

WHOSE INSURANCE COVERS YOU WHEN YOU BORROW A VEHICLE?

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The reason you borrow a car and your relationship to the owner of the vehicle is very important in determining which insurance policy covers you when you are involved in accident in that car. Under La. R.S. 22:681, the policy of insurance which covers your vehicle extends to a “temporary substitute vehicle.”

You should look at the language in your insurance policy for the meaning of this term. However, the majority of policies consider a “temporary substitute vehicle” as an automobile which is not owned by you, but is temporarily used with the permission of the owner. This vehicle must be used as a substitute for your car when your car is being repaired, has broken down or been destroyed. Consequently, on most occasions, if you borrow someone’s car or even rent another vehicle because your car is in the repair shop, your policy is the primary coverage for any accident that occurs, not the owner of the car’s policy.

EXAMPLE 1

You loaned your car to your friend, June, because her car was in the repair shop. June struck a child with your car causing minor injuries. Your insurer paid for the child’s damages and then found out June had insurance coverage. Your insurer wanted to be paid back by June’s insurer. There was some language in June’s policy that did not allow for primary coverage of a “temporary substitute vehicle”. In such a case, the court found that the policy conflicted with the statute. Statutory law is superior to policy language, therefore, June’s insurer had to pay for the damages.

EXAMPLE 2

Tom had three trucks on his farm, each having its own separate insurance policy. You took one of his trucks to deliver some of his farm products. You failed to yield on a roadway causing an accident. The other driver settled with Tom’s insurer for the truck you were driving, but also made a claim against Tom’s other two vehicles. She claimed that the truck in the accident was a “temporary substitute vehicle.” In such a case, the court held that the truck involved in the accident was not a “temporary substitute vehicle.” Important to the court’s decision was that the other two trucks were fully operational and being used on the farm. The other two vehicles had not been withdrawn from use.

In conclusion, if you borrow someone’s vehicle because it is the last car in the driveway, the vehicle owner’s policy will be first to cover any accident. Be aware also that if you purchase separate coverage for the “temporary substitute vehicle” (i.e. rental vehicle insurance) that the separate rental policy will be primary for coverage. There are additional questions that arise under the law when you drive your spouse’s automobile, if it’s owned separately and has it’s own separate policy. Look to your policy for the definitions of “temporary substitute vehicle” and “insured” or “you”. These definitions can determine the amount of coverage you have for an accident and which policy is first to cover you.

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