

SB 633

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STATE OF WEST VIRGINIA

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1999



## ENROLLED

*COMMITTEE SUBSTITUTE FOR*  
SENATE BILL NO. 653

(By Senator BAILEY)



PASSED MARCH 16 1999  
In Effect NINETY DAYS FROM Passage

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STATE OF WEST VIRGINIA  
SENATE

## ENROLLED

COMMITTEE SUBSTITUTE

FOR

# Senate Bill No. 653

(SENATOR BAILEY, *original sponsor*)

[Passed March 11, 1999; in effect ninety days from passage.]

AN ACT to amend article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section thirty-three, relating to providing limited agent licenses for automobile rental coverage.

*Be it enacted by the Legislature of West Virginia:*

That article twelve, chapter thirty-three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated thirty-three, to read as follows:

### **ARTICLE 12. AGENTS, BROKERS, SOLICITORS AND EXCESS LINE.**

#### **§33-12-33. Limited license for rental companies.**

- 1 (a) *Purpose.* This section authorizes the insurance
- 2 commissioner to issue limited licenses for the sale of

3 automobile rental coverage.

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

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

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

12 (3) "Limited license" means the authorization by the  
13 commissioner for a person to sell rental coverage as agent  
14 of an authorized insurer pursuant to the provisions of this  
15 section without the necessity of agent pre-licensing  
16 education, examination, or continuing education.

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

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

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

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

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

37 (9) "Rental period" means the term of the rental agree-  
38 ment.

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

43 (d) As a prerequisite for issuance of a limited license  
44 under this section, there shall be filed with the commis-  
45 sioner a written application for a limited license, signed by  
46 the applicant, in such form or forms and supplements  
47 thereto, and containing such information, as the commis-  
48 sioner may prescribe. The limited licensee shall pay to the  
49 insurance commissioner an annual fee of twenty-five  
50 dollars.

51 (e) The limited licensee shall be appointed by the li-  
52 censed insurer or insurers for the sale of automobile rental  
53 coverage. The employer of the limited licensee shall  
54 maintain at each insurance sales location a list of the  
55 names and addresses of employees which are selling  
56 insurance at the location.

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

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

65 (2) After notice and hearing, impose such other penalties,  
66 including suspending the transaction of insurance at  
67 specific locations where applicable violations of the  
68 insurance code have occurred, as the commissioner deems  
69 to be necessary or convenient to carry out the purposes of  
70 this section.

71 (g) Any limited license issued under this section shall  
72 also authorize any other employee working for the same  
73 employer and at the same location as the limited licensee  
74 to act individually, on behalf, and under the supervision,  
75 of the limited licensee with respect to the kinds of cover-  
76 age authorized in this section. In order to sell insurance

77 products under this section at least one employee who has  
78 obtained a limited license must be present at each location  
79 where insurance is sold. All other employees working at  
80 that location may offer or sell insurance consistent with  
81 this section without obtaining a limited license. However,  
82 the limited licensee shall directly supervise and be respon-  
83 sible for the actions of all other employees at that location  
84 related to the offer or sale of insurance as authorized by  
85 this section. No limited licensee under this section shall  
86 advertise, represent, or otherwise hold himself or herself or  
87 any other employees out as licensed insurers, insurance  
88 agents or insurance brokers.

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

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

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

96 (i) Summarize clearly and correctly, the material terms  
97 of coverage offered to renters, including the identity of the  
98 insurer.

99 (ii) Disclose that the coverage offered by the rental  
100 company may provide a duplication of coverage provided  
101 by a renter's personal automobile insurance policy, home-  
102 owner's insurance policy, personal liability insurance  
103 policy, or other source of coverage.

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

107 (iv) Describe the process for filing a claim in the event  
108 the renter elects to purchase coverage and in the event of  
109 a claim.

110 (3) An evidence of coverage on the face of the rental  
111 agreement is disclosed to every renter who elects to  
112 purchase such coverage.

113 (i) The limited licensee to sell automobile rental coverage

114 may offer or sell insurance only in connection with and  
115 incidental to the rental of vehicles, whether at the rental  
116 office or by preselection of coverage in a master, corpo-  
117 rate, group rental, or individual agreements in any of the  
118 following general categories:

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

126 (2) Liability insurance (which may include uninsured  
127 and underinsured motorist coverage whether offered  
128 separately or in combination with other liability insur-  
129 ance) that provides coverage, as applicable, to renters and  
130 other authorized drivers of rental vehicles for liability  
131 arising from the operation of the rental vehicle; and

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

136 (4) Roadside assistance and emergency sickness protec-  
137 tion programs; and

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

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

150 (k) Notwithstanding any other provision of this section,  
151 or any rule adopted by the commissioner neither the rental

152 company, the limited licensee, nor the other employees  
153 working with the limited licensee at the rental company,  
154 shall be required to treat moneys collected from renters  
155 purchasing such insurance when renting vehicles as funds  
156 received in a fiduciary capacity, provided that the charg-  
157 ers for coverage shall be itemized and be ancillary to a  
158 rental transaction. The sale of insurance not in conjunc-  
159 tion with a rental transaction shall not to be permitted.

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

*Way Adams*  
.....  
Chairman Senate Committee

*John F. Smith*  
.....  
Chairman House Committee

Originating in the Senate.

In effect ninety days from passage.

*Harriet E. Clarke*  
.....  
Clerk of the Senate

*George W. Lee*  
.....  
Clerk of the House of Delegates

*Carl Key Tomblin*  
.....  
President of the Senate

*John H. ...*  
.....  
Speaker House of Delegates

The within *approved* this the *15*  
Day of *April*, 1990  
*Bill Anderson*  
.....  
Governor



PRESENTED TO THE

GOVERNOR

Date 3/25/99

Time 1:51