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SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 1992



ENROLLED

Com. Sub. For
HOUSE BILL No. *4212*

(By Delegates *Roop and Susman*)



Passed *March 5,* 1992
In Effect *Ninety Days From* Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 4212
(By DELEGATES ROOP AND SUSMAN)

[Passed March 5, 1992; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-nine, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to motor vehicle insurance; designating the primary insurance coverage on a motor vehicle owned by certain types of businesses while being operated permissively in specified circumstances by an individual who is otherwise insured; and providing that the business owner's motor vehicle insurance shall be primary if the vehicle is being operated with permission by an employee of the business owner who is acting within the scope of his or her employment.

Be it enacted by the Legislature of West Virginia:

That section twenty-nine, article six, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted to read as follows:

ARTICLE 6. THE INSURANCE POLICY.

§33-6-29. Motor vehicle policy; injuries to guest passengers; coverage for loaned or leased motor vehicles; exceptions.

1 (a) An insurer shall not issue any policy of bodily

2 injury or property damage liability insurance which
3 excludes coverage to the owner or operator of a motor
4 vehicle on account of bodily injury or property damage
5 to any guest or invitee who is a passenger in such motor
6 vehicle.

7 (b) Every policy or contract of liability insurance
8 which insures a motor vehicle licensed in this state with
9 collision, comprehensive, property or bodily injury
10 coverage shall extend these coverages to cover the
11 insured individual while operating a motor vehicle
12 which he or she is permitted to use by a person, firm
13 or corporation that owns the vehicle and is engaged in
14 the business of selling, repairing, leasing or servicing
15 motor vehicles. Coverage under any motor vehicle
16 insurance policy available to such insured individual
17 shall be primary, and any collision, comprehensive,
18 property or bodily injury insurance coverage owned or
19 obtained by a person, firm or corporation that owns the
20 motor vehicle and is engaged in the business of selling,
21 repairing, leasing or servicing motor vehicles shall be
22 secondary. Recovery under the motor vehicle owner's
23 insurance policy shall not be permitted until the insured
24 individual has exhausted the limits of all other insur-
25 ance policies available to him or her: *Provided*, That the
26 following conditions are met: (1) No separate consider-
27 ation is paid by or on behalf of the insured individual
28 at the time of his or her use of the vehicle; and (2) the
29 insured individual is operating the vehicle with the
30 business owner's permission as a replacement vehicle
31 provided to the insured individual while his or her
32 vehicle is out of use because it is being repaired or
33 serviced by the business owner or another person with
34 the permission of the business owner.

35 (c) Notwithstanding any provision of this section to the
36 contrary, any insurance coverage available to the
37 insured individual as described in the foregoing
38 paragraph shall be secondary to any motor vehicle
39 liability insurance owned or obtained by the person,
40 firm or corporation engaged in the business of selling,
41 repairing, leasing or servicing motor vehicles, if the
42 insured individual is an employee of the business owner

43 and is operating the motor vehicle with the permission
44 of the business owner while acting within the scope of
45 his or her employment or the insured individual is
46 testing the vehicle for possible purchase or for a lease
47 with more than a thirty-day term.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Lomer Leck

Chairman Senate Committee

Ernest C Moore

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Darrell R. Bell

Clerk of the Senate

Donald G. Kopf

Clerk of the House of Delegates

Keith Brumette

President of the Senate

Robert C. Cole

Speaker of the House of Delegates

The within is approved this the 17th day of March, 1992.

Yaston Caperton

Governor

PRESENTED TO THE

GOVERNOR

Date 3/13/92

Time 4:16 pm