

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 505
92ND GENERAL ASSEMBLY

Reported from the Committee on Commerce and the Environment, April 14, 2003, with recommendation that the Senate Committee Substitute do pass and be placed on the Consent Calendar.

TERRY L. SPIELER, Secretary.

1544S.02C

AN ACT

To repeal section 407.735, RSMo, and to enact in lieu thereof one new section relating to merchandising practices for motor vehicle rentals and subleasing.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 407.735, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 407.735, to read as follows:

407.735. 1. Any business practices utilized by car rental companies in furtherance of their business of renting vehicles to the public shall be nondeceptive, fair and shall not be unconscionable.

2. Any collision damage waiver product offered for sale to the public shall not contain any provisions that are deceptive, unfair or unconscionable. It is deceptive, unfair, and unconscionable to require a consumer to assume absolute liability for damage or loss up to the total value of a rental vehicle regardless of fault as a condition of the rental agreement, and then not include as part of any collision damage waiver product, a waiver of liability for any damage or loss which occurs as a result of the consumer's ordinary negligence, except where:

(1) The damage is caused intentionally by an authorized driver or as a result of his willful and wanton misconduct;

(2) The damage arises out of the authorized driver's operation of the vehicle while intoxicated or under the influence of any illegal or unauthorized drug;

(3) The rental transaction is based on fraudulent information supplied by the renter;

EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

17 (4) The damage arises out of the use of the vehicle while committing or otherwise
18 engaged in a criminal act in which the automobile usage is substantially related to the
19 nature of the criminal activity;

20 (5) The damage arises out of the use of the vehicle to carry persons or property
21 for hire;

22 (6) The damage occurs while the vehicle is operated by a person other than an
23 authorized driver. For the purposes of this subsection, "authorized driver" means the
24 person to whom the vehicle is rented; the renter's spouse or other family members who
25 are licensed drivers and satisfy the rental company's minimum age requirement; the
26 renter's employer or co-worker if they are engaged in business activity with the person
27 to whom the vehicle is rented, are licensed drivers, and satisfy the rental company's
28 minimum age requirement; any person who operates the vehicle during an emergency
29 situation or while parking the vehicle at a commercial establishment; and any person
30 expressly listed by the rental company on the rental agreement as an authorized driver;

31 (7) The damage arises out of the use of the vehicle outside of the United States
32 unless such use is specifically authorized by the rental agreement;

33 (8) Towing or pushing anything or if operation of the vehicle on an unpaved road
34 has resulted in damage or loss which is a direct result of the road or driving conditions;

35 **(9) Loss due to the theft of the rental vehicle. However, the renter**
36 **shall be presumed to have no liability for any loss due to theft if:**

37 **(a) An authorized driver has possession of the ignition key furnished**
38 **by the rental company or an authorized driver establishes that the ignition**
39 **key furnished by the rental company was not in the vehicle at the time of the**
40 **theft; and**

41 **(b) An authorized driver files an official report of the theft with the**
42 **police or other law enforcement agency within twenty-four hours of learning**
43 **of the theft and reasonably cooperates with the rental company and the police**
44 **or other law enforcement agency in providing information concerning the**
45 **theft. The presumption set forth in this paragraph is a presumption affecting**
46 **the burden of proof which the rental company may rebut by establishing that**
47 **an authorized driver committed, or aided and abetted the commission of, the**
48 **theft.**

49 3. Any claim resulting from physical damage to or loss of a rental vehicle
50 [exceeding five hundred dollars] **must be reasonably and rationally related to the**
51 **actual loss incurred. The rental company shall not assert or collect any claim**
52 **for damage to or loss of rental vehicle which exceeds the actual cash value of**

53 **the vehicle immediately before the loss, less any proceeds from the vehicle's**
54 **disposal after the loss, or the actual cost to repair the damaged vehicle**
55 **including all discounts or price reductions, whichever is less. Such claim** shall
56 be based on an estimate of damage **or repair invoice** made by an independent
57 appraisal company [or by], an insurance company, **or repair facility that completed**
58 **or would complete the repairs.** A rental company's charge for loss of use shall not
59 exceed a reasonable estimate of the actual income lost.

60 4. It is a deceptive and unfair practice for a car rental company or employee to
61 misrepresent any element of a rental agreement transaction or to fail to disclose to
62 consumers all material facts and restrictions applicable to the rental of a vehicle or in
63 the sale of optional products or services. The company shall disclose the extent of the
64 consumer's liability for the vehicle and the price for collision damage waiver and
65 applicable mileage limitations and charges. No car rental company shall sell or offer to
66 sell a consumer a collision damage waiver product as a part of the rental agreement
67 unless the car rental company first provides the consumer with the following written
68 notice:

69 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A
70 COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE
71 TO THE VEHICLE. BEFORE YOU DECIDE WHETHER TO PURCHASE THE
72 COLLISION DAMAGE WAIVER PRODUCT, YOU MAY WISH TO DETERMINE
73 WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR
74 DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE
75 UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS
76 COLLISION DAMAGE WAIVER PRODUCT IS NOT MANDATORY AND MAY BE
77 DECLINED. Such notice shall be made on the face of the rental agreement as part of
78 the written contract, shall be set apart in bold-face type and in no smaller print than
79 10-point type, and shall include a space for the consumer to acknowledge his receipt of
80 this notice.

81 5. Car rental companies shall not place a hold against a consumer's credit limit
82 or charge a consumer's credit card in a deceptive or unfair manner, and without full and
83 complete disclosure of such practice.