

COMMITTEE SUBSTITUTE

for

H. B. 2557

(BY DELEGATE(S) WALTERS, WESTFALL,
PASDON, MOFFATT, MORGAN, PERRY, HARTMAN, MCCUSKEY,
FRICH, STORCH AND H. WHITE)

(Originating in the House Committee on the Judiciary)

[February 27, 2015]

A BILL to amend and reenact §33-6-29 of the Code of West Virginia, 1931, as amended, relating generally to motor vehicle insurance policies and coverage provided for rented or leased motor vehicles; clarifying that an insured driver of a motor vehicle is covered by the driver's motor vehicle insurance policy when renting or leasing a motor vehicle; and providing that if the driver renting or leasing

a motor vehicle does not have motor vehicle insurance coverage,
the rental or leasing car company is the provider of security.

Be it enacted by the Legislature of West Virginia:

That §33-6-29 of the Code of West Virginia, 1931, 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~~ may not issue any policy of bodily injury
2 or property damage liability insurance which excludes coverage
3 to the owner or operator of a motor vehicle on account of bodily
4 injury or property damage to any guest or invitee who is a
5 passenger in such motor vehicle.

6 (b) Every policy or contract of liability insurance which
7 insures a motor vehicle licensed in this state with collision,
8 comprehensive, property or bodily injury coverage shall extend
9 these coverages to cover the insured individual while operating
10 a motor vehicle which he or she is permitted to use by a person,
11 firm or corporation that owns the vehicle and is engaged in the
12 business of selling, repairing, leasing or servicing motor

13 vehicles. Coverage under any motor vehicle insurance policy
14 available to such insured individual shall be primary, and any
15 collision, comprehensive, property or bodily injury insurance
16 coverage owned or obtained by a person, firm or corporation that
17 owns the motor vehicle and is engaged in the business of selling,
18 repairing, leasing or servicing motor vehicles shall be secondary.
19 Recovery under the motor vehicle owner's insurance policy shall
20 not be permitted until the insured individual has exhausted the
21 limits of all other insurance policies available to him or her:
22 *Provided*, That the following conditions are met: (1) No separate
23 consideration is paid by or on behalf of the insured individual at
24 the time of his or her use of the vehicle; and (2) the insured
25 individual is operating the vehicle with the business owner's
26 permission as a replacement vehicle provided to the insured
27 individual while his or her vehicle is out of use because it is
28 being repaired or serviced by the business owner or another
29 person with the permission of the business owner.

30 (c) Notwithstanding any provision of this section to the
31 contrary, any insurance coverage available to the insured
32 individual as described in ~~the foregoing paragraph~~ subsection (b)

33 of this section shall be secondary to any motor vehicle liability
34 insurance owned or obtained by the person, firm or corporation
35 engaged in the business of selling, repairing, leasing or servicing
36 motor vehicles, if the insured individual is an employee of the
37 business owner and is operating the motor vehicle with the
38 permission of the business owner while acting within the scope
39 of his or her employment or the insured individual is testing the
40 vehicle for possible purchase or for a lease with more than a
41 thirty-day term.

42 (d) Notwithstanding any provision of this code to the
43 contrary, security maintained as required by section three, article
44 two-a and section two, article four, chapter seventeen-d of this
45 code on any motor vehicle owned by any person, firm or
46 corporation engaged in the business of renting or leasing the
47 motor vehicle is secondary to coverage under any motor vehicle
48 liability insurance or other form of security meeting or
49 exceeding the requirements in chapter seventeen-d of this code
50 that is available and in effect for an individual with respect to the
51 renting, leasing, operation, maintenance, or use of the motor
52 vehicle.