

State of Arizona
Senate
Forty-third Legislature
First Regular Session
1997

SENATE BILL 1445

AN ACT

AMENDING SECTIONS 20-259.01, 20-1631, 20-1632, 20-1633, 28-4079 AND 28-4148, ARIZONA REVISED STATUTES; RELATING TO MOTOR VEHICLE INSURANCE; PROVIDING FOR CONDITIONAL ENACTMENT.

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

Section 1. Section 20-259.01, Arizona Revised Statutes, is amended to read:

20-259.01. Motor vehicle liability policy; uninsured optional; underinsured optional; subrogation; definitions

A. THE DEPARTMENT SHALL PRESCRIBE A CONSUMER INFORMATION AND COVERAGE SELECTION FORM IN ENGLISH AND IN SPANISH TO BE SIGNED BY THE PURCHASER AND TO BE USED BY ALL INSURERS OFFERING AUTOMOBILE COVERAGE OR RELATED COVERAGES. THE FORM SHALL DESCRIBE THE NATURE AND AVAILABILITY OF BODILY INJURY COVERAGE, PROPERTY DAMAGE COVERAGE, COLLISION COVERAGE, COMPREHENSIVE COVERAGE, MEDICAL PAYMENT COVERAGE, UNINSURED MOTORIST COVERAGE AND UNDERINSURED MOTORIST COVERAGE AND SHALL PROVIDE FOR THE SELECTION BY THE INSURED OF LIMITS OF THE LISTED TYPES OF COVERAGE OR FOR THE REJECTION OF COVERAGES. THE FORM SHALL STATE THE REASONS A CONSUMER SHOULD CONSIDER WHEN PURCHASING OR REJECTING THESE COVERAGES. AN INSURER OFFERING AUTOMOBILE LIABILITY COVERAGE OR A RELATED COVERAGE SHALL PROVIDE THE PURCHASER A COPY OF THE FORM AT THE TIME OF THE INITIAL PURCHASE OF COVERAGE. THE FORM SHALL INCLUDE A DESCRIPTION OF ALL COVERAGES DESCRIBED BY THIS SECTION, REGARDLESS OF THE AVAILABILITY OF A COVERAGE FROM THE INSURER. THE FORM SHALL PROVIDE A SPACE FOR THE PURCHASER TO SEPARATELY INITIAL THE PURCHASE OR REJECTION OF EACH COVERAGE OPTION TO BE INCLUDED OR EXCLUDED FROM THE POLICY. THE FORM NEED NOT BE USED IN THE EVENT OF REINSTATEMENT OF A LAPSED POLICY OR THE

1 TRANSFER, SUBSTITUTION, MODIFICATION OR RENEWAL OF AN EXISTING POLICY.
2 SELECTION OF LIMITS OF COVERAGE OR REJECTION OF COVERAGE BY A NAMED INSURED
3 ON THE FORM IS VALID FOR ALL INSURED UNDER THE MOTOR VEHICLE POLICY. USE
4 OF THE FORM BY AN INSURER, AGENT OR BROKER SHALL SATISFY ANY DUTY OF AN
5 INSURER, AGENT OR BROKER TO EXPLAIN THE NATURE AND APPLICABILITY OF
6 AUTOMOBILE LIABILITY COVERAGE AND RELATED COVERAGES.

7 ~~A. B. Every insurer writing automobile liability or motor vehicle~~
8 ~~liability policies shall make available to the named insured thereunder and~~
9 ~~by written notice offer the insured and at the request of the insured shall~~
10 ~~include within the policy uninsured motorist coverage which extends to and~~
11 ~~covers all persons insured under the policy, in limits not less than the~~
12 ~~liability limits for bodily injury or death contained within the policy. The~~
13 ~~selection of limits OF COVERAGE FOR UNINSURED AND UNDERINSURED MOTORIST~~
14 ~~COVERAGE or rejection of FAILURE TO SELECT coverage FOR UNINSURED OR~~
15 ~~UNDERINSURED MOTORIST COVERAGE by a named insured or applicant on a form~~
16 ~~approved by the director shall be IS valid for all insureds under the MOTOR~~
17 ~~VEHICLE LIABILITY policy. The offer need not be made in the event of the~~
18 ~~reinstatement of a lapsed policy or the transfer, substitution, modification~~
19 ~~or renewal of an existing policy. At the request of the insured, the insured~~
20 ~~may purchase and the insurer shall then include within the policy uninsured~~
21 ~~motorist coverage which extends to and covers all persons insured under the~~
22 ~~policy in any amount up to the liability limits for bodily injury or death~~
23 ~~contained within the policy but not less than the limits prescribed in~~
24 ~~section 28-1170.~~

25 ~~B. Every insurer writing automobile liability or motor vehicle~~
26 ~~liability policies shall also make available to the named insured thereunder~~
27 ~~and shall by written notice offer the insured and at the request of the~~
28 ~~insured shall include within the policy underinsured motorist coverage which~~
29 ~~extends to and covers all persons insured under the policy, in limits not~~
30 ~~less than the liability limits for bodily injury or death contained within~~
31 ~~the policy. The selection of limits or rejection of coverage by a named~~
32 ~~insured or applicant on a form approved by the director shall be valid for~~
33 ~~all insureds under the policy. The offer need not be made in the event of~~
34 ~~the reinstatement of a lapsed policy or the transfer, substitution,~~
35 ~~modification or renewal of an existing policy. At the request of the insured~~
36 ~~the insured may purchase and the insurer shall then include within the policy~~
37 ~~underinsured motorist coverage which extends to and covers all persons~~
38 ~~insured under the policy in any amount authorized by the insured up to the~~
39 ~~liability limits for bodily injury or death contained within the policy.~~

40 ~~C. Every insurer writing automobile liability or motor vehicle~~
41 ~~liability policies may make available the coverages required by subsections~~
42 ~~A and B of this section to owners and operators of motor vehicles which are~~
43 ~~used as public or livery conveyances or rented to others or which are used~~

~~in the business primarily to transport property or equipment. The provisions of subsections A and~~

C. SUBSECTION B of this section shall not preclude an insurer writing automobile liability or motor vehicle liability policies in this state from requiring that all motor vehicles THAT ARE owned BY or registered to the named insured AND that are insured by the same insurer or group of insurers under a common management have the same limits of coverage for uninsured and underinsured motorist coverage in amounts as selected or rejected by the named insured.

D. "Uninsured motor vehicles", subject to the terms and conditions of that coverage, includes any insured motor vehicle if the liability insurer of the vehicle is unable to make payment on the liability of its insured, within the limits of the coverage, because of insolvency.

E. "Uninsured motorist coverage", subject to the terms and conditions of that coverage, provides MEANS coverage for damages due to bodily injury or death if the motor vehicle that caused the bodily injury or death is not insured by a motor vehicle liability policy that contains at least the limits prescribed in section 28-1170. For the purposes of uninsured motorist coverage, an uninsured motorist does not include a person who is insured under a motor vehicle liability policy that complies with section 28-1170.

F. Any payment made under the bodily injury liability portion of a motor vehicle liability policy insuring the motor vehicle that caused the bodily injury or death in an amount equal to or less than the per person or per occurrence bodily injury limits of that policy, regardless of the number of persons receiving payments, precludes any payment under the uninsured motorist coverage based upon the fault of the person who is insured under the motor vehicle liability policy.

G. "Underinsured motorist coverage" includes coverage for a person if the sum of the limits of liability under all bodily injury or death liability bonds and liability insurance policies applicable at the time of the accident is less than the total damages for bodily injury or death resulting from the accident. To the extent that the total damages exceed the total applicable liability limits, the underinsured motorist coverage provided in subsection B of this section is applicable to the difference.

H. Uninsured and underinsured motorist coverages are separate and distinct and apply to different accident situations. Underinsured motorist coverage shall not provide coverage for a claim against an uninsured motorist in addition to any applicable uninsured motorist coverage. If multiple policies or coverages purchased by one insured on different vehicles apply to an accident or claim, the insurer may limit the coverage so that only one policy OR COVERAGE, selected by the insured, shall be applicable to any one accident. IF THE POLICY DOES NOT CONTAIN A STATEMENT THAT INFORMS THE INSURED OF THE INSURED'S RIGHT TO SELECT ONE POLICY OR COVERAGE AS REQUIRED

1 BY THIS SUBSECTION, WITHIN THIRTY DAYS AFTER THE INSURER RECEIVES NOTICE OF
2 AN ACCIDENT, THE INSURER SHALL NOTIFY THE INSURED IN WRITING OF THE INSURED'S
3 RIGHT TO SELECT ONE POLICY OR COVERAGE. FOR THE PURPOSES OF THIS SECTION,
4 "INSURER" INCLUDES EVERY INSURER WITHIN A GROUP OF INSURERS UNDER A COMMON
5 MANAGEMENT.

6 I. Insurers who make payments for damages to insureds for uninsured
7 motorist coverage may subrogate and sue for reimbursement of the total amount
8 of said payments in the name of the insured against any uninsured motorist
9 responsible for the damages to the insured.

10 J. Any common law prohibition against assignments of causes of action
11 for personal injuries is abrogated to the extent provided in subsection I of
12 this section.

13 K. An insurer is not required to offer, provide or make available
14 coverage conforming to this section in connection with any general commercial
15 liability policy, excess policy, umbrella policy or other policy that does
16 not provide primary motor vehicle insurance for liabilities arising out of
17 the ownership, maintenance, operation or use of a specifically insured motor
18 vehicle.

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

20 20-1631. Definition; cancellation of or failure to renew
21 coverage; limitations; limitation of liability;
22 exceptions; agents of record

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

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

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

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

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

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

39 D. An insurer shall not issue a motor vehicle insurance policy in this
40 state unless the cancellation and renewal conditions of the policy or the
41 endorsement on the policy ~~include~~ INCLUDES the limitations required by this
42 section. After a policy issued in this state has been in effect for sixty
43 days, or if the policy is a renewal, effective immediately, the company shall

1 not exercise its right to cancel or fail to renew the insurance afforded
2 under the policy unless:

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

6 2. The insurance was obtained through fraudulent misrepresentation.

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

11 (a) Has had his or her driver's license suspended or revoked during
12 the policy period.

13 (b) Becomes permanently disabled, either physically or mentally, and
14 such individual does not produce a certificate from a physician testifying
15 to such person's ability to operate a motor vehicle.

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

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

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

22 (iii) Leaving the scene of an accident.

23 (iv) Making false statements in an application for a driver's license.

24 (v) Reckless driving.

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

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

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

38 E. In addition to the authorization to fail to renew insurance
39 provided by subsection D of this section, an insurer may exercise its right
40 to fail to renew a motor vehicle insurance policy pursuant to this
41 subsection. An insurer shall provide notice of the nonrenewal to the named
42 insured as prescribed by section 20-1632 at least forty-five days before the
43 nonrenewal. A named insured who disputes the nonrenewal of the named
44 insured's policy may file an objection with the director pursuant to section

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

26 F. The company shall not cancel or fail to renew the insurance when
27 a person other than the named insured has violated subsection D, paragraph
28 3 of this section, or fail to renew the insurance pursuant to subsection E
29 of this section due to the driving record of an individual other than the
30 named insured, if the named insured in writing agrees to exclude as insured
31 the person by name when operating a motor vehicle and further agrees to
32 exclude coverage to the named insured for any negligence which may be imputed
33 by law to the named insured arising out of the maintenance, operation or use
34 of a motor vehicle by the excluded person. ~~THE WRITTEN AGREEMENT THAT~~
35 ~~EXCLUDES COVERAGE UNDER A POLICY FOR A NAMED INDIVIDUAL IS EFFECTIVE FOR EACH~~
36 ~~RENEWAL OF THE POLICY BY THE INSURER AND REMAINS IN EFFECT UNTIL THE INSURER~~
37 ~~AGREES IN WRITING TO PROVIDE COVERAGE FOR THE NAMED INDIVIDUAL WHO WAS~~
38 ~~PREVIOUSLY EXCLUDED FROM COVERAGE.~~

39 G. The provisions ~~of subsection D~~ of this ~~section~~ ~~ARTICLE~~ do not apply
40 to any policy which has been in effect less than sixty days at the time
41 notice of cancellation is mailed or delivered by the insurer unless the
42 policy is a renewal policy, or to policies:

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

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

5 3. Providing insurance only on an excess basis.

6 H. If a consumer purchases motor vehicle insurance coverage from an
7 agency or agent licensed in this state, the agency or agent, whichever owns
8 the policy expiration, shall remain the agent of record for that insured. In
9 the event the insurer terminates the agency's contract, the agency shall
10 continue to provide customary services to the insured. The insurer shall
11 provide the agency with a minimum degree of authority necessary to provide
12 customary services to the insured and shall provide the same level of
13 compensation for these services which were in effect prior to the termination
14 of the agency contract.

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

17 1. The agent of record has had its license suspended or revoked by the
18 department.

19 2. The agent of record is indebted to the insurer.

20 3. The insured has supplied the insurer with a written request that
21 its agent of record be changed to another agent of the insurer.

22 4. The agent of record has authorized transfer of this account to
23 another licensed agent of the insurer.

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

26 6. The agent of record is under an exclusive contract or contract
27 requiring the agent to submit all eligible business to an insurer or group
28 of insurers under a common management.

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

31 K. Notwithstanding any law to the contrary, the issuance at renewal
32 of revised policy provisions to modify an existing policy by adding coverages
33 or policy provisions, modifying coverages or policy provisions, or
34 eliminating coverages or policy provisions is not a nonrenewal or
35 cancellation of the policy if the modification of a basic coverage does not
36 eliminate the essential benefit of that basic coverage. If the modification
37 of the basic coverage eliminates the essential benefit of the basic coverage,
38 the director shall order the insurer to remove the modification from the
39 policy. This subsection does not allow the insurer, without the written
40 consent of the insured, to eliminate the basic coverages of the policy or to
41 reduce the monetary limits of any of the basic coverages of the policy that
42 were selected and agreed on. This subsection does not limit a policyholder
43 from continuing to renew uninsured or underinsured motorist coverage pursuant

1 to section 20-259.01. For the purposes of this subsection, "basic coverage"
2 means any of the following:

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

10 L. EACH INSURER AUTHORIZED TO TRANSACT INSURANCE SUBJECT TO THIS
11 SECTION SHALL SUBMIT INFORMATION IN A FORM, WHICH MAY INCLUDE ELECTRONIC
12 MEDIA, APPROVED BY THE DIRECTOR TO THE DEPARTMENT ON OR BEFORE MARCH 31 OF
13 EACH YEAR FOR THE PRECEDING TWO CALENDAR YEARS THAT SHALL CONTAIN THE
14 FOLLOWING INFORMATION, AND THAT MAY BE INCLUDED BY THE DIRECTOR IN THE REPORT
15 PREPARED PURSUANT TO SECTION 20-154.01:

16 1. A LIST OF THE COVERAGE LIMITS OFFERED OR AVAILABLE FOR ISSUANCE IN
17 THIS STATE FOR UNINSURED MOTORIST COVERAGE AND UNDERINSURED MOTORIST
18 COVERAGE.

19 2. FOR EACH LIMIT OF LIABILITY OR COVERAGE LIMIT FOR UNINSURED
20 MOTORIST COVERAGE AND UNDERINSURED MOTORIST COVERAGE, THE TOTAL NUMBER OF:

21 (a) POLICIES IN FORCE AND VEHICLES INSURED DURING THE PRECEDING
22 CALENDAR YEARS.

23 (b) POLICIES IN FORCE AND VEHICLES INSURED AS OF DECEMBER 31 OF EACH
24 YEAR.

25 (c) NEW POLICIES WRITTEN AND IN FORCE AND VEHICLES INSURED DURING THE
26 PRECEDING CALENDAR YEARS.

27 (d) NEW POLICIES IN FORCE AND VEHICLES INSURED AS OF DECEMBER 31 OF
28 EACH YEAR.

29 ~~L~~ M. For purposes of this section "fail to renew" or "nonrenewal"
30 does not include the issuance and delivery of a new policy within the same
31 insurer or an insurer under the same ownership or management as the original
32 insurer as provided in this subsection. An insurer may transfer one per cent
33 of its policies to an affiliated insurer within one calendar year if one or
34 more of the policyholders that are insured under the policies that are to be
35 transferred have within the past thirty-six months each had two or more
36 at-fault accidents in which the property damage paid by the insurer for each
37 accident exceeded one thousand five hundred dollars or have had five or more
38 moving violations, provided that no accidents or moving violations which
39 occurred before August 1, 1994 shall be counted in making such determination.
40 A company shall not transfer a policy if the named insured agrees in writing
41 to exclude as an insured a person or persons other than the named insured who
42 meets the criteria for transfer pursuant to this subsection and further
43 agrees to exclude coverage for any negligence which may be imputed by law to

1 the named insured arising out of the maintenance, operation or use of a motor
2 vehicle by such excluded person or persons. The one per cent limit set forth
3 in this subsection shall not apply to transfers of policies from the original
4 insurer to another insurer under the same ownership or management as the
5 original insurer if the rates charged by the other insurer are lower than the
6 rates charged by the original insurer. No insurer shall transfer
7 policyholders because of age, race, color, religion, sex, national origin or
8 ancestry. Transfers by an insurer pursuant to this subsection shall not be
9 construed to permit a new unrestricted sixty day period for cancellation or
10 nonrenewal.

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

12 20-1632. Notices to insured; refund of unearned premium

13 A. A notice by the insurer to the policyholder of nonrenewal,
14 cancellation or reduction in the limits of liability or coverage shall be
15 mailed to the named insured by certified mail or United States post office
16 certificate of mailing at least ten days prior to the effective date of such
17 nonrenewal, cancellation or reduction in limits of liability or coverage,
18 except that notice of nonrenewal under section 20-1631, subsection ~~D~~ E
19 shall be mailed at least forty-five days before the effective date of the
20 nonrenewal. Such notice shall include or be accompanied by all of the
21 following:

22 1. A statement in writing of the specific facts which constitute the
23 reasons, consistent with section 20-1631, for such action by the insurer and
24 a notice indicating the named insured's right to complain to the director of
25 the insurer's action within ten days after receipt of the notice by the
26 insured.

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

30 3. A refund of unearned premium, except a premium that has been
31 financed.

32 B. Failure of the insurer to comply with subsection A of this section
33 shall invalidate any cancellation, nonrenewal or reduction in limits of
34 liability or coverage, except a cancellation or nonrenewal for nonpayment of
35 premium.

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

38 Sec. 4. Section 20-1633, Arizona Revised Statutes, is amended to read:

39 20-1633. Objections; investigation; determination

40 A. Any individual who believes cancellation or nonrenewal of the
41 individual's policy is arbitrary, capricious or otherwise in violation of
42 this article or who believes notice of nonrenewal or cancellation, or the
43 reasons therefor, were not given as provided by this article may, within ten

1 days after receipt of notice thereof, file in writing an objection to such
2 action with the director.

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

8 C. Upon receipt of a written objection pursuant to the provisions of
9 this article, the director shall notify the insurer of receipt of such
10 objection and of the right of the insurer to file a written response thereto
11 within ten days of receipt of such notification. The director in his
12 discretion may also order an examination of the objection or complaint, the
13 submission of additional information by the insured or the insurer about the
14 action by the insurer or the objections of the insured, or such other
15 procedure as he deems appropriate or necessary. The insurer shall pay the
16 cost of the examination pursuant to section 20-159. Within fifteen days of
17 receipt of such written objection by an insured the director shall approve
18 or disapprove the insurer's action and shall notify the insured and insurer
19 in writing of his final decision. The director shall order an insurer that
20 has failed to renew a policy in violation of section 20-1631 to reinstate the
21 policy retroactive to the effective date of the nonrenewal. Either party may
22 institute proceedings for judicial review of the director's decision pursuant
23 to section 20-166. Notwithstanding any other law, if the director decides
24 in favor of the insured, the director may order that the decision not be
25 stayed pending judicial review.

26 Sec. 5. Section 28-4079, Arizona Revised Statutes, is amended to read:

27 28-4079. Motor vehicle liability policy requirements

28 A. An owner's motor vehicle liability policy shall comply with the
29 following:

30 1. The policy shall designate by explicit description or by
31 appropriate reference all motor vehicles for which coverage is granted. If
32 coverage is provided for a fleet of seven or more motor vehicles, the maximum
33 payable for any one accident is the limit of liability stated in the policy.
34 There is no accumulation of coverage for each separate vehicle covered.

35 2. The policy shall insure the person named in the policy as the
36 insured and any other person, as insured, using the motor vehicle or motor
37 vehicles with the express or implied permission of the named insured against
38 loss from the liability imposed by law for damages arising out of the
39 ownership, maintenance or use of the motor vehicle or motor vehicles within
40 the United States or the Dominion of Canada, subject to limits exclusive of
41 interest and costs, for each motor vehicle as follows:

42 (a) Fifteen thousand dollars because of bodily injury to or death of
43 one person in any one accident.

1 (b) Subject to the limit for one person, thirty thousand dollars
2 because of bodily injury to or death of two or more persons in any one
3 accident.

4 (c) Ten thousand dollars because of injury to or destruction of
5 property of others in any one accident.

6 3. By agreement in writing between a named insured and the insurer the
7 policy may exclude as insured a person or persons designated by name when
8 operating a motor vehicle. **THE WRITTEN AGREEMENT BETWEEN THE NAMED INSURED
9 AND INSURER IS EFFECTIVE FOR EACH RENEWAL OF THE POLICY BY THE INSURER AND
10 REMAINS IN EFFECT UNTIL THE INSURER AGREES IN WRITING TO PROVIDE COVERAGE FOR
11 THE PERSON OR PERSONS WHO WERE PREVIOUSLY EXCLUDED FROM COVERAGE.**

12 B. An operator's motor vehicle liability policy shall insure the
13 person named as insured in the policy against loss from the liability imposed
14 on the person by law for damages arising out of the use by the person of a
15 motor vehicle not owned by the person, within the same territorial limits and
16 subject to the same limits of liability provided in subsection A of this
17 section for an owner's motor vehicle liability policy.

18 C. A motor vehicle liability policy:

19 1. Shall state the name and address of the named insured, the coverage
20 afforded by the policy, the premium charged for the policy, the complete
21 vehicle identification number of all vehicles covered by the policy, the
22 policy period and the limits of liability.

23 2. Shall contain an agreement or be endorsed that insurance is
24 provided under the policy in accordance with the coverage defined in this
25 chapter for bodily injury and death or property damage, or both.

26 3. Is subject to all of the provisions of this chapter.

27 4. Is not required to insure liability either:

28 (a) Under any workers' compensation law.

29 (b) On account of bodily injury to or death of an employee of the
30 insured while engaged in the employment, other than domestic, of the insured
31 or while engaged in the operation, maintenance or repair of the motor
32 vehicle.

33 (c) For damage to property owned by, rented to, in charge of or
34 transported by the insured.

35 (d) For damage to property or bodily injury caused intentionally by
36 or at the direction of the insured.

37 5. Is subject to the following provisions that are not required to be
38 in the policy:

39 (a) The liability of the insurance carrier with respect to the
40 insurance required by this chapter becomes absolute when injury or damage
41 covered by the motor vehicle liability policy occurs. The policy may not be
42 cancelled or annulled as to that liability by an agreement between the
43 insurance carrier and the insured after the occurrence of the injury or

1 damage, and a statement made by the insured or someone on the insured's
2 behalf or a violation of the policy shall not defeat or void the policy.

3 (b) The satisfaction by the insured of a judgment for the injury or
4 damage is not a condition precedent to the right or duty of the insurance
5 carrier to make payment on account of the injury or damage.

6 (c) The insurance carrier may settle any claim covered by the policy,
7 and if the settlement is made in good faith, the amount of the claim is
8 deductible from the limits of liability specified in subsection A, paragraph
9 2 of this section.

10 (d) The policy, the written application for the policy, if any, and
11 any rider or endorsement that does not conflict with this chapter constitute
12 the entire contract between the parties.

13 6. May provide that the insured shall reimburse the insurance carrier
14 for any payment the insurance carrier would not have been obligated to make
15 under the terms of the policy except for this chapter.

16 7. May provide for the prorating of the insurance under the policy
17 with other valid and collectible insurance.

18 D. A policy that grants the coverage required for a motor vehicle
19 liability policy may also grant lawful coverage in excess of or in addition
20 to the coverage specified for a motor vehicle liability policy, and the
21 excess or additional coverage is not subject to this chapter. With respect
22 to a policy that grants the excess or additional coverage, the term "motor
23 vehicle liability policy" applies only to that part of the coverage that is
24 required by this section.

25 E. The requirements for a motor vehicle liability policy may be
26 fulfilled by the policies of one or more insurance carriers that together
27 meet the requirements.

28 F. A binder issued pending the issuance of a motor vehicle liability
29 policy fulfills the requirements for the policy.

30 Sec. 6. Section 28-4148, Arizona Revised Statutes, is amended to read:
31 28-4148. Notice of insurance cancellation or nonrenewal

32 A. EFFECTIVE FROM AND AFTER JANUARY 1, 1998 AND THROUGH JULY 31, 1998,
33 each insurer who cancels or becomes aware of the cancellation or nonrenewal
34 of or failure to renew or ~~of~~ issuance of a motor vehicle liability insurance
35 policy issued on a vehicle in this state shall provide to the department all
36 cancellations, nonrenewals or new issues for any reason after thirty OR FEWER
37 days have elapsed from the time of PROCESSING THE cancellation, nonrenewal
38 or new issue of a policy.

39 B. EFFECTIVE AUGUST 1, 1998, EACH INSURER WHO CANCELS OR BECOMES AWARE
40 OF THE CANCELLATION OR NONRENEWAL OF OR FAILURE TO RENEW OR ISSUANCE OF A
41 MOTOR VEHICLE LIABILITY INSURANCE POLICY ISSUED ON A VEHICLE IN THIS STATE
42 SHALL PROVIDE TO THE DEPARTMENT ALL CANCELLATIONS, NONRENEWALS OR NEW ISSUES

1 FOR ANY REASON AFTER SEVEN OR FEWER DAYS HAVE ELAPSED FROM THE TIME OF
2 PROCESSING THE CANCELLATION, NONRENEWAL OR NEW ISSUE OF A POLICY.

3 ~~B.~~ C. The insurer shall provide the information by electronic media
4 in a format pursuant to a schedule specified by and in a manner prescribed
5 by the director.

6 ~~C.~~ D. The department shall not require an insurer to specify the
7 vehicle identification number of a vehicle covered under a commercial vehicle
8 policy that provides automatic coverage for additional or newly acquired
9 vehicles until the policy's expiration date.

10 ~~D.~~ E. The department shall provide the notice of cancellation or
11 nonrenewal information to all law enforcement agencies on an on-line
12 computerized call in basis from law enforcement vehicles.

13 ~~E.~~ F. On cancellation or nonrenewal of a policy, an insurer shall
14 notify the insured that the department has been notified of the cancellation
15 or nonrenewal and that the insured's motor vehicle registration may be
16 suspended.

17 ~~F.~~ G. Information provided by an insurer to the department pursuant
18 to this section shall be made available only to law enforcement agencies for
19 law enforcement purposes.

20 Sec. 7. Conditional enactment

21 Because this act amends sections of the Arizona Revised Statutes as
22 amended by Senate Bill 1009 (title 28 rewrite; conforming legislation),
23 sections 28-4079 and 28-4148, Arizona Revised Statutes, as amended by this
24 act, are effective from and after September 30, 1997 only if Senate Bill
25 1009, forty-third legislature, first regular session, relating to
26 transportation, is enacted into law.