WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 1992

ENROLLED
Com. Sul. For
HOUSE BILL No. H212

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

(b) Every policy or contract of liability insurance which insures a motor vehicle licensed in this state with collision, comprehensive, property or bodily injury coverage shall extend these coverages to cover the insured individual while operating a motor vehicle which he or she is permitted to use by a person, firm or corporation that owns the vehicle and is engaged in the business of selling, repairing, leasing or servicing motor vehicles. Coverage under any motor vehicle insurance policy available to such insured individual shall be primary, and any collision, comprehensive, property or bodily injury insurance coverage owned or obtained by a person, firm or corporation that owns the motor vehicle and is engaged in the business of selling, repairing, leasing or servicing motor vehicles shall be secondary. Recovery under the motor vehicle owner's insurance policy shall not be permitted until the insured individual has exhausted the limits of all other insurance policies available to him or her: Provided, That the following conditions are met: (1) No separate consideration is paid by or on behalf of the insured individual at the time of his or her use of the vehicle; and (2) the insured individual is operating the vehicle with the business owner's permission as a replacement vehicle provided to the insured individual while his or her vehicle is out of use because it is being repaired or serviced by the business owner or another person with the permission of the business owner.

(c) Notwithstanding any provision of this section to the contrary, any insurance coverage available to the insured individual as described in the foregoing paragraph shall be secondary to any motor vehicle liability insurance owned or obtained by the person, firm or corporation engaged in the business of selling, repairing, leasing or servicing motor vehicles, if the insured individual is an employee of the business owner.
and is operating the motor vehicle with the permission of the business owner while acting within the scope of his or her employment or the insured individual is testing the vehicle for possible purchase or for a lease with more than a thirty-day term.
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The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Lomerleck
Chairman Senate Committee

Ernest C. Moore
Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Donald J. Kepp
Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

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

Vinston Caperton
Governor