

**Senate Bill No. 394**

(By Senators M. Hall, Carmichael, D. Hall, Miller and Plymale)

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[Introduced February 3, 2015; referred to the Committee on Banking and Insurance; and then to the Committee on the Judiciary.]

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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 insured driver of a motor vehicle is covered by driver's auto insurance policy when renting or leasing a vehicle; and providing that if the renter of a vehicle does not have auto insurance coverage, the rental or leasing car company is 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 or property damage liability  
2 insurance which excludes coverage to the owner or operator of a motor vehicle on account of bodily  
3 injury or property damage to any guest or invitee who is a passenger in such motor vehicle.

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

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

1 section shall be secondary to any motor vehicle liability insurance owned or obtained by the person,  
2 firm or corporation engaged in the business of selling, repairing, leasing or servicing motor vehicles,  
3 if the insured individual is an employee of the business owner and is operating the motor vehicle  
4 with the permission of the business owner while acting within the scope of his or her employment  
5 or the insured individual is testing the vehicle for possible purchase or for a lease with more than a  
6 thirty-day term.

7 (d) Security maintained by any person, firm or corporation engaged in the business of renting  
8 or leasing motor vehicles applies only when there is no other valid and collectible motor vehicle  
9 liability insurance or other form of security available to an insured individual with respect to the  
10 renting, leasing, operation, maintenance or use of the motor vehicles. Coverage under any motor  
11 vehicle liability insurance or other form of security available to an insured individual with respect  
12 to the renting, leasing, operation, maintenance or use of a motor vehicle owned by any person, firm  
13 or corporation engaged in the business of renting or leasing motor vehicles shall satisfy the security  
14 required by section three, article two-a, chapter seventeen-d of this code, and section two, article four  
15 of said chapter.

16 (e) Nothing in this section, section three, article two-a, chapter seventeen-d of this code, or  
17 section two, article four of said chapter may be construed to prohibit a person, firm or corporation  
18 that owns a motor vehicle and is engaged in the business of renting or leasing motor vehicles from  
19 entering into a contractual agreement with a person whereby the person agrees to be solely  
20 responsible for maintaining proof of financial responsibility, in accordance with section three, article  
21 two-a, chapter seventeen-d of this code, and section two, article four of said chapter, with respect

1 to the operation, maintenance, or use of the motor vehicle.

NOTE: The purpose of this bill is to clarify that an insured driver of a motor vehicle is covered by the driver's auto insurance policy when renting or leasing a vehicle. If the renter of a vehicle does not have auto insurance coverage, the rental or leasing car company is the provider of security.

Strike-through indicates language that would be stricken from the present law, and underscoring indicates new language that would be added.