

Assembly Bill No. 62

CHAPTER 618

An act to add Article 16.6 (commencing with Section 1758.8) to Chapter 5 of Part 2 of Division 1 of the Insurance Code, relating to rental car insurance.

[Approved by Governor October 5, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 62, Papan. Rental car insurance limited licenses.

(1) Existing law governing insurance provides for the licensure and regulation of production agencies, including, among others, insurance agents, life agents, insurance brokers, travel insurance agents, cargo shippers' agents, and variable contract agents. Existing law makes it a crime to act or assume to act in a capacity for which a production agency license is required without having that license.

This bill would additionally create and establish fees for a new type of production agency license, called a rental car agent license, which would authorize a rental car company or the franchisee of a rental car company to offer to its customers insurance of an authorized insurer for specified types of insurance, if the insurance is offered by a representative of the licensee who is an endorsee on the license and the insurance is sold as part of a vehicle rental transaction. It would require a licensee to maintain the name of each rental car representative who is an endorsee on the license, and to annually file with the Insurance Commissioner a certification of the number of endorsees, a statement that no person other than an endorsee sells or offers insurance on its behalf, and that all endorsees have completed training as required. It would authorize the commissioner to take certain remedial measures for violations of these provisions. The bill would require a rental car agent to provide brochures to customers, as specified, relating to insurance offered, and would specify both required and prohibited conduct of a rental car agent. These provisions would become operative on January 1, 2001.

(2) By creating a new category of production agency license, this bill would expand the scope of activities for which a license is required. Thus, the bill would expand the scope of an existing crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 16.6 (commencing with Section 1758.8) is added to Chapter 5 of Part 2 of Division 1 of the Insurance Code, to read:

Article 16.6. Rental Car Agents

1758.8. (a) No rental car company shall offer or sell insurance unless it is licensed as an insurance agent or broker pursuant to Article 3 (commencing with Section 1631) or has complied with the requirements of this article and has been issued a license by the commissioner as provided in this article.

(b) The commissioner may issue to a rental car company, or to a franchisee of a rental car company, that has complied with the requirements of this article, a license that authorizes the rental car company or the franchisee of a rental car company to act as a rental car agent to offer or sell those types of insurance specified in Section 1758.85, in connection with and incidental to rental agreements, on behalf of any insurer authorized to write those types of insurance in this state.

1758.81. (a) An applicant for a rental car agent license under this article shall file the following documents with the commissioner:

(1) A written application for licensure, signed by the applicant or an officer of the applicant, in the form prescribed by the commissioner.

(2) A certificate by the insurer that is to be named in the rental car agent license, stating that the insurer has satisfied itself that the named applicant is trustworthy and competent to act as its insurance agent limited to this purpose and that the insurer will appoint the applicant to act as its agent to transact the kind or kinds of insurance that are permitted by this article, if the rental car agent license applied for is issued by the commissioner. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the commissioner.

(3) An application fee, and each license period thereafter, a renewal fee, in an amount or amounts determined by the department as sufficient to defray the department's actual cost of processing the application or renewal and implementing this article.

(b) Notwithstanding any other provision of law to the contrary, Sections 1667, 1668, 1668.5, 1669, 1670, 1738, and 1739 apply to any application for or issuance of a license pursuant to this article.



(c) Costs associated with any enforcement action or investigation shall be paid for by the person or organization licensed pursuant to this article.

1758.82. (a) An employee of a rental car company or franchisee of a rental car company that has been issued a rental car agent license pursuant to this article may be an endorsee authorized to offer insurance products under the authority of the rental car agent license if all of the following conditions have been met:

(1) The employee is 18 years of age or older.

(2) The rental car company, at the time it submits its rental car agent license application pursuant to Section 1758.81, also establishes a list of the names of all endorsees to its rental car agent license. The list shall be maintained by the rental car company in a form prescribed by the commissioner and updated annually. The list shall be retained by the rental car company for three years and made available to the commissioner for review and inspection.

(3) 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 company on a form prescribed by the commissioner, stating all of the following:

(A) The number of endorsees offering insurance products under the authority of the rental car agent license for the applicable period.

(B) A statement that no person other than an endorsee sells or offers insurance on its behalf.

(C) That all endorsees have completed training as required by this article.

(b) Each rental car company licensed pursuant to this article shall provide for the training of its endorsees prior to allowing its endorsees to offer or sell insurance products. The training shall meet the following minimum standards:

(1) Each rental car endorsee shall receive instruction about the types of insurance specified in Section 1758.85 that are offered for sale to prospective renters.

(2) Each rental car endorsee shall receive training about ethical sales practices.

(3) Each rental car endorsee shall receive training about the disclosures to be given to prospective renters pursuant to subdivision (c) of Section 1758.86.

(c) Training materials used by or on behalf of the rental car company to train its endorsees shall be submitted to the department at the time the rental car company applies for a license under this article, and whenever modified thereafter. Any changes to previously submitted training materials shall be submitted to the department with the changes highlighted 30 days prior to their use by the licensee. Training materials and changes to those materials submitted to the department pursuant to this subdivision shall be deemed approved for use by the company unless it is notified by the



department to the contrary. Failure by a rental car company to submit training materials or changes for departmental review or use of unapproved or disapproved training materials shall constitute grounds for denial of an application for a license, nonrenewal of a license, or suspension of a license, as appropriate.

(d) The rental car company shall periodically retrain its endorsees on the subject matter described in subdivision (b), as prescribed by the commissioner.

1758.83. (a) The manager at each location of a rental car company or a franchisee of a rental car company licensed pursuant to this article, or the direct supervisor of the company's endorsees at each location or region shall be an endorsee and shall be responsible for the supervision of each additional endorsee at that location or region. Each licensee shall identify the endorsee who is the manager or supervisor at each location for the purposes of this article.

(b) An endorsee may act on behalf and under the supervision of the rental car agent in matters relating to transacting insurance under that agent's license. The conduct of an endorsee of a rental car agent acting within the scope of employment or agency shall be deemed the conduct of the rental car agent for purposes of this article.

1758.84. (a) If a licensee or endorsee violates any provision of this article or any other provision of this code, the commissioner may do any of the following:

(1) After notice and hearing, suspend or revoke the license of the rental car agent.

(2) After notice and hearing impose fines on the rental car agent for its conduct or that of its endorsees.

(3) After notice and hearing, impose other penalties, that the commissioner deems necessary and convenient to carry out the purpose of this code, including suspending the privilege of transacting insurance at specific rental locations where violations have occurred, and suspending or revoking the endorsement of individual endorsees or manager endorsees.

(b) If any person sells insurance in connection with, or incidental to, rental car agreements or holds himself or herself or an organization out as a rental car agent without obtaining the license required by this article, or as being an endorsee when that person is not an endorsee, or as being licensed pursuant to Chapter 5 (commencing with Section 1631) without obtaining that license, the commissioner may issue a cease and desist order pursuant to Section 12921.8.

(c) Notwithstanding any other provision of law to the contrary, the provisions of Section 1748.5 are applicable to both the rental car agent and any endorsee to the license of the rental car agent.

1758.85. A rental car company or franchisee licensed under this article may act as a rental car agent for an authorized insurer only in



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

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

(b) Liability insurance, which may include uninsured motorist coverage, whether offered separately or in combination with other liability insurance, that provides coverage to the renters and to other authorized drivers of a rental vehicle and is nonduplicative of any standard liability coverage or self-insurance limits provided by the rental company in its rental agreement, for liability arising from the negligent operation of the rental vehicle 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 vehicle during the rental period.

(d) Roadside assistance insurance.

(e) Emergency sickness insurance.

1758.851. The insurance products listed in Section 1758.85 that are sold in conjunction with a vehicle rental are not transferable and do not apply to any vehicle not listed in the rental contract issued.

1758.86. A rental car agent shall not sell insurance pursuant to this article unless all of the following conditions are satisfied:

(a) The rental period of the rental agreement does not exceed 30 consecutive days, except for any renewals or extension of the original rental period.

(b) The rental car agent provides brochures or other written materials to the prospective renter that do all of the following:

(1) Summarize the material terms and conditions of coverage offered to renters, including the identity of the insurer.

(2) Describe the process for filing a claim, including a toll-free telephone number to report a claim.

(3) Disclose any additional information on the price, benefits, exclusions, conditions, or other limitations of those policies that the commissioner may by rule prescribe.

(4) Provide the licensee's name, address, telephone number, and license number, as well as the availability of the department's toll-free consumer hotline.

(c) The rental car agent or its endorsee makes all of the following disclosures to the renter, which shall be acknowledged in writing by the renter, or displayed by clear and conspicuous signs that are posted at every location where rental agreements are executed, such as the counter where the renter signs the rental agreement:

(1) That the purchase by the renter of the kinds of insurance prescribed in this article is not required in order to rent a vehicle.

(2) That the insurance policies offered by the rental car agent may provide a duplication of coverage already provided by a renter's



personal automobile insurance policy or by another source of coverage.

(3) That the endorsee on the rental car agent's license is not qualified or authorized to evaluate the adequacy of the purchaser's existing insurance coverages.

(d) Evidence of coverage is stated on the face of the rental agreement or evidence of coverages provided to every renter who elects to purchase that coverage is indicated to the renter.

(e) The insurance is provided under an individual policy issued to the purchaser, or under a group, or master policy issued to an organization licensed as a rental car agent by an insurer authorized to transact the applicable kinds or types of insurance in this state.

1758.861. A licensee shall not be required to treat moneys collected from renters purchasing insurance, pursuant to this article, as funds received in a fiduciary capacity if the insurer represented by the licensee has provided in writing that the funds need not be segregated from funds received by the rental car company on account of vehicle rental and the charges for insurance coverage are itemized and incorporated as part of the rental agreement.

1758.87. A rental car agent shall not do any of the following:

(a) Offer to sell insurance except in conjunction with, and incidental to, authorized rental agreements.

(b) Advertise, represent, or otherwise portray itself or its employees or endorsees as licensed insurers, life agents, or fire and casualty broker-agents.

(c) Pay an endorsee any compensation, fee, or commission dependent on the placement of insurance under the agent's license. Nothing in this code shall prohibit the payment of a "performance-related incentive." For the purposes of this subdivision, a "performance-related incentive" is not a commission as otherwise defined. A "performance-related incentive" is money or other tangible or intangible items of value paid or given to any endorsee of the licensee which is not based solely on the offering or selling of the insurance products listed in Section 1758.85.

1758.88. Any insurer that provides insurance to be sold by a rental car company or franchisee of a rental car company under this article shall file a copy of any individual policy issued to a purchaser, or any policy or certificate issued under a group or master policy to an organization licensed as a rental car agent, with the commissioner, who shall make that policy available to the public.

1785.89. As used in this article, the following definitions have the following meanings:

(a) (1) "License period" means all of that two-year period beginning as described in subparagraph (A) or (B) of paragraph (2), as applicable, and ending the second succeeding year on the last calendar day of the month in which the initial license was issued.



(2) A license period shall be determined for each person as follows:

(A) Upon initial licensing, the license period starts on the date the license is issued.

(B) Subsequently, the license period starts the first day of the month following the month in which the initial license was issued.

(3) A license is required to be renewed on or before the expiration date of the license period.

(b) “Rental vehicle” or “vehicle” means a motor vehicle operated by a driver who is not required to possess a commercial driver’s license to operate the motor vehicle and the motor vehicle is either of the following:

(1) A private passenger motor vehicle, including a passenger van, minivan, or sports utility vehicle.

(2) A cargo vehicle, including a cargo van, pickup truck, or truck with a gross vehicle weight of less than 26,000 pounds.

(c) “Renter” means any person who obtains the use of a vehicle from a rental car company under the terms of a rental agreement.

(d) “Rental car company” means any person in the business of renting vehicles to the public.

(e) “Rental agreement” means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental car company.

(f) “Rental car agent” means a person or organization licensed pursuant to this article to offer insurance in connection with and incidental to rental car agreements on behalf of an insurer authorized to write those types of insurance in this state.

(g) “Endorsee” means an unlicensed employee of a rental car agent who meets the requirements of this article.

1758.891. Until January 1, 2001, a rental car company or a franchisee of a rental car company shall not be required to obtain a license to offer the insurance products described in Section 1758.85.

SEC. 2. The Insurance Commissioner shall adopt rules to implement this act, which may include fee differentials for smaller rental car companies. The rules shall be adopted as emergency regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of rules shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health and safety, and general welfare.

SEC. 3. Until January 1, 2001, a rental car company or a franchisee of a rental car company shall not be required to obtain a license to offer the insurance products described in Section 1758.85 of the Insurance Code.



SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

