

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 217, As Amended in the Senate

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO MOTOR VEHICLES; AMENDING SECTION 49-1212, IDAHO CODE, TO REVISE  
2 PROVISIONS RELATING TO THE NEGLIGENT OPERATION OF A LOANED VEHICLE AND  
3 TO MAKE TECHNICAL CORRECTIONS.  
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 49-1212, Idaho Code, be, and the same is hereby  
7 amended to read as follows:

8 49-1212. EXPRESSED, PERMITTED AND IMPLIED PROVISIONS OF MOTOR VEHICLE  
9 LIABILITY POLICY. (1) An owner's policy of liability insurance shall:

10 (a) Designate by explicit description or by appropriate reference all  
11 motor vehicles with respect to which coverage is to be granted; and

12 (b) Insure the person named therein and any other person, as insured,  
13 using any such described motor vehicles with the express or implied per-  
14 mission of the named insured, against loss from the liability imposed by  
15 law for damages arising out of the ownership, maintenance or use of the  
16 motor vehicles within the United States of America or the Dominion of  
17 Canada, subject to limits exclusive of interest and costs, with respect  
18 to each motor vehicle, as provided in section 49-117, Idaho Code.

19 (2) An operator's policy of liability insurance shall insure the person  
20 named as insured therein against loss from the liability imposed upon him by  
21 law for damages arising out of the use by him of any motor vehicle not owned  
22 by him, within the same territorial limits and subject to the same limits of  
23 liability as are set forth in subsection (1) of this section with respect to  
24 an owner's policy of liability insurance.

25 (3) A motor vehicle liability policy shall state the name and address of  
26 the named insured, the coverage afforded by the policy, the premium charged  
27 therefor, the policy period and the limits of liability, and shall contain an  
28 agreement or be ~~indorsed~~ endorsed that insurance is provided in accordance  
29 with the coverage defined in this chapter as respects bodily injury and death  
30 or property damage, or both, and is subject to all the provisions of this  
31 chapter.

32 (4) A motor vehicle liability policy shall not insure any liability  
33 under any worker's compensation law as provided in title 72, Idaho Code,  
34 nor any liability on account of bodily injury to or death of an employee of  
35 the insured while engaged in the employment, other than domestic, of the  
36 insured, or while engaged in the operation, maintenance or repair of any  
37 described motor vehicle nor any liability for damage to property owned by,  
38 rented to, in charge of or transported by the insured.

39 (5) Every motor vehicle liability policy shall be subject to the fol-  
40 lowing provisions which need not be contained therein:

41 (a) The policy may not be canceled or annulled as to any liability by any  
42 agreement between the insurance carrier and the insured after the oc-

1 currence of any injury or damage covered by the motor vehicle liability  
2 policy.

3 (b) Satisfaction by the insured of a judgment for injury or damage shall  
4 not be a condition precedent to the right or duty of the insurance car-  
5 rier to make payment on account of the injury or damage.

6 (c) The insurance carrier shall have the right to settle any claim  
7 covered by the policy, and if the settlement is made in good faith,  
8 the amount shall be deductible from the limits of liability ~~specified~~  
9 referenced in subsection (1) (b) of this section.

10 (d) The policy and its written application, if any, and any rider or  
11 ~~indorsement~~ endorsement which does not conflict with the provisions of  
12 this chapter shall constitute the entire contract between the parties.

13 (6) Any policy which grants the coverage required for a motor vehicle  
14 liability policy may also grant any lawful coverage in excess of or in addi-  
15 tion to the coverage specified for a motor vehicle liability policy, and any  
16 excess or additional coverage shall not be subject to the provisions of this  
17 chapter. With respect to a policy which grants an excess of additional cov-  
18 erage the term "motor vehicle liability policy" shall apply only to that part  
19 of the coverage which is required by this section.

20 (7) Any motor vehicle liability policy may provide that the insured  
21 shall reimburse the insurance carrier for any payment the insurance carrier  
22 would not have been obligated to make under the terms of the policy except for  
23 the provisions of this chapter.

24 (8) Any motor vehicle liability policy may provide for the prorating of  
25 the insurance with other valid and collectible insurance.

26 (9) The requirements for a motor vehicle liability policy may be ful-  
27 filled by the policies of one (1) or more insurance carriers, which policies  
28 together meet the requirements of this chapter.

29 (10) Any binder issued pending the issuance of a motor vehicle liability  
30 policy shall be deemed to fulfill the requirements for such a policy.

31 (11) Notwithstanding any other provisions of this section or section  
32 49-2417, Idaho Code, wWhen the negligent operation of a loaned vehicle  
33 results in the death or injury to a person or damage to personal property, ex-  
34 cept for the loaned vehicle, and at the time of the negligent operation of the  
35 loaned vehicle the operator ~~of the loaned vehicle~~ is insured under a motor  
36 vehicle liability policy complying with the financial responsibility law  
37 of this state, then primary coverage for the death of or injury to a person  
38 or damage to personal property, ~~except for the loaned vehicle,~~ shall be pro-  
39 vided by the operator's motor vehicle liability policy. When an operator's  
40 policy provides liability or physical damage coverage for damage to the  
41 loaned vehicle, that coverage shall be primary and shall be limited to the  
42 lower of the reasonable cost to repair or the owner's actual cost to replace  
43 the loaned vehicle. The insurance policy of the owner of the loaned vehicle  
44 shall provide secondary or excess coverage for the death of or injury to a  
45 person or personal property, ~~however the loaned vehicle owner's insurance~~  
46 ~~shall provide primary coverage for damage to the loaned vehicle.~~

47 (a) For the purpose of this subsection, "loaned vehicle" means a motor  
48 vehicle which is provided for temporary use without charge to the oper-  
49 ator by an entity licensed under chapter 16, title 49, Idaho Code, for  
50 the purpose of demonstrating the vehicle to the operator as a prospec-

1           tive purchaser, or as a convenience to the operator during the repairing  
2           or servicing of a motor vehicle for the operator, regardless of whether  
3           such repair or service is performed by the owner of the loaned vehicle or  
4           by some other person or business.

5           (b) Should the owner of a motor vehicle receive any compensation from  
6           or on behalf of the operator for the temporary use of the motor vehicle,  
7           excluding any compensation provided to the owner as a result of the re-  
8           pairing or servicing of a motor vehicle for the operator, the owner's  
9           insurance coverage shall be primary and the operator's motor vehicle  
10          insurance shall be secondary or excess.

11          (12) No motor vehicle liability policy providing coverage beyond state  
12          mandated minimum limits shall provide a reduced level of coverage to any in-  
13          sured's family or household member or other authorized user except as pro-  
14          vided in section 41-2510, Idaho Code.