

LEGISLATIVE BILL 424

Approved by the Governor March 30, 1999

Introduced by Lynch, 13

AN ACT relating to insurance; to amend section 44-4001, Reissue Revised Statutes of Nebraska; to authorize limited licenses for sale of insurance related to rental vehicles; to harmonize provisions; to repeal the original section; and to declare an emergency.
Be it enacted by the people of the State of Nebraska,

Section 1. (1) The director may issue to a rental car company that has complied with this section a limited license authorizing the limited licensee to act as agent with reference to the kinds of insurance specified in this section for any insurer authorized to write such kinds of insurance in this state.

(2) For purposes of this section:

(a) Limited licensee means a rental car company authorized to sell certain kinds of insurance relating to the rental of rental vehicles pursuant to this section;

(b) Rental agreement means any written agreement setting forth the terms and conditions governing the use of a rental vehicle;

(c) Rental car company means any person in the business of providing leased or rented rental vehicles to the public. Rental car company includes a franchise of a rental car company;

(d) Rental vehicle means a motor vehicle of the private passenger type, including passenger vans and minivans and trucks up to twenty-six thousand pounds gross vehicle weight; and

(e) Renter means any person obtaining the use of a rental vehicle from a rental car company under the terms of a rental agreement.

(3) An applicant for a limited license shall file with the director:

(a) A written application for a limited license, signed by an officer of the applicant, containing such information as the director prescribes;

(b) A list of all rental locations at which the applicant conducts business in this state;

(c) A list of all employees of the applicant who may act on behalf and under the supervision of the applicant pursuant to this section;

(d) A training program which meets the requirements of subsection (10) of this section;

(e) A copy of the contract entered into between the insurer and the applicant; and

(f) A certificate by the insurer that is to be named in such limited license, stating that the insurer will appoint such applicant to act as the agent in reference to the doing of such kind or kinds of insurance specified in this section if the limited license applied for is issued by the director. Such certificate shall be signed by an officer or managing agent of such insurer.

(4) Before a limited license is issued or renewed, the limited licensee shall pay or cause to be paid to the director an application fee not to exceed one hundred dollars as established by the director or a renewal fee not to exceed one hundred dollars as established by the director per year due on the anniversary date of the issuance of the limited license.

(5) A limited licensee shall provide to the director an updated list of all rental locations and of all employees of the limited licensee who may act on behalf and under the supervision of the limited licensee. Such list shall be provided to the director quarterly.

(6)(a) If any provision of this section or if one or more of the grounds provided under subdivisions (1) through (17) of section 44-4028 is violated by a limited licensee, the director may, after notice and hearing:

(i) Revoke or suspend a limited license issued under this section;

(ii) Impose such other penalties, including suspending the transaction of insurance at specific rental locations where violations have occurred, as the director deems to be necessary or convenient to carry out the purposes of this section; and

(iii) Order payment of an administrative fine of not more than one thousand dollars per violation.

(b) An order issued pursuant to this subsection may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

(7) A limited licensee may act as agent for an authorized insurer

only in connection with rental vehicles and only with respect to the following kinds of insurance:

(a) Motor vehicle liability insurance, including uninsured and underinsured motorist coverage, that provides coverage to renters and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle;

(b) Accident and health insurance that provides coverage to renters and other rental vehicle occupants for accidental death or dismemberment and for medical expenses resulting from an accident involving the rental vehicle that occurs during the rental period; and

(c) Personal property insurance that provides coverage to renters and other rental vehicle occupants for the loss of or damage to personal property that occurs during the rental period.

(8) No insurance may be issued pursuant to this section unless:

(a) The rental period of the rental agreement does not exceed forty-five consecutive days;

(b) The limited licensee provides brochures or other written materials to the renter that:

(i) Summarize the material terms of the insurance offered by the limited licensee to renters, including the identity of the insurer;

(ii) Describe the process for filing a claim; and

(iii) Contain information on the price, benefits, exclusions, conditions, or other limitations of such insurance as the director may by rule and regulation prescribe;

(c) The limited licensee makes the following disclosures to the renter:

(i) That the insurance offered by the limited licensee to renters may provide a duplication of coverage already provided by a renter's personal automobile insurance policy or by another source of coverage;

(ii) That if purchased, the insurance offered by the limited licensee to renters is primary over any other coverages applicable to the renter; and

(iii) That the purchase by the renter of any kind of insurance specified in this section is not required in order for the renter to rent a rental vehicle;

(d) Evidence of coverage is stated in the rental agreement; and

(e) Costs for insurance are separately itemized in the rental agreement.

(9) Any limited license issued under this section shall also authorize any employee of the limited licensee who is trained pursuant to subsection (10) of this section to act individually on behalf and under the supervision of the limited licensee with respect to the kinds of insurance specified in this section.

(10) Each limited licensee shall conduct a training program which shall meet the following minimum standards:

(a) Each trainee shall receive basic instruction about the kinds of insurance specified in this section offered for purchase by prospective renters of rental vehicles;

(b) Each trainee shall be instructed to acknowledge to a prospective renter of a rental vehicle that the purchase by the renter of any kind of insurance specified in this section is not required in order for the renter to rent a rental vehicle; and

(c) Each trainee shall be instructed to acknowledge to a prospective renter of a rental vehicle that the renter may have insurance policies that already provide the coverage being offered by the limited licensee pursuant to this section.

(11) All records pertaining to transactions under any limited license shall be kept available and open to the inspection of the director or his or her representatives at any time with notice and during business hours. Records shall be maintained for three years following the completion of transactions under a limited license.

(12) Notwithstanding any other provision of this section or rule or regulation adopted and promulgated by the director, a limited licensee shall not be required to treat money collected from renters purchasing insurance when renting rental vehicles as funds received in a fiduciary capacity, except that the charges for coverage shall be itemized and be ancillary to a rental transaction.

(13) No limited licensee subject to this section shall:

(a) Offer or sell any kind of insurance specified in this section except in conjunction with and incidental to a rental agreement;

(b) Advertise, represent, or otherwise hold itself or any of its employees out as authorized insurers, licensed insurance agents, or insurance

brokers;

(c) Pay any additional compensation, fee, or commission dependent on the placement of insurance under the limited license issued pursuant to this section; or

(d) Require the purchase of any kind of insurance specified in this section as a condition of rental of a rental vehicle.

(14) The director may adopt and promulgate rules and regulations to carry out this section.

Sec. 2. Section 44-4001, Reissue Revised Statutes of Nebraska, is amended to read:

44-4001. Sections 44-4001 to 44-4045 and section 1 of this act shall be known and may be cited as the Insurance Producers Licensing Act.

Sec. 3. Original section 44-4001, Reissue Revised Statutes of Nebraska, is repealed.

Sec. 4. Since an emergency exists, this act takes effect when passed and approved according to law.