall not be used in determining rates, surcharges or premiums~~
2 ~~for the nonexcluded or nontransferred insured. The one percent limit set~~
3 ~~forth in this subsection shall not apply to transfers of policies from the~~
4 ~~original insurer to another insurer under the same ownership or management as~~
5 ~~the original insurer if the rates charged by the other insurer are the same~~
6 ~~as or lower than the rates charged by the original insurer.~~ No insurer shall
7 transfer policyholders because of their location of residence, age, race,
8 color, religion, sex, national origin or ancestry. Transfers by an insurer
9 pursuant to this subsection shall not be construed to permit a new
10 unrestricted ~~sixty day~~ SIXTY-DAY period for cancellation or nonrenewal.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 ~~N. AN INSURER OR INSURANCE PRODUCER SHALL NOT INQUIRE ON AN~~
30 ~~APPLICATION FOR A MOTOR VEHICLE INSURANCE POLICY WHETHER THE APPLICANT, ANY~~
31 ~~PERSON WHO RESIDES IN THE SAME HOUSEHOLD AS THE APPLICANT AND CUSTOMARILY~~
32 ~~OPERATES A MOTOR VEHICLE TO BE INSURED UNDER THE POLICY OR ANY OTHER PERSON~~
33 ~~WHO REGULARLY AND FREQUENTLY OPERATES A MOTOR VEHICLE TO BE INSURED UNDER THE~~
34 ~~POLICY, HAS BEEN NONRENEWED BY AN INSURER.~~

35 ~~N-~~ O. An insurer may issue an endorsement to a private passenger
36 policy that expressly provides coverage for the provision of transportation
37 network services, but that endorsement may not be treated as basic coverage
38 as defined in subsection K of this section and any termination of the
39 endorsement may not be treated as a modification of basic coverage. An
40 insurer may terminate the endorsement allowed by this subsection by giving
41 advance notice of the termination. Any notice by the insurer to the
42 policyholder to terminate the endorsement allowed by this subsection shall be
43 mailed to the named insured by United States mail at least forty-five days
44 before the effective date of the termination. The notice shall include an
45 explanation to the named insured that the further provision of transportation

1 network services following the effective date of the termination ~~may~~ MIGHT
2 subject the insured to cancellation or nonrenewal of the insured's private
3 passenger motor vehicle policy.

4 ~~0-~~ P. This section and section 28-4009 do not create an obligation of
5 an insurer to offer, provide or issue a policy or an endorsement that
6 includes coverage for any liability incurred while a transportation network
7 company driver is logged in to the transportation network company's digital
8 network or software application to be a driver or is providing transportation
9 network services.

10 ~~P-~~ Q. For the purposes of this section, "transportation network
11 company", "transportation network company driver" and "transportation network
12 services" have the same meanings prescribed in section 28-9551.

13 Sec. 3. Section 20-1632, Arizona Revised Statutes, is amended to read:

14 20-1632. Cancellation, nonrenewal and reduction of limits for
15 reasons other than nonpayment of premium; notices to
16 insured; refund of unearned premium

17 A. A notice by the insurer to the policyholder of ~~nonrenewal,~~
18 cancellation or reduction in the limits of liability or coverage for reasons
19 other than nonpayment of premium shall be mailed to the named insured with
20 the insurer obtaining proof of ~~mail~~ MAILING by United States certified mail,
21 United States post office certificate of mailing or first class mail using
22 intelligent mail barcode or another similar tracking method used or approved
23 by the United States postal service at least ten days before the effective
24 date of the ~~nonrenewal,~~ cancellation or reduction in limits of liability or
25 coverage. ~~, except that notice of nonrenewal under section 20-1631,~~
26 ~~subsection E NOTICE OF NONRENEWAL FOR REASONS OTHER THAN NONPAYMENT OF~~
27 ~~PREMIUM~~ shall be mailed at least forty-five days before the effective date of
28 the nonrenewal. ~~The A~~ notice UNDER THIS SECTION shall include or be
29 accompanied by all of the following:

30 1. A statement in writing of the specific facts that constitute the
31 reasons, consistent with ~~section 20-1631~~ THIS ARTICLE, for such action by the
32 insurer and a notice indicating the named insured's right to complain to the
33 director of the insurer's action within ten days after receipt of the notice
34 by the insured.

35 2. Notice of the insured's possible eligibility for insurance through
36 the automobile assigned risk plan, and the notice shall state that all
37 information included in the notice is given pursuant to this article.

38 3. Except as provided in paragraph 4 of this subsection, a refund of
39 unearned premium. For the purposes of this paragraph, the insurer shall
40 either mail the notice and refund of unearned premium together at least ten
41 days before the effective date or mail the notice before the refund of
42 unearned premium if both the notice and the refund of unearned premium are
43 mailed separately to the insured at least ten days before the effective date.

44 AS AN ALTERNATIVE TO MAILING, AN INSURER MAY CHOOSE TO REFUND THE UNEARNED

1 PREMIUM BY ANY ELECTRONIC MEANS PREVIOUSLY ESTABLISHED WITH THE CUSTOMER TO
2 MAKE AND RECEIVE PREMIUM PAYMENTS FOR THE POLICY.

3 4. In the case of a notice of cancellation or nonrenewal of a
4 policyholder whose premium payment is collected and remitted on the insurer's
5 behalf by the insurer's affiliate, the insurer shall refund any unearned
6 premium to the policyholder within ten days after the policy cancellation OR
7 NONRENEWAL. For the purposes of this paragraph, "affiliate" has the same
8 meaning prescribed in section 20-481.

9 B. Failure of the insurer to comply with subsection A of this section
10 shall invalidate any cancellation, nonrenewal or reduction in limits of
11 liability or coverage.

12 C. If a premium has been financed, a refund of unearned premium shall
13 be returned as provided in section 6-1416.

14 Sec. 4. Section 20-1633, Arizona Revised Statutes, is amended to read:
15 20-1633. Objections; investigation; determination

16 A. Any individual who believes cancellation ~~or nonrenewal~~ of the
17 individual's policy is arbitrary, capricious or otherwise in violation of
18 this article, WHO BELIEVES NONRENEWAL IS IN VIOLATION OF THIS ARTICLE or who
19 believes notice of nonrenewal or cancellation, or the reasons for nonrenewal
20 or cancellation, were not given as provided by this article may, within ten
21 days after receipt of notice, MAY file in writing an objection to the action
22 with the director.

23 ~~B. Any insured who believes an insurer has made an incorrect~~
24 ~~determination of fault in an accident contributing to nonrenewal of a policy~~
25 ~~under section 20-1631, subsection E, within ten days after receipt of notice~~
26 ~~of the nonrenewal under that section, may file in writing an objection to the~~
27 ~~nonrenewal with the director.~~

28 ~~C.~~ B. Upon ON receipt of a written objection pursuant to this
29 article, the director shall notify the insurer of receipt of the objection
30 and of the right of the insurer to file a written response within ten days of
31 receipt of the notification. The director may also order an examination of
32 the objection or complaint, the submission of additional information by the
33 insured or the insurer about the action by the insurer or the objections of
34 the insured, or any other procedure as the director deems appropriate or
35 necessary. The insurer shall pay the cost of the examination pursuant to
36 section 20-159. Within fifteen days of receipt of the written objection by
37 an insured the director shall approve or disapprove the insurer's action and
38 shall notify the insured and insurer in writing of the director's final
39 decision. The director shall order an insurer that has failed to renew a
40 policy in violation of ~~section 20-1631~~ THIS ARTICLE to reinstate the policy
41 retroactive to the effective date of the nonrenewal. Except as provided in
42 section 41-1092.08, subsection H, either party may institute proceedings for
43 judicial review of the director's final decision pursuant to title 12,
44 chapter 7, article 6. Notwithstanding any other law, if the director decides

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1 in favor of the insured, the director may order that the decision not be
2 stayed pending judicial review.

APPROVED BY THE GOVERNOR MAY 19, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 19, 2016.