

## CHAPTER 72A

## REGULATION OF TRADE PRACTICES

72A.07	Violations of laws relating to agents, penalties.	72A.20	Methods, acts, and practices which are defined as unfair or deceptive.
72A.125	Rental vehicle personal accident insurance; special requirements.	72A.201	Regulation of claims practices.

**72A.07 VIOLATIONS OF LAWS RELATING TO AGENTS, PENALTIES.**

Any person, firm, or corporation violating, or failing to comply with, any of the provisions of sections 60K.30 to 60K.56 and any person who acts in any manner in the negotiation or transaction of unlawful insurance with an insurance company not licensed to do business in the state, or who, as principal or agent, violates any provision of law relating to the negotiation or effecting of contracts of insurance, shall be guilty of a misdemeanor. Upon the filing of a complaint by the commissioner of commerce in a court of competent jurisdiction against any person violating any provisions of this section, the county attorney of the county in which the violation occurred shall prosecute the person. Upon the conviction of any agent of any violation of the provisions of sections 60K.30 to 60K.56, the commissioner shall suspend the authority of the agent to transact any insurance business within the state for a period of not less than three months. Any insurer employing an agent and failing to procure an appointment, as required by sections 60K.30 to 60K.56, or allowing the agent to transact business for it within the state before an appointment has been procured, shall pay the commissioner, for the use of the state, a penalty of \$25 for each offense. Each sale of an insurance policy by an agent who is not appointed by an insurance company shall constitute a separate offense, but no insurer shall be required to pay more than \$300 in penalties as a result of the activities of a single unappointed agent. In the event of failure to pay a penalty within ten days' after notice from the commissioner, the authority of the insurer to do business in this state shall be revoked by the commissioner until the penalty is paid. No insurer whose authority is revoked shall be readmitted until it shall have complied with all the terms and conditions imposed for admission in the first instance. Any action taken by the commissioner under this section shall be subject to review by the district court of the county in which the office of the commissioner is located.

**History:** 2001 c 117 art 2 s 15

**NOTE:** The amendment to this section by Laws 2001, chapter 117, article 2, section 15, is effective July 1, 2002. Laws 2001, chapter 117, article 2, section 19.

**72A.125 RENTAL VEHICLE PERSONAL ACCIDENT INSURANCE; SPECIAL REQUIREMENTS.**

*[For text of subd 1, see M.S.2000]*

Subd. 2. **Sale by auto rental companies.** An auto rental company that offers or sells rental vehicle personal accident insurance, personal effects insurance, or liability insurance in this state in conjunction with the rental of a vehicle shall only sell these products if the forms and rates have met the relevant requirements of section 61A.02, 62A.02, or other relevant sections requiring approval of forms and rates taking into account the possible infrequency and severity of loss that may be incurred. An auto rental company offering insurance products for sale shall conduct a training program for its agents or employees, which must be submitted to the commissioner for approval. Sections 60K.30 to 60K.56 do not apply if the persons engaged in the sale of these products are employees of the auto rental company who do not receive commissions or other remuneration for selling the product in addition to their regular compensation. Compensation may not be determined in any part by the sale of insurance products. The auto rental company before engaging in the sale of the product must file with the commissioner the following documents:

- (1) an appointment of the commissioner as agent for service of process;
- (2) an agreement that the auto rental company assumes all responsibility for the authorized actions of all unlicensed employees who sell the insurance product on its behalf in conjunction with the rental of its vehicles;
- (3) an agreement that the auto rental company with respect to itself and its employees will be subject to this chapter regarding the marketing of the insurance products and the conduct of those persons involved in the sale of insurance products in the same manner as if it were a licensed agent.

An auto rental company failing to file the documents in clauses (1) to (3) is guilty of an individual violation as to the unlicensed sale of insurance for each sale that occurs after August 1, 1987, until they make the required filings. Each individual sale after August 1, 1987, and prior to the filing required by this section is subject to, in addition to any other penalties allowable by law, up to a \$200 per violation fine. Further, the sale of the insurance product by an auto rental company or any employee or agent of the company after August 1, 1987, without having complied with this section shall be deemed to be in acceptance of the provisions of this section.

Insurance sold pursuant to this subdivision must be limited in availability to rental vehicle customers though coverage may extend to the customer, other drivers, and passengers using or riding in the rented vehicles; and limited in duration to a period equal to and concurrent with that of the vehicle rental.

Persons purchasing rental vehicle personal accident insurance, personal effects insurance, or liability insurance may be provided a certificate summarizing the policy provisions in lieu of a copy of the policy if a copy of the policy is available for inspection at the place of sale and a free copy of the policy may be obtained from the auto rental company's home office.

The commissioner may, after a hearing, revoke an auto rental company's right to operate under this section if the company has violated the insurance laws of this state and the revocation is in the public interest.

*[For text of subd 3, see M.S.2000]*

**History:** 2001 c 117 art 2 s 16

**NOTE:** The amendment to subdivision 2 by Laws 2001, chapter 117, article 2, section 16, is effective July 1, 2002. Laws 2001, chapter 117, article 2, section 19.

## **72A.20 METHODS, ACTS, AND PRACTICES WHICH ARE DEFINED AS UNFAIR OR DECEPTIVE.**

*[For text of subds 1 to 28, see M.S.2000]*

Subd. 29. **HIV tests; crime victims and emergency medical service personnel.** No insurer regulated under chapter 61A, 62B, or 62S, or providing health, medical, hospitalization, long-term care insurance, or accident and sickness insurance regulated under chapter 62A, or nonprofit health service plan corporation regulated under chapter 62C, health maintenance organization regulated under chapter 62D, or fraternal benefit society regulated under chapter 64B, may:

- (1) use the results of a test to determine the presence of the human immunodeficiency virus (HIV) antibody performed on an offender under section 611A.19 or performed on a crime victim who was exposed to or had contact with an offender's bodily fluids during commission of a crime that was reported to law enforcement officials, in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract;
- (2) use the results of a test to determine the presence of a bloodborne pathogen performed on an individual according to sections 144.7401 to 144.7415, 241.33 to 241.342, or 246.71 to 246.722 in order to make an underwriting decision, cancel, fail to renew, or take any other action with respect to a policy, plan, certificate, or contract; or
- (3) ask an applicant for coverage or a person already covered whether the person has: (i) had a test performed for the reason set forth in clause (1) or (2); or (ii) been

the victim of an assault or any other crime which involves bodily contact with the offender.

This subdivision does not affect tests conducted for purposes other than those described in clause (1) or (2), including any test to determine the presence of a bloodborne pathogen if such test was performed at the insurer's direction as part of the insurer's normal underwriting requirements.

*[For text of subds 29a to 35, see M.S.2000]*

**History:** 2001 c 28 s 1

## 72A.201 REGULATION OF CLAIMS PRACTICES.

*[For text of subds 1 and 2, see M.S.2000]*

Subd. 3. **Definitions.** For the purposes of this section, the following terms have the meanings given them.

(1) **Adjuster or adjusters.** "Adjuster" or "adjusters" is as defined in section 72B.02.

(2) **Agent.** "Agent" means insurance agents or insurance agencies licensed pursuant to sections 60K.30 to 60K.56, and representatives of these agents or agencies.

(3) **Claim.** "Claim" means a request or demand made with an insurer for the payment of funds or the provision of services under the terms of any policy, certificate, contract of insurance, binder, or other contracts of temporary insurance. The term does not include a claim under a health insurance policy made by a participating provider with an insurer in accordance with the participating provider's service agreement with the insurer which has been filed with the commissioner of commerce prior to its use.

(4) **Claim settlement.** "Claim settlement" means all activities of an insurer related directly or indirectly to the determination of the extent of liabilities due or potentially due under coverages afforded by the policy, and which result in claim payment, claim acceptance, compromise, or other disposition.

(5) **Claimant.** "Claimant" means any individual, corporation, association, partnership, or other legal entity asserting a claim against any individual, corporation, association, partnership, or other legal entity which is insured under an insurance policy or insurance contract of an insurer.

(6) **Complaint.** "Complaint" means a communication primarily expressing a grievance.

(7) **Insurance policy.** "Insurance policy" means any evidence of coverage issued by an insurer including all policies, contracts, certificates, riders, binders, and endorsements which provide or describe coverage. The term includes any contract issuing coverage under a self-insurance plan, group self-insurance plan, or joint self-insurance employee health plans.

(8) **Insured.** "Insured" means an individual, corporation, association, partnership, or other legal entity asserting a right to payment under their insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by the policy or contract. The term does not apply to a person who acquires rights under a mortgage.

(9) **Insurer.** "Insurer" includes any individual, corporation, association, partnership, reciprocal exchange, Lloyds, fraternal benefits society, self-insurer, surplus line insurer, self-insurance administrator, and nonprofit service plans under the jurisdiction of the department of commerce.

(10) **Investigation.** "Investigation" means a reasonable procedure adopted by an insurer to determine whether to accept or reject a claim.

(11) **Notification of claim.** "Notification of claim" means any communication to an insurer by a claimant or an insured which reasonably apprises the insurer of a claim brought under an insurance contract or policy issued by the insurer. Notification of claim to an agent of the insurer is notice to the insurer.

(12) **Proof of loss.** "Proof of loss" means the necessary documentation required from the insured to establish entitlement to payment under a policy.

(13) **Self-insurance administrator.** "Self-insurance administrator" means any vendor of risk management services or entities administering self-insurance plans, licensed pursuant to section 60A.23, subdivision 8.

(14) **Self-insured or self-insurer.** "Self-insured" or "self-insurer" means any entity authorized pursuant to section 65B.48, subdivision 3; chapter 62H; section 176.181, subdivision 2; Laws of Minnesota 1983, chapter 290, section 171; section 471.617; or section 471.981 and includes any entity which, for a fee, employs the services of vendors of risk management services in the administration of a self-insurance plan as defined by section 60A.23, subdivision 8, clause (2), subclauses (a) and (d).

*[For text of subs 4 to 13, see M.S.2000]*

**History:** 2001 c 117 art 2 s 17

**NOTE:** The amendment to subdivision 3 by Laws 2001, chapter 117, article 2, section 17, is effective July 1, 2002. Laws 2001, chapter 117, article 2, section 19.