

Chapter 51

(Senate Bill 770)

AN ACT concerning

Insurance – Motor Vehicle Rental Companies – Limited Lines License to Sell Insurance

FOR the purpose of applying certain provisions of law relating to employees of a motor vehicle rental company that holds a certain limited lines license to authorized representatives of the motor vehicle rental company; requiring a motor vehicle rental company to hold a certain limited lines license to sell certain insurance before authorized representatives of the company may sell or offer to sell any policies of insurance to renters of motor vehicles; providing that a certain limited lines license authorizes any authorized representative of the motor vehicle rental company holding the license to act on behalf of the company with respect to certain kinds of insurance, under certain circumstances; altering the types of employees of a motor vehicle rental company who are authorized to act on behalf of the company with respect to certain kinds of insurance; providing that certain acts of an authorized representative of a motor vehicle rental company shall be deemed to be the acts of the company for certain purposes; authorizing an employee or an authorized representative of a motor vehicle rental company to be compensated for offering or selling certain insurance coverage; prohibiting the employee or authorized representative from being compensated for certain activities in a certain manner; requiring a motor vehicle rental company that holds a certain limited lines license to maintain a certain register and to make the register available for inspection by the Maryland Insurance Commissioner as the Commissioner requires; providing for the construction of certain provisions of law; altering the circumstances under which a motor vehicle rental company is authorized to offer or sell certain insurance under a limited lines license; requiring a certain employee or an authorized representative of a certain motor vehicle rental company to disclose certain information to a renter; altering the circumstances under which certain disciplinary action may be taken by the Maryland Insurance Commissioner; prohibiting an authorized representative of a motor vehicle rental company from advertising, representing, or otherwise holding itself out as a certain insurer or certain insurance producer; exempting certain compensation from the prohibition against paying, directly or indirectly, to certain persons certain consideration for selling, soliciting, or negotiating insurance; defining a certain term; making certain conforming changes; and generally relating to motor vehicle rental companies and limited lines licenses to sell insurance to renters of motor vehicles.

BY repealing and reenacting, with amendments,

Article – Insurance

Section 10–130(a), 10–601, 10–602, 10–604(a), 10–606, and 10–607

Annotated Code of Maryland

(2011 Replacement Volume and 2014 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Insurance

10–130.

(a) Except as otherwise provided in §§ 10–102, 10–119, and 10–122 of this subtitle **AND § 10–602 OF THIS TITLE**, a commission, fee, reward, rebate, or other consideration for selling, soliciting, or negotiating insurance may not be paid, directly or indirectly, to a person other than a licensed insurance producer.

10–601.

(a) In this subtitle the following words have the meanings indicated.

(B) “AUTHORIZED REPRESENTATIVE” MEANS AN INDEPENDENT CONTRACTOR OF A MOTOR VEHICLE RENTAL COMPANY.

[(b)] (C) “Motor vehicle rental company” means any person that is in the business of providing motor vehicles to the public under a rental agreement for a period of 180 days or less.

[(c)] (D) “Rental agreement” means any written agreement containing the terms and conditions that govern the use of a vehicle provided by a motor vehicle rental company under the provisions of Title 18 of the Transportation Article.

[(d)] (E) “Renter” means any person obtaining the use of a vehicle from a motor vehicle rental company under the terms of a rental agreement.

[(e)] (F) “Vehicle” means a motor vehicle:

(1) of the private passenger type, including passenger vans, minivans, and sport utility vehicles; or

(2) of the cargo type, including cargo vans, pickup trucks, and trucks that do not require the operator to possess a commercial driver’s license.

10–602.

(a) A motor vehicle rental company shall hold a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle before the company or its employees **OR AUTHORIZED REPRESENTATIVES** may sell or offer any

policies of insurance in this State to a renter in connection with, and incidental to, a rental agreement.

(b) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle shall also authorize any [salaried or hourly] employee **AND ANY AUTHORIZED REPRESENTATIVE** of the motor vehicle rental company who is trained, under § 10–604(a)(4) of this subtitle, to act on behalf of, and under the supervision of, a motor vehicle rental company, with respect to the kinds of insurance specified in § 10–604(b)(2) of this subtitle.

(c) The acts of an employee **OR AUTHORIZED REPRESENTATIVE** offering or selling insurance coverage on behalf of a motor vehicle rental company shall be deemed the acts of the motor vehicle rental company for the purposes of this subtitle.

(d) A motor vehicle rental company holding a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle is not required to treat premiums collected from a renter that purchased insurance from the motor vehicle rental company as funds received in a fiduciary capacity if:

(1) the insurer represented by the motor vehicle rental company has consented in a written agreement, signed by an officer of the insurer, that the premiums do not need to be segregated from other funds received by the motor vehicle rental company in connection with the vehicle rental; and

(2) the charges for insurance coverage are itemized but not billed to the renter separately from the charges for the vehicle rental.

(E) AN EMPLOYEE OR AN AUTHORIZED REPRESENTATIVE OF A MOTOR VEHICLE RENTAL COMPANY WHO OFFERS OR SELLS INSURANCE COVERAGE ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY:

(1) MAY BE COMPENSATED FOR OFFERING OR SELLING INSURANCE COVERAGE UNDER THIS SUBTITLE; BUT

(2) MAY NOT BE COMPENSATED ~~FOR INSURANCE RELATED~~ ~~ACTIVITIES~~ IN A MANNER THAT IS BASED SOLELY ON THE NUMBER OF CUSTOMERS WHO PURCHASE RENTAL VEHICLE INSURANCE.

(F) THIS SUBTITLE MAY NOT BE CONSTRUED TO PROHIBIT PAYMENT OF COMPENSATION TO AN EMPLOYEE OR AN AUTHORIZED REPRESENTATIVE OF A MOTOR VEHICLE RENTAL COMPANY WHO OFFERS OR SELLS INSURANCE COVERAGE ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY FOR ACTIVITIES THAT ARE INCIDENTAL TO THE EMPLOYEE'S OVERALL ACTIVITIES.

(G) A MOTOR VEHICLE RENTAL COMPANY THAT HOLDS A LIMITED LINES LICENSE TO SELL INSURANCE IN CONNECTION WITH, AND INCIDENTAL TO, THE RENTAL OF A MOTOR VEHICLE ISSUED UNDER THIS SUBTITLE SHALL:

(1) MAINTAIN A REGISTER, ON A FORM THE COMMISSIONER REQUIRES, CONTAINING:

(I) THE NAMES OF EACH EMPLOYEE OR AUTHORIZED REPRESENTATIVE WHO OFFERS LIMITED LINES INSURANCE ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY; AND

(II) THE BUSINESS ADDRESSES OF ALL LOCATIONS IN THE STATE WHERE EMPLOYEES OR AUTHORIZED REPRESENTATIVES OFFER LIMITED LINES INSURANCE ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY; AND

(2) SUBMIT THE REGISTER FOR INSPECTION BY THE COMMISSIONER AS THE COMMISSIONER REQUIRES.

10-604.

(a) A limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle authorizes the motor vehicle rental company to offer or sell, in connection with, and incidental to, a motor vehicle rental agreement in which the ~~INITIAL~~ rental period does not exceed 30 days, the insurance products specified in paragraph (b) of this section if:

(1) the policies have been filed with and approved by the Commissioner;

(2) the motor vehicle rental company holds an appointment with each authorized insurer, under § 10-118 of this title, that the motor vehicle rental company intends to represent;

(3) prior to completion of the rental transaction, **AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE OF** the motor vehicle rental company provides to the renter disclosures approved by the Commissioner that:

(i) summarize, clearly and correctly, the material terms of coverage, including limitations or exclusions;

(ii) identify the authorized insurer or insurers;

(iii) specify that the policies offered by the motor vehicle rental company may provide a duplication of coverage already provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy, or other source of coverage;

(iv) specify that the purchase of the coverages offered by the motor vehicle rental company is not required in order for the renter to rent a vehicle;

(v) describe the process by which the renter can file a claim; and

(vi) specify that any excess liability coverage purchased by the renter may duplicate coverage required to be provided under § 18–102(a)(2) of the Transportation Article; ~~and~~

(4) the motor vehicle rental company provides a training program, approved by the Commissioner, for any employee **OR AUTHORIZED REPRESENTATIVE** who sells, solicits, or negotiates insurance coverage under this subtitle that includes:

(i) instruction about the kinds of insurance specified in subsection (b) of this section that can be offered to renters;

(ii) instruction that the trainee shall inform a renter that the purchase of any insurance from the motor vehicle rental company is not required in order for the renter to rent a vehicle; and

(iii) instruction that the trainee shall inform a renter that the renter may have insurance policies that already provide the coverage being offered by the motor vehicle rental company; **AND**

(5) AN EMPLOYEE OR AUTHORIZED REPRESENTATIVE WHO OFFERS OR SELLS INSURANCE COVERAGE ON BEHALF OF THE MOTOR VEHICLE RENTAL COMPANY INFORMS A RENTER THAT THE POLICIES OFFERED BY THE MOTOR VEHICLE RENTAL COMPANY MAY DUPLICATE COVERAGE ALREADY PROVIDED BY THE RENTER'S PERSONAL AUTOMOBILE INSURANCE POLICY, HOMEOWNER'S INSURANCE POLICY, PERSONAL LIABILITY INSURANCE POLICY, OR OTHER SOURCE OF COVERAGE.

10–606.

(a) The Commissioner may suspend, revoke, or refuse to renew a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle issued under this subtitle after notice and opportunity for a hearing under Title 2, Subtitle 2 of this article if the motor vehicle rental company or an employee **OR AUTHORIZED REPRESENTATIVE** of the motor vehicle rental company has:

(1) willfully violated this article or another law of the State that relates to insurance;

(2) operated without a limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle as required under this subtitle;

- (3) failed to provide required disclosures;
- (4) offered or sold unapproved insurance products;
- (5) failed to hold an appointment with the insurer;

(6) failed to train employees **AND AUTHORIZED REPRESENTATIVES** selling or soliciting, or negotiating the sale of, insurance products on behalf of the motor vehicle rental company; or

(7) misrepresented pertinent facts or policy provisions that relate to the coverage offered or sold pursuant to this subtitle.

(b) A motor vehicle rental company and its employees **AND AUTHORIZED REPRESENTATIVES** may not advertise, represent, or otherwise hold itself out as an authorized insurer, or as an insurance producer, for any kind or subdivision of insurance.

(c) Instead of, or in addition to, suspending or revoking the limited lines license to sell insurance in connection with, and incidental to, the rental of a motor vehicle, the Commissioner may:

(1) impose on the motor vehicle rental company a penalty of not less than \$100 but not more than \$2,500 for each violation of this subtitle; and

(2) require that restitution be made to any person who has suffered financial injury because of the violation of this article.

10-607.

The Commissioner may adopt regulations to carry out the provisions of this subtitle, including regulations concerning the form and content of required disclosures to renters, the training requirements for employees **AND AUTHORIZED REPRESENTATIVES** of motor vehicle rental companies, and the qualifications of the individuals who provide [employee] training **FOR EMPLOYEES AND AUTHORIZED REPRESENTATIVES OF MOTOR VEHICLE RENTAL COMPANIES**.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015.

Approved by the Governor, April 14, 2015.