

# WEST VIRGINIA CODE: §33-12-32

## **§33-12-32. Limited licenses for rental companies.**

(a) Purpose. -- This section authorizes the Insurance Commissioner to issue limited licenses for the sale of automobile rental coverage.

(b) Definitions. -- The following words when used in this section shall have the following meanings:

(1) "Authorized insurer" means an insurer that is licensed by the commissioner to transact insurance in West Virginia.

(2) "Automobile rental coverage" or "rental coverage" is insurance offered incidental to the rental of a vehicle as described in this section.

(3) "Limited license" means the authorization by the commissioner for a person to sell rental coverage as an individual insurance producer of an authorized insurer pursuant to the provisions of this section without the necessity of individual insurance producer prelicensing education, examination or continuing education.

(4) "Limited licensee" is an individual resident of this state or nonresident of this state who obtains a limited license.

(5) "Rental agreement" means any written agreement setting forth the terms and conditions governing the use of a vehicle provided by the rental company for rental or lease.

(6) "Rental company" means any person or entity in the business of providing private motor vehicles to the public under a rental agreement for a period not to exceed ninety days.

(7) "Renter" means any person obtaining the use of a vehicle from a rental company under the terms of a rental agreement for a period not to exceed ninety days.

(8) "Vehicle" or "rental vehicle" means a motor vehicle of the private passenger type including passenger vans, minivans and sport utility vehicles and of the cargo type, including cargo vans, pick-up trucks and trucks with a gross vehicle weight of twenty-six thousand pounds or less and which do not require the operator to possess a commercial driver's license.

(9) "Rental period" means the term of the rental agreement.

(c) The commissioner may issue a limited license for the sale of automobile rental coverage to an employee of a rental company, who has satisfied the requirements of this section.

(d) As a prerequisite for issuance of a limited license under this section, there shall be filed

with the commissioner a written application for a limited license, signed by the applicant, in a form or forms and supplements thereto and containing any information as the commissioner may prescribe. The limited licensee shall pay to the Insurance Commissioner an annual fee of \$25.

(e) The limited licensee shall be appointed by the licensed insurer or insurers for the sale of automobile rental coverage. The employer of the limited licensee shall maintain at each insurance sales location a list of the names and addresses of employees which are selling insurance at the location.

(f) In the event that any provision of this section or applicable provisions of the insurance code is violated by a limited licensee or other employees operating under his or her direction, the commissioner may:

(1) After notice and a hearing, revoke or suspend a limited license issued under this section in accordance with the provisions of section thirteen, article two of this chapter; or

(2) After notice and hearing, impose any other penalties, including suspending the transaction of insurance at specific locations where applicable violations of the insurance code have occurred, as the commissioner considers to be necessary or convenient to carry out the purposes of this section.

(g) Any limited license issued under this section shall also authorize any other employee working for the same employer and at the same location as the limited licensee to act individually, on behalf and under the supervision of the limited licensee with respect to the kinds of coverage authorized in this section. In order to sell insurance products under this section at least one employee who has obtained a limited license must be present at each location where insurance is sold. All other employees working at that location may offer or sell insurance consistent with this section without obtaining a limited license. However, the limited licensee shall directly supervise and be responsible for the actions of all other employees at that location related to the offer or sale of insurance as authorized by this section. No limited licensee under this section may advertise, represent or otherwise hold himself or herself or any other employees out as licensed insurers or individual insurance producers.

(h) No automobile rental coverage insurance may be issued by a limited licensee pursuant to this section unless:

(1) The rental period of the rental agreement does not exceed ninety consecutive days; and

(2) At every rental location where rental agreements are executed, brochures or other written material are readily available to the prospective renter that:

(A) Summarize, clearly and correctly, the material terms of coverage offered to renters, including the identity of the insurer;

(B) Disclose that the coverage offered by the rental company may provide a duplication of coverage provided by a renter's personal automobile insurance policy, homeowner's insurance policy, personal liability insurance policy or other source of coverage;

(C) State that the purchase by the renter of the kinds of coverage specified in this section is not required in order to rent a vehicle; and

(D) Describe the process for filing a claim in the event the renter elects to purchase coverage.

(3) Any evidence of coverage on the face of the rental agreement is disclosed to every renter who elects to purchase the coverage.

(4) The limited licensee to sell automobile rental coverage may offer or sell insurance only in connection with and incidental to the rental of vehicles, whether at the rental office or by preselection of coverage in a master, corporate, group rental or individual agreements in any of the following general categories:

(A) Personal accident insurance covering the risks of travel, including, but not limited to, accident and health insurance that provides coverage, as applicable, to renters and other rental vehicle occupants for accidental death or dismemberment and reimbursement for medical expenses resulting from an accident that occurs during the rental period;

(B) Liability insurance (which may include uninsured and underinsured motorist coverage whether offered separately or in combination with other liability insurance) that provides coverage, as applicable, to renters and other authorized drivers of rental vehicles for liability arising from the operation of the rental vehicle;

(C) Personal effects insurance that provides coverage, applicable to renters and other vehicle occupants of the loss of, or damage to, personal effects that occurs during the rental period;

(D) Roadside assistance and emergency sickness protection programs; and

(E) Any other travel or auto-related coverage that a rental company offers in connection with and incidental to the rental of vehicles.

(i) Each rental company for which an employee has received a limited license pursuant to this section shall conduct a training program in which its employees being trained shall receive basic instruction about the kinds of coverage specified in this section and offered for purchase by prospective renters of rental vehicles: Provided, That limited licensees and employees working hereunder are not subject to the agent prelicensing education, examination or continuing education requirements of this article.

(j) Notwithstanding any other provision of this section or any rule adopted by the commissioner, neither the rental company, the limited licensee, nor the other employees

working with the limited licensee at the rental company shall be required to treat moneys collected from renters purchasing such insurance when renting vehicles as funds received in a fiduciary capacity, provided that the charges for coverage shall be itemized and be ancillary to a rental transaction. The sale of insurance not in conjunction with a rental transaction is not permitted.