

2022 Regular Session

HOUSE BILL NO. 870

BY REPRESENTATIVE LACOMBE

INSURANCE/AUTOMOBILE: Provides for coverage for a temporary substitute motor vehicle

1 AN ACT

2 To enact R.S. 22:1296.1, relative to automobile insurance; to provide for the application of
3 certain insurance coverages to an insured when operating a vehicle not owned by the
4 insured; to provide certain requirements for such coverages to apply to the insured's
5 conduct; to provide for a determination as to which insurance is primary; to provide
6 legislative intent; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 22:1296.1 is hereby enacted to read as follows:

9 §1296.1. Coverage for drivers of non-owned vehicles; requirements

10 A. An approved insurance company, reciprocal or exchange, writing
11 automobile liability, uninsured, underinsured, or medical payments coverage shall
12 not exclude the benefits of such coverage under its policy to an insured operating a
13 vehicle not owned by the insured if all of the following requirements are satisfied:

14 (1) The coverage is in full force and effect.

15 (2) The insured is operating a vehicle not owned by the insured with the
16 express or implied permission of the vehicle's owner.

17 (3) The vehicle not owned by the insured that is being operated by the
18 insured is not provided, furnished, or available to the insured on a regular basis.

19 B. Coverage provided pursuant to this Section shall be secondary to the
20 vehicle owner's insurance policy.

1 C. If the coverage provided pursuant to this Section is included within the
 2 coverage provided pursuant to R.S. 22:1296, the provisions of R.S. 22:1296 shall
 3 determine which coverage is primary.

4 Section 2. R.S. 22:1296.1 as enacted by Section 1 of this Act is enacted in direct
 5 response to the Louisiana Supreme Court decision in Calvin Landry & Mary Landry v.
 6 Progressive Security Insurance Company, et al, Docket Number 2021-C-00621 (January 28,
 7 2022) to declare that it is the intent of the Legislature of Louisiana in enacting this Act to
 8 clearly establish that under Louisiana law, automobile insurance liability coverage related
 9 to a defendant driver's negligent operation of a vehicle not owned by the insured is covered
 10 under the conditions addressed by R.S. 22:1296.1.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 870 Reengrossed

2022 Regular Session

LaCombe

Abstract: Provides for coverage for a motor vehicle not owned by the insured.

Proposed law provides that an approved insurance company, reciprocal or exchange, writing automobile liability, uninsured, underinsured, or medical payments coverage shall not exclude the benefits of such coverage under its policy to an insured operating a vehicle not owned by the insured if all of the following requirements are satisfied:

- (1) The coverage is in full force and effect.
- (2) The insured is operating a vehicle not owned by the insured with the express or implied permission of the vehicle's owner.
- (3) The vehicle not owned by the insured that is being operated by the insured is not provided, furnished, or available to the insured on a regular basis.

Proposed law provides that coverage provided pursuant proposed law shall be secondary to the vehicle owner's insurance policy.

Proposed law provides that if the coverage provided pursuant to proposed law is included within the coverage provided pursuant to present law (R.S. 22:1296), the provisions of present law (R.S. 22:1296) shall determine which coverage is primary.

Proposed law provides that the provisions of proposed law are in direct response to the Louisiana Supreme Court decision in Calvin Landry & Mary Landry v. Progressive Security Insurance Company, et al, Docket Number 2021-C-00621 (January 28, 2022) to declare that it is the intent of the legislature of Louisiana in enacting proposed law to clearly establish that under Louisiana law, automobile insurance liability coverage related to a defendant

driver's negligent operation of a vehicle not owned by the insured is covered under the conditions addressed by proposed law .

(Adds R.S. 22:1296.1)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Add to the definition of a temporary substitute motor vehicle a requirement that the operator of the vehicle has, or reasonably believes to have, permission from the owner to operate the vehicle and such operation is within the scope of such permission.

The House Floor Amendments to the engrossed bill:

1. Restore present law (R.S. 22:1296(A)).
2. Provide for the application of certain insurance coverages to an insured when operating a vehicle not owned by the insured.
3. Provide requirements for certain coverages to apply to the insured's operation of a vehicle not owned by the insured.
4. Provide for a determination as to which insurance is primary when an insured operates a vehicle not owned by the insured.
5. Provide for the legislative intent for proposed law.