

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6481

57th Legislature
2002 Regular Session

Passed by the Senate March 11, 2002
YEAS 47 NAYS 0

President of the Senate

Passed by the House March 5, 2002
YEAS 96 NAYS 1

**Speaker of the
House of Representatives**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6481** as passed by the Senate and the House of Representatives on the dates hereon set forth.

Secretary

Approved

FILED

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 6481

AS AMENDED BY THE HOUSE

Passed Legislature - 2002 Regular Session

State of Washington 57th Legislature 2002 Regular Session

By Senate Committee on Labor, Commerce & Financial Institutions
(originally sponsored by Senators Prentice and Winsley)

READ FIRST TIME 02/08/2002.

1 AN ACT Relating to regulating insurance for rental vehicles; adding
2 a new chapter to Title 48 RCW; creating a new section; and prescribing
3 penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** SHORT TITLE. This chapter may be known and
6 cited as the rental car insurance limited agent license act.

7 NEW SECTION. **Sec. 2.** DEFINITIONS. The definitions in this
8 section apply throughout this chapter unless the context clearly
9 requires otherwise.

10 (1) "Endorsee" means an unlicensed employee or agent of a rental
11 car agent who meets the requirements of this chapter.

12 (2) "Person" means an individual or a business entity.

13 (3) "Rental agreement" means any written master, corporate, group,
14 or individual agreement setting forth the terms and conditions
15 governing the use of a rental car rented or leased by a rental car
16 company.

17 (4) "Rental car" means any motor vehicle that is intended to be
18 rented or leased for a period of thirty consecutive days or less by a

1 driver who is not required to possess a commercial driver's license to
2 operate the motor vehicle and the motor vehicle is either of the
3 following:

4 (a) A private passenger motor vehicle, including a passenger van,
5 recreational vehicle, minivan, or sports utility vehicle; or

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

8 (5) "Rental car agent" means any rental car company that is
9 licensed to offer, sell, or solicit rental car insurance under this
10 chapter.

11 (6) "Rental car company" means any person in the business of
12 renting rental cars to the public, including a franchisee.

13 (7) "Rental car insurance" means insurance offered, sold, or
14 solicited in connection with and incidental to the rental of rental
15 cars, whether at the rental office or by preselection of coverage in
16 master, corporate, group, or individual agreements that: (a) Is
17 nontransferable; (b) applies only to the rental car that is the subject
18 of the rental agreement; and (c) is limited to the following kinds of
19 insurance:

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

24 (ii) Liability insurance, including uninsured or underinsured
25 motorist coverage, whether offered separately or in combination with
26 other liability insurance, that provides protection to the renters and
27 to other authorized drivers of a rental car for liability arising from
28 the operation of the rental car during the rental period;

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

32 (iv) Roadside assistance and emergency sickness protection
33 insurance.

34 (8) "Renter" means any person who obtains the use of a vehicle from
35 a rental car company under the terms of a rental agreement.

36 NEW SECTION. **Sec. 3.** GENERAL RULES. (1) A rental car company, or
37 officer, director, employee, or agent of a rental car company, may not
38 offer, sell, or solicit the purchase of rental car insurance unless

1 that person is licensed under chapter 48.17 RCW or is in compliance
2 with this chapter.

3 (2) The commissioner may issue a license to a rental car company
4 that is in compliance with this chapter authorizing the rental car
5 company to act as a rental car agent under this chapter, in connection
6 with and incidental to rental agreements, on behalf of any insurer
7 authorized to write rental car insurance in this state.

8 NEW SECTION. **Sec. 4.** LICENSING RENTAL CAR COMPANIES AS RENTAL CAR
9 AGENTS. A rental car company may apply to be licensed as a rental car
10 agent under, and if in compliance with, this chapter by filing the
11 following documents with the commissioner:

12 (1) A written application for licensure, signed by the applicant or
13 by an officer of the applicant, in the form prescribed by the
14 commissioner that includes a listing of all locations at which the
15 rental car company intends to offer, sell, or solicit rental car
16 insurance; and

17 (2)(a) A certificate by the insurer that is to be named in the
18 rental car agent license, stating that: (i) The insurer has satisfied
19 itself that the named applicant is trustworthy and competent to act as
20 its rental car agent, limited to this purpose; (ii) the insurer has
21 reviewed the endorsee training and education program required by
22 section 5(4) of this act and believes that it satisfies the statutory
23 requirements; and (iii) the insurer will appoint the applicant to act
24 as its rental car agent to offer, sell, or solicit rental car
25 insurance, if the license for which the applicant is applying is issued
26 by the commissioner.

27 (b) The certification shall be subscribed by an authorized
28 representative of the insurer on a form prescribed by the commissioner.

29 NEW SECTION. **Sec. 5.** RENTAL CAR AGENT ENDORSEES. (1) An employee
30 or agent of a rental car agent may be an endorsee authorized to offer,
31 sell, or solicit rental car insurance under the authority of the rental
32 car agent license, if all of the following conditions have been
33 satisfied:

34 (a) The employee or agent is eighteen years of age or older;

35 (b) The employee or agent is a trustworthy person and has not
36 committed any act set forth in RCW 48.17.530;

1 (c) The employee or agent has completed a training and education
2 program;

3 (d) The rental car company, at the time it submits its rental car
4 agent license application, also submits a list of the names of all
5 endorsees to its rental car agent license on forms prescribed by the
6 commissioner. The list shall be updated and submitted to the
7 commissioner quarterly on a calendar year basis. Each list shall be
8 retained by the rental car company for a period of three years from
9 submission; and

10 (e) The rental car company or its agent submits to the commissioner
11 with its initial rental car agent license application, and annually
12 thereafter, a certification subscribed by an officer of the rental car
13 company on a form prescribed by the commissioner, stating all of the
14 following:

15 (i) No person other than an endorsee offers, sells, or solicits
16 rental car insurance on its behalf or while working as an employee or
17 agent of the rental car agent; and

18 (ii) All endorsees have completed the training and education
19 program under subsection (4) of this section.

20 (2) A rental car agent's endorsee may only act on behalf of the
21 rental car agent in the offer, sale, or solicitation of a rental car
22 insurance. A rental car agent is responsible for, and must supervise,
23 all actions of its endorsees related to the offering, sale, or
24 solicitation of rental car insurance. The conduct of an endorsee
25 acting within the scope of his or her employment or agency is the same
26 as the conduct of the rental car agent for purposes of this chapter.

27 (3) The manager at each location of a rental car agent, or the
28 direct supervisor of the rental car agent's endorsees at each location,
29 must be an endorsee of that rental car agent and is responsible for the
30 supervision of each additional endorsee at that location. Each rental
31 car agent shall identify the endorsee who is the manager or direct
32 supervisor at each location in the endorsee list that it submits under
33 subsection (1)(d) of this section.

34 (4) Each rental car agent shall provide a training and education
35 program for each endorsee prior to allowing an endorsee to offer, sell,
36 or solicit rental car insurance. Details of the program must be
37 submitted to the commissioner, along with the license application, for
38 approval prior to use, and resubmitted for approval of any changes

1 prior to use. This training program shall meet the following minimum
2 standards:

3 (a) Each endorsee shall receive instruction about the kinds of
4 insurance authorized under this chapter that may be offered for sale to
5 prospective renters; and

6 (b) Each endorsee shall receive training about the requirements and
7 limitations imposed on car rental agents and endorsees under this
8 chapter. The training must include specific instruction that the
9 endorsee is prohibited by law from making any statement or engaging in
10 any conduct express or implied, that would lead a consumer to believe
11 that the:

12 (i) Purchase of rental car insurance is required in order for the
13 renter to rent a motor vehicle;

14 (ii) Renter does not have insurance policies in place that already
15 provide the coverage being offered by the rental car company under this
16 chapter; or

17 (iii) Endorsee is qualified to evaluate the adequacy of the
18 renter's existing insurance coverages.

19 (5) The training and education program submitted to the
20 commissioner is approved if no action is taken within thirty days of
21 its submission.

22 (6) An endorsee's authorization to offer, sell, or solicit rental
23 car insurance expires when the endorsee's employment with the rental
24 car company is terminated.

25 (7) The rental car agent shall retain for a period of one year from
26 the date of each transaction records which enable it to identify the
27 name of the endorsee involved in each rental transaction when a renter
28 purchases rental car insurance.

29 NEW SECTION. **Sec. 6.** RENTAL CAR AGENT RESTRICTIONS. Insurance
30 may not be offered, sold, or solicited under this section, unless:

31 (1) The rental period of the rental car agreement is thirty
32 consecutive days or less;

33 (2) At every location where rental agreements are executed, the
34 rental car agent or endorsee provides brochures or other written
35 materials to each renter who purchases rental car insurance that
36 clearly, conspicuously, and in plain language:

1 (a) Summarize, clearly and correctly, the material terms,
2 exclusions, limitations, and conditions of coverage offered to renters,
3 including the identity of the insurer;

4 (b) Describe the process for filing a claim in the event the renter
5 elects to purchase coverage, including a toll-free telephone number to
6 report a claim;

7 (c) Provide the rental car agent's name, address, telephone number,
8 and license number, as well as the commissioner's consumer hotline
9 number;

10 (d) Inform the consumer that the rental car insurance offered,
11 sold, or solicited by the rental car agent may provide a duplication of
12 coverage already provided by a renter's personal automobile insurance
13 policy, homeowners' insurance policy, or by another source of coverage;

14 (e) Inform the consumer that the purchase by the renter of the
15 rental car insurance is not required in order to rent a rental car from
16 the rental car agent; and

17 (f) Inform the consumer that the rental car agent and the rental
18 car agent's endorsees are not qualified to evaluate the adequacy of the
19 renter's existing insurance coverages;

20 (3) The purchaser of rental car insurance acknowledges in writing
21 the receipt of the brochures or written materials required by
22 subsection (2) of this section;

23 (4) Evidence of the rental car insurance coverage is stated on the
24 face of the rental agreement;

25 (5) All costs for the rental car insurance are separately itemized
26 in the rental agreement;

27 (6) When the rental car insurance is not the primary source of
28 coverage, the consumer is informed in writing in the form required by
29 subsection (2) of this section that their personal insurance will serve
30 as the primary source of coverage; and

31 (7) For transactions conducted by electronic means, the rental car
32 agent must comply with the requirements of this section, and the renter
33 must acknowledge in writing or by electronic signature the receipt of
34 the following disclosures:

35 (a) The insurance policies offered by the rental car agent may
36 provide a duplication of coverage already provided by a renter's
37 personal automobile insurance policy, homeowners' insurance policy, or
38 by another source of coverage;

1 (b) The purchase by the renter of rental car insurance is not
2 required in order to rent a rental car from the rental car agent; and

3 (c) The rental car agent and the rental car agent's endorsees are
4 not qualified to evaluate the adequacy of the renter's existing
5 insurance coverages.

6 NEW SECTION. **Sec. 7.** RENTAL CAR AGENT PROHIBITIONS. A rental car
7 agent may not:

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

10 (2) Advertise, represent, or otherwise portray itself or any of its
11 employees or agents as licensed insurers, insurance agents, or
12 insurance brokers;

13 (3) Pay any person, including a rental car agent endorsee, any
14 compensation, fee, or commission that is dependent primarily on the
15 placement of insurance under the license issued under this chapter;

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

18 (a) Insurance policies offered by the rental car agent do not
19 provide a duplication of coverage already provided by a renter's
20 personal automobile insurance policy, homeowners' insurance policy, or
21 by another source of coverage;

22 (b) Purchase by the renter of rental car insurance is required in
23 order to rent a rental car from the rental car agent; and

24 (c) Rental car agent or the rental car agent's endorsees are
25 qualified to evaluate the adequacy of the renter's existing insurance
26 coverages.

27 NEW SECTION. **Sec. 8.** ENFORCEMENT. (1) Every rental car agent
28 licensed under this chapter shall promptly reply in writing to an
29 inquiry of the commissioner relative to the business of car rental
30 insurance.

31 (2)(a) In the event of a violation of this chapter by a rental car
32 agent, the commissioner may revoke, suspend, or refuse to issue or
33 renew any rental car agent's license that is issued or may be issued
34 under this chapter for any cause specified in any other provision of
35 this title, or for any of the following causes:

36 (i) For any cause that the issuance of this license could have been
37 refused had it then existed and been known to the commissioner;

1 (ii) If the licensee or applicant willfully violates or knowingly
2 participates in a violation of this title or any proper order or rule
3 of the commissioner;

4 (iii) If the licensee or applicant has obtained or attempted to
5 obtain a license through willful misrepresentation or fraud;

6 (iv) If the licensee or applicant has misappropriated or converted
7 funds that belong to, or should be paid to, another person as a result
8 of, or in connection with, a car rental or insurance transaction;

9 (v) If the licensee or applicant has, with intent to deceive,
10 materially misrepresented the terms or effects of any insurance
11 contract, or has engaged, or is about to engage, in any fraudulent
12 transaction;

13 (vi) If the licensee or applicant or officer of the licensee or
14 applicant has been convicted by final judgment of a felony;

15 (vii) If the licensee or applicant is shown to be, and is
16 determined by the commissioner, incompetent or untrustworthy, or a
17 source of injury and loss to the public; and

18 (viii) If the licensee has dealt with, or attempted to deal with,
19 insurances, or has exercised powers relative to insurance outside the
20 scope of the car rental agent license or other insurance licenses.

21 (b) If any natural person named under a firm or corporate car
22 rental agent license, or application therefore, commits or has
23 committed any act, or fails or has failed to perform any duty, that
24 constitutes grounds for the commissioner to revoke, suspend, or refuse
25 to issue or renew the license or application for license, the
26 commissioner may revoke, suspend, refuse to renew, or refuse to issue
27 the license or application for a license of the corporation or firm.

28 (c) Any conduct of an applicant or licensee that constitutes
29 grounds for disciplinary action under this title may be addressed under
30 this section regardless of where the conduct took place.

31 (d) The holder of any license that has been revoked or suspended
32 shall surrender the license to the commissioner at the commissioner's
33 request.

34 (e) After notice and hearing the commissioner may impose other
35 penalties, including suspending the transaction of insurance at
36 specific rental locations where violations of this section have
37 occurred and imposing fines on the manager or supervisor at each
38 location responsible for the supervision and conduct of each endorsee,

1 as the commissioner determines necessary or convenient to carry out the
2 purpose of this chapter.

3 (3) The commissioner may suspend, revoke, or refuse to renew any
4 car rental agent license by an order served by mail or personal service
5 upon the licensee not less than fifteen days prior to its effective
6 date. The order is subject to the right of the licensee to a hearing
7 under chapter 48.04 RCW.

8 (4) The commissioner may temporarily suspend a license by an order
9 served by mail or personal service upon the licensee not less than
10 three days prior to its effective date. However, the order must
11 contain a notice of revocation and include a finding that the public
12 safety or welfare imperatively requires emergency action. These
13 suspensions may continue only until proceedings for revocation are
14 concluded. The commissioner may also temporarily suspend a license in
15 cases when proceedings for revocation are pending if it is found that
16 the public safety or welfare imperatively requires emergency action.

17 (5) Service by mail under this section means posting in the United
18 States mail, addressed to the licensee at the most recent address shown
19 in the commissioner's licensing records for the licensee. Service by
20 mail is complete upon deposit in the United States mail.

21 (6) If any person sells insurance in connection with or incidental
22 to rental car agreements, or holds himself or herself or a company out
23 as a rental car agent, without satisfying the requirements of this
24 chapter, the commissioner is authorized to issue a cease and desist
25 order.

26 NEW SECTION. **Sec. 9.** TRUST ACCOUNT. A rental car agent is not
27 required to treat moneys collected from renters purchasing rental car
28 insurance as funds received in a fiduciary capacity, if:

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

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

34 NEW SECTION. **Sec. 10.** RULE MAKING. The commissioner may adopt
35 rules necessary to implement this chapter, including rules establishing
36 licensing fees to defray the cost of administering this chapter.

1 NEW SECTION. **Sec. 11.** The commissioner shall report to the
2 legislature by January 1, 2004, regarding the impact of this act on
3 small businesses in the state of Washington.

4 NEW SECTION. **Sec. 12.** CAPTIONS. Captions used in this act are
5 not any part of the law.

6 NEW SECTION. **Sec. 13.** Sections 1 through 10 and 12 of this act
7 constitute a new chapter in Title 48 RCW.

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