

1981 Senate Bill 92

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CHAPTER 38 , Laws of 1981

AN ACT to repeal 600.03 (12), 601.31 (1) (s), 618.50 (2), 628.02 (2), 628.31 (1) to (3), (4) (title), (5) and (6), 628.45, chapter 636 (title) and 636.04; to renumber 628.31 (4) and 636.10; to amend 600.03 (1r), 628.02 (3) and (4), 628.03 (1) and (2) (intro.), 628.04 (1) (intro.) and (3), 628.09 (2) to (6), 628.10 (2) (a) and (3) and 628.61 (1); to repeal and recreate 628.09 (title) and (1) and 628.32; and to create 628.02 (1) (b) 8, 628.04 (1m) and 628.10 (2) (am) of the statutes, relating to regulating insurance agents.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 600.03 (1r) of the statutes is amended to read:

600.03 (1r) "Agent" means the type of an intermediary as defined in s. 628.02 (4), other than a broker or surplus lines broker.

SECTION 2. 600.03 (12) of the statutes is repealed.

SECTION 3. 601.31 (1) (s) of the statutes is repealed.

SECTION 4. 618.50 (2) of the statutes is repealed.

SECTION 5. 628.02 (1) (b) 8 of the statutes is created to read:

628.02 (1) (b) 8. A representative of a common carrier who sells only over-the-counter, short-term travel accident ticket policies and baggage insurance.

SECTION 6. 628.02 (2) of the statutes is repealed.

SECTION 7. 628.02 (3) and (4) of the statutes are amended to read:

628.02 (3) INSURANCE BROKER. An intermediary ~~who is not an insurance consultant~~ is an insurance broker if the intermediary acts in the procuring of insurance on behalf of an applicant for insurance of an insured, and does not act on behalf of the insurer except by collecting premiums or performing other ministerial acts.

(4) INSURANCE AGENT. An intermediary is an insurance agent if the intermediary acts as an intermediary other than as a broker ~~or consultant~~.

SECTION 8. 628.03 (1) and (2) (intro.) of the statutes are amended to read:

628.03 (1) GENERAL. No natural person may perform, offer to perform or advertise any service as an intermediary in this state, unless the natural person obtains a license under s. 628.04 or 628.09, and no person may utilize the services of another as an intermediary if the person knows or should know that the other does not have a license as required by law.

(2) EXEMPTIONS. (intro.) The commissioner may by rule exempt certain classes of natural persons from the requirement of obtaining a license:

SECTION 9. 628.04 (1) (intro.) of the statutes is amended to read:

628.04 (1) CONDITIONS AND QUALIFICATIONS. (intro.) The commissioner shall issue a license to act as an intermediary agent to any applicant who:

SECTION 10. 628.04 (1m) of the statutes is created to read:

628.04 (1m) AGENT MAY ACT AS BROKER. A licensed agent may act as an agent or as a broker.

SECTION 11. 628.04 (3) of the statutes is amended to read:

628.04 (3) CLASSIFICATION AND EXAMINATION. The commissioner may by rule prescribe classifications of intermediaries in addition to ~~those provided in s. 628.02 (2) to (5)~~ agent and surplus lines agent or broker, by kind of authority, or kind of insurance, or in other ways, and may prescribe different standards of competence, including examinations and educational prerequisites, for each class. The commissioner may by rule set annual continuing education standards, but may not require a licensed intermediary to complete a course of study requiring more than 15 hours, per license, of approved continuing education, including continuing education programs approved by the commissioner and presented by the insurers, in any one-year period. The commissioner may, by rule, exempt any class of intermediaries from the continuing education requirements. So far as practicable, the commissioner shall issue a single license to each individual intermediary for a single fee.

SECTION 12. 628.09 (title) and (1) of the statutes are repealed and recreated to read:

628.09 (title) Temporary licenses. (1) ISSUANCE OF LICENSE. The commissioner may issue a temporary license as an intermediary for a period of not more than 3 months to the personal representative of a deceased or mentally disabled intermediary, or to a person designated by an intermediary who is otherwise disabled or has entered active duty in the U.S. armed forces, in order to give time for more favorable sale of the goodwill of a business owned by the intermediary, for the recovery or return of the intermediary, or for the orderly training and licensing of new personnel for the intermediary's business. This subsection does not apply to life insurance agents.

SECTION 13. 628.09 (2) to (6) of the statutes are amended to read:

628.09 (2) LIMITATION ON AUTHORITY. The commissioner may by order limit the authority of any ~~apprentice or~~ temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the ~~apprentice or~~ temporary licensee to have a suitable sponsor who is a licensed intermediary or insurer and who assumes full legal responsibility for all acts and omissions of the ~~apprentice or~~ temporary licensee, may impose special bonding requirements and may impose other similar requirements designed to protect insureds and the public.

(3) EXAMINATIONS. The commissioner may administer an examination as a prerequisite to the issuance of an ~~apprentice's permit~~ or a temporary license.

(4) DURATION OF LICENSE. The commissioner may by order revoke a temporary license or ~~apprentice's permit~~ if the interests of insureds or the public are endangered. A temporary license or ~~apprentice's permit~~ may be extended beyond the initial period specified under sub. (1), for additional periods of not more than 3 months each, with the total period not to exceed 12 months in the aggregate. A temporary license may not continue after the owner or the personal representative disposes of the business.

(5) FEES. The fees for an ~~apprentice's permit~~ or a temporary license are the same as for a permanent license. No additional fee may be charged for extensions under sub. (4), nor for the issuance of a subsequent license under s. 628.04 if that license is issued while the ~~apprentice permit~~ or temporary license remains in effect.

(6) (title) STATUS OF TEMPORARY LICENSEE. ~~An apprentice or~~ A temporary licensee is a fully qualified intermediary for all purposes other than the process of licensing, the duration of the license and the limits imposed under sub. (2).

SECTION 14. 628.10 (2) (a) of the statutes is amended to read:

628.10 (2) (a) (title) *For failure to comply with continuing education requirements.* The commissioner may by order suspend the license of any intermediary who fails ~~to pay a fee when due or who fails~~ to produce evidence of compliance with continuing education standards set by the commissioner.

SECTION 15. 628.10 (2) (am) of the statutes is created to read:

628.10 (2) (am) *Nonpayment of fees.* The license of an intermediary who fails to pay a fee when due is suspended on and after the date when the fee is due, if the commissioner gave the intermediary reasonable notice that the fee was due and the license would be suspended if timely payment was not made. If the intermediary pays the fee within 60 days after the date it is due, the license is reinstated effective on the date of suspension. If payment is not made within 60 days, the license is revoked and the intermediary may be relicensed only after satisfying all requirements under s. 628.04.

SECTION 16. 628.10 (3) of the statutes is amended to read:

628.10 (3) DELAY FOR NEW APPLICATION. An order revoking an intermediary's license under sub. (2) may specify a time not to exceed 5 years within which the former intermediary may not apply for a new license. If no time is specified, the intermediary may not apply for 5 years. An intermediary whose license is revoked under sub. (2) (am) may immediately reapply.

SECTION 17. 628.31 (1) to (3), (4) (title), (5) and (6) of the statutes are repealed.

SECTION 18. 628.31 (4) of the statutes is renumbered 628.31.

SECTION 19. 628.32 of the statutes is repealed and recreated to read:

628.32 Disclosure required. An intermediary may not accept compensation due to an insured's purchase of insurance from the insured and another source unless the intermediary, before the insured incurs an obligation to pay compensation, clearly and conspicuously and in writing discloses to the insured that the intermediary will also receive compensation from the other source. The commissioner may adopt rules prescribing the form for disclosure under this section.

SECTION 20. 628.45 of the statutes is repealed.

SECTION 21. 628.61 (1) of the statutes is amended to read:

628.61 (1) PROHIBITION. No intermediary or insurer may pay any consideration, nor reimburse out-of-pocket expenses, to any natural person for services performed within this state as an intermediary if he or she knows or should know that the payee is not licensed under s. 628.04 or 628.09. No natural person may accept compensation for service performed as an intermediary unless the natural person is licensed under s. 628.04 or 628.09, ~~except that a duly licensed agent may direct that the agent's commissions be paid to a duly licensed partnership of which the agent is a member, employe or agent, or to a duly licensed corporation of which the agent is an officer, employe or agent.~~

SECTION 22. Chapter 636 (title) of the statutes is repealed.

SECTION 23. 636.04 of the statutes is repealed.

SECTION 24. 636.10 of the statutes is renumbered 628.46.

SECTION 25. Program responsibilities. In the list of program responsibilities for the department of industry, labor and human relations under section 15.221 (intro.) of the statutes, reference to section "636.04 (5)" is deleted.

SECTION 26. Cross-reference changes. In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A Statute Sections	B Old Cross-References	C New Cross-References
613.03 (3)	chs. 600, 601, 617, 620, 623, 625, 627, 628, 631, 632, 636 and 645	chs. 600, 601, 617, 620, 623, 625, 627, 628, 631, 632 and 645