

ORIGINAL HOUSE
BILL NO. 0193

ENROLLED ACT NO. 31, HOUSE OF REPRESENTATIVES

FIFTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2003 GENERAL SESSION

AN ACT relating to insurance; authorizing the department of insurance to regulate the issuance of rental car insurance, as specified; providing for fees; providing a compliance date; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 26-50-101 through 26-50-109 are created to read:

CHAPTER 50
RENTAL CAR INSURANCE

26-50-101. Short title.

This chapter shall be known as the "Rental Car Insurance Limited Producer License Act".

26-50-102. Definitions.

(a) As used in this chapter:

(i) "Endorsee" means an employee or representative of a rental car agent who meets the requirements of this chapter;

(ii) "Rental agreement" means any written master, corporate, group or individual agreement setting forth the terms and conditions governing the use of a rental car rented or leased by a rental car company;

(iii) "Rental car" means any motor vehicle that is intended to be rented or leased for a period of ninety (90) consecutive days or less by a driver who is not required to possess a commercial driver's license to

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operate the motor vehicle and the motor vehicle is either of the following:

(A) A private passenger motor vehicle, including a passenger van, minivan or sport utility vehicle; or

(B) A cargo vehicle, including a cargo van, pickup truck or truck with a gross vehicle weight of less than twenty-six thousand (26,000) pounds.

(iv) "Rental car agent" means any rental car company that is licensed to offer, sell or solicit rental car insurance pursuant to this chapter;

(v) "Rental car company" means any person in the business of renting rental cars to the public, including a franchisee;

(vi) "Rental car insurance" means insurance offered, sold or solicited in connection with and incidental to the rental of rental cars, whether at the rental office or by preselection of coverage in master, corporate, group or individual agreements that is nontransferable, applies only to the rental car that is the subject of the rental agreement and is limited to the following kinds of insurance and shall not include the rental car company's agreement to waive its right of indemnity against a renter for damages to the rental vehicle:

(A) Personal accident insurance for renters and other rental car occupants, for accidental death or dismemberment, and for medical expenses resulting from an accident that occurs with the rental car during the rental period;

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(B) Liability insurance, which at the exclusive option of the rental car company, may include uninsured or underinsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides protection to the renters and to other authorized drivers of a rental car for liability arising from the operation of the rental car during the rental period;

(C) Personal effects insurance that provides coverage to renters and other vehicle occupants for loss of or damage to, personal effects in the rental car during the rental period;

(D) Roadside assistance and emergency sickness protection insurance; and

(E) Any other insurance product sold incidental to the rental transaction.

(vii) "Renter" means any person who executes a rental agreement to obtain the use of a vehicle from a rental car company.

26-50-103. License required to issue insurance.

(a) No rental car company and no officer, director, employee or agent of a rental car company, shall offer, sell or solicit the purchase of rental car insurance unless that person is licensed as an insurance producer pursuant to chapter nine (9) of this code or has complied with the requirements of this chapter.

(b) The commissioner shall issue to a rental car company that has complied with the requirements of this

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chapter, a license that authorizes the rental car company to act as a rental car agent in connection with and incidental to rental agreements, on behalf of any insurer authorized to write such insurance in this state.

26-50-104. Licensing rental car companies as rental car agents.

(a) To be licensed as a rental car agent, a rental car company shall submit:

(i) A written application for licensure accompanied by a fifty dollar (\$50.00) fee signed by the applicant or by an officer of the applicant, in the form prescribed by the commissioner, including a list of all locations at which the rental car company intends to offer, sell or solicit rental car insurance. The initial application shall be submitted by July 1, 2003. Thereafter each licensee shall pay to the commissioner by March 31 an annual renewal fee of fifty dollars (\$50.00) to maintain the license in good standing;

(ii) A certificate subscribed by an officer or managing agent of the insurer to be named in the license, on a form prescribed by the commissioner stating:

(A) That the insurer is satisfied the applicant is trustworthy and competent to act as a rental car agent;

(B) That the insurer has reviewed the endorsee training and education program required by W.S. 26-50-105(e) and it satisfies the statutory requirements; and

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(C) That the insurer will appoint the applicant to act as its rental car agent to offer, sell or solicit rental car insurance if the license is issued by the commissioner.

26-50-105. Rental car agent endorsees.

(a) An employee or representative of a rental car agent may be an endorsee authorized to offer, sell or solicit rental car insurance under the authority of the rental car agent license if all of the following conditions have been satisfied:

(i) The employee or representative is eighteen (18) years of age or older;

(ii) The employee or representative has not committed any act set forth in W.S. 26-9-211;

(iii) The employee or representative has completed a training program;

(iv) The rental car company submits to the commissioner with its initial rental car agent license application and annually thereafter a certification, subscribed by an officer of the rental car company on a form prescribed by the commissioner, stating:

(A) That no person other than an endorsee offers, sells or solicits rental car insurance on its behalf or while working as an employee or representative of the rental car agent; and

(B) That all endorsees have completed the training program required by this chapter.

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(b) An endorsee may only act on behalf of the rental car agent in the offer, sale or solicitation of rental car insurance. A rental car agent is responsible for and shall supervise all actions of its endorsees related to the offering, sale or solicitation of rental car insurance. The conduct of an endorsee acting within the scope of his or her employment shall be deemed the conduct of the rental car agent for purposes of this chapter.

(c) The manager at each location of a rental car agent, or the direct supervisor of the rental car agent's endorsees at each location, shall be an endorsee of that rental car agent and shall be responsible for the supervision of each additional endorsee at that location. Each rental car agent shall identify the endorsee who is the manager or direct supervisor at each location in the certification required under W.S. 26-50-105(a)(iv).

(d) Each manager or direct supervisor identified in subsection (c) of this section shall initially by July 1, 2003 and thereafter annually by March 31 submit an application to the commissioner for a limited insurance representative license on forms approved by the commissioner, and shall pay a ten dollar (\$10.00) annual fee. No examination shall be required to obtain this license. Licensees under this subsection shall be subject to the application requirements established by the commissioner, the provisions of W.S. 26-9-211 and chapter thirteen (13) of this code, but shall not be subject to other provisions of this code.

(e) Each rental car agent shall provide a training program for each endorsee prior to allowing an endorsee to offer, sell or solicit rental car insurance which shall be submitted to the commissioner for approval prior to use. The training shall take place at a location affiliated with

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the rental car agent that is convenient for the endorsee, which may also include electronic or video training. The training shall meet the following minimum standards:

(i) Each endorsee shall receive instruction about the kinds of insurance specified in this chapter that are offered for sale to prospective renters;

(ii) Each endorsee shall receive training about the requirements and limitations imposed on car rental agents and endorsees by this chapter, including specific instruction that the endorsee is prohibited from making any statement or engaging in any conduct, express or implied, that would lead a consumer to believe:

(A) That the purchase of rental car insurance is required in order for the renter to rent a motor vehicle;

(B) That the renter does not have insurance policies in place that already provide the coverage being offered by the rental car company; and

(C) That the endorsee is qualified to evaluate the adequacy of the renter's existing insurance coverage.

(f) The training and education program submitted to the commissioner shall be deemed approved if no action is taken within thirty (30) days of its receipt by the department.

(g) An endorsee's authorization to offer, sell or solicit rental car insurance shall expire when the endorsee's employment with the rental car company is terminated.

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(h) The rental car agent shall retain for a period of six (6) months from the date of each transaction, a record that enables it to identify the name of the endorsee involved in each rental transaction where a renter purchases rental car insurance.

26-50-106. Rental car agent restrictions.

(a) No insurance may be offered, sold or solicited pursuant to this chapter unless:

(i) The rental period of the rental car agreement is ninety (90) consecutive days or less;

(ii) At every location where rental agreements are executed, the rental car agent or endorsee prominently displays and makes readily available brochures or other written material to each renter who purchases rental car insurance that clearly and conspicuously and in plain language:

(A) Summarizes the material terms, exclusions, limitations and conditions of coverage offered to renters, including the identity of the insurer;

(B) Describes the process for filing a claim in the event the renter elects to purchase coverage, including a toll-free telephone number to report a claim;

(C) Provides the rental car agent's name, address, telephone number and license number;

(D) Informs the consumer that the rental car insurance may provide a duplication of coverage already

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provided by a renter's personal automobile insurance policy, or by another source of coverage;

(E) Informs the consumer that the purchase of the rental car insurance is not required in order to rent a rental car from the rental car agent; and

(F) Informs the consumer that neither the rental car agent nor the rental car agent's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverage.

(b) Evidence of the rental car insurance coverage shall be stated in the rental agreement.

(c) All costs for the rental car insurance shall be separately itemized in the rental agreement unless preselection of coverage is made in a master, corporate or group agreement.

(d) For transactions conducted by electronic means, the rental car agent shall comply with the requirements of this section and certify electronically the disclosures required pursuant to subparagraphs (a)(ii)(D), (E) and (F) of this section.

26-50-107. Rental car agent prohibitions.

(a) A rental car agent shall not:

(i) Offer, sell or solicit the purchase of insurance except in conjunction with or incidental to rental car agreements;

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(ii) Advertise, represent or otherwise portray itself or any of its employees or agents as licensed insurers or insurance producers;

(iii) Pay any person, including a rental car agent endorsee, any compensation, fee or commission that is dependent solely on the placement of insurance under the license issued pursuant to this chapter. Production payments or incentive payments to a person that are not dependent solely upon the sale of rental car insurance are permissible;

(iv) Make any statement or engage in any conduct, express or implied, that would lead a customer to believe:

(A) That the insurance policies offered by the rental car agent do not provide a duplication of coverage already provided by a renter's personal automobile insurance policy or by another source of coverage;

(B) That the purchase by the renter of rental car insurance is required in order to rent a rental car from the rental car agent; and

(C) That the rental car agent or the rental car agent's endorsees are qualified to evaluate the adequacy of the renter's existing insurance coverage.

26-50-108. Enforcement.

(a) In the event any provision of this chapter is violated by a rental car agent, the commissioner may:

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(i) Revoke or suspend the license issued under this chapter in accordance with W.S. 26-2-125 through 26-2-129;

(ii) After notice and opportunity for hearing impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations have occurred and imposing fines on the manager or supervisor at each location responsible for the supervision and conduct of each endorsee, as the commissioner deems necessary or convenient pursuant to W.S. 26-1-107(b) and (c).

(b) If any person sells insurance in connection with or incidental to rental car agreements or holds himself or a company out as a rental car agent without satisfying the requirements of this chapter, the commissioner shall be authorized to issue a cease and desist order pursuant to W.S. 26-2-130.

26-50-109. Trust accounts.

(a) A rental car agent shall not be required to treat monies collected from renters purchasing rental car insurance as funds received in a fiduciary capacity, provided that:

(i) The charges for rental car insurance coverage are itemized and ancillary to a rental transaction; and

(ii) The insurer has consented in writing, signed by an officer of the insurer, that premiums need not be segregated from funds received by the rental car agent.

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Section 2. This act is effective immediately upon the completion of all acts required for a bill to become a law as provided by Article 4, Section 8 of the Wyoming Constitution.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____
DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk