

HOUSE SUBSTITUTE  
FOR  
HOUSE COMMITTEE SUBSTITUTE  
FOR  
HOUSE BILL NO. 1285

AN ACT

2 To repeal sections 407.730 and 407.735, RSMo,  
3 and to enact in lieu thereof two new sections  
4 relating to car rental insurance, with a  
5 penalty provision.

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6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,  
7 AS FOLLOWS:

8 Section A. Sections 407.730 and 407.735, RSMo, are repealed  
9 and two new sections enacted in lieu thereof, to be known as  
10 sections 407.730 and 407.735, to read as follows:

11 407.730. As used in sections 407.730 to 407.748, the following  
12 terms mean:

13 (1) "Authorized driver":

14 (a) The renter;

15 (b) The renter's spouse if the spouse is a licensed driver  
16 and satisfies the car rental company's minimum age requirement;

17 (c) The renter's employee or co-worker if they are engaged  
18 in business activity with the person to whom the vehicle is  
19 rented, are licensed drivers, and satisfy the rental company's  
20 minimum age requirements;

1       (d) Any person who operates the vehicle during an emergency  
2       situation; and

3       (e) Any person expressly listed by the car rental company  
4       on the renter's contract as an authorized driver;

5       (2) "Blackout date", any date on which an advertised price  
6       is totally unavailable to the public;

7       (3) "Car rental company", any person or entity in the  
8       business of renting private passenger vehicles to the public;

9       [(2)] (4) "Clear and conspicuous", that the statement,  
10       representation or term being disclosed is of such size, color  
11       contrast, and audibility and is so presented as to be readily  
12       noticed and understood by the person to whom it is being  
13       disclosed. All language and terms should be used in accordance  
14       with their common or ordinary usage and meaning;

15       [(3)] (5) "Collision damage waiver", any product a consumer  
16       purchases from a car rental company in order to waive all or part  
17       of his [liability in the event of a collision, other damage to]  
18       responsibility for damages, or loss [due to theft] of, a rental  
19       vehicle;

20       [(4)] (6) "Limited time availability", that the advertised  
21       rental price is only available for a specific period of time or  
22       that the price is not available during certain blackout periods;

23       [(5)] (7) "Material restriction", a restriction, limitation  
24       or other requirement which significantly affects the price of,  
25       use of, or a consumer's financial responsibility for a rental

1 car;

2 [(6)] (8) "Mandatory charge", any charge, fee, or surcharge  
3 consumers must generally pay in order to obtain or operate a  
4 rental vehicle;

5 (9) "Car rental insurance", products and services that are  
6 offered in connection with and incidental to the rental of a  
7 motor vehicle under subdivision (10) of subsection 1 of section  
8 375.786, RSMo. This definition of optional car rental insurance  
9 or any other definition of insurance shall not include collision  
10 damage waiver;

11 (10) "Rental agreement", any document or combination of  
12 documents, which, when read together and incorporated by  
13 reference to each other, relate to and establish the terms and  
14 conditions of the rental of a motor vehicle by an individual; or  
15 when such a combination of documents is entered into as part of  
16 any written master, corporate, group or individual agreement  
17 setting forth the terms and conditions governing the use of a  
18 rental car rented by a car rental company;

19 (11) "Master rental agreement", those documents used by a  
20 car rental company for expedited service to members in a program  
21 sponsored by the car rental company in which renters establish a  
22 profile and select preferences for rental needs which establish  
23 the terms and conditions governing the use of a rental car rented  
24 by a car rental company by a participant in a master rental  
25 agreement;

1            [(7)] (12) "Advertisement", oral, written, graphic or  
2 pictorial statements made in the course of solicitation of  
3 business including, without limitation, any statement or  
4 representation made in a newspaper, magazine, the car rental  
5 company's proprietary web site, or other publication, or  
6 contained in any notice, sign, poster, display, circular,  
7 pamphlet, or letter which may collectively be called "print  
8 advertisements", or on radio or television, which may be referred  
9 to as "broadcast commercials".

10            407.735. 1. Any business practices utilized by car rental  
11 companies in furtherance of their business of renting vehicles to  
12 the public shall be nondeceptive, fair and shall not be  
13 unconscionable.

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

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

25            (2) The damage arises out of the authorized driver's

1 operation of the vehicle while intoxicated or under the influence  
2 of any illegal or unauthorized drug;

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

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

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

11 (6) The damage occurs while the vehicle is operated by a  
12 person other than an authorized driver[. For the purposes of  
13 this subsection, "authorized driver" means the person to whom the  
14 vehicle is rented; the renter's spouse or other family members  
15 who are licensed drivers and satisfy the rental company's minimum  
16 age requirement; the renter's employer or co-worker if they are  
17 engaged in business activity with the person to whom the vehicle  
18 is rented, are licensed drivers, and satisfy the rental company's  
19 minimum age requirement; any person who operates the vehicle  
20 during an emergency situation or while parking the vehicle at a  
21 commercial establishment; and any person expressly listed by the  
22 rental company on the rental agreement as an authorized driver]  
23 as defined in section 407.730;

24 (7) The damage arises out of the use of the vehicle outside  
25 of the United States unless such use is specifically authorized

1 by the rental agreement;

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

5 (9) Loss due to the theft of the rental vehicle. However,  
6 the renter shall be presumed to have no liability for any loss  
7 due to theft if (A) an authorized driver has possession of the  
8 ignition key furnished by the rental company or an authorized  
9 driver establishes that the ignition key furnished by the car  
10 rental company was not in the vehicle at the time of the theft,  
11 and (B) an authorized driver files an official report of the  
12 theft with the police or other law enforcement agency within  
13 twenty-four hours of learning of the theft and reasonably  
14 cooperates with the car rental company and the police or other  
15 law enforcement agency in providing information concerning the  
16 theft. The presumption set forth in this paragraph is a  
17 presumption affecting the burden of proof which the car rental  
18 company may rebut by establishing that an authorized driver  
19 committed, or aided and abetted the commission of, the theft.

20 3. Any claim resulting from damage to or loss of a rental  
21 vehicle shall be reasonably and rationally related to the actual  
22 loss incurred. The car rental company shall not assert or  
23 collect any claim for physical or mechanical damage to or loss of  
24 a rental vehicle which exceeds: the actual cash value of the  
25 vehicle immediately before the loss less any proceeds from the

1 vehicle's disposal after the loss, or the actual cost to repair  
2 the damaged vehicle including all discounts or price reductions,  
3 whichever is less. Such claim shall be based on an estimate of  
4 damage or repair invoice made by an independent appraisal  
5 company, an insurance company, or a repair facility that  
6 completed or would complete the repairs. A car rental company's  
7 charge for loss of use shall not exceed a reasonable estimate of  
8 the actual income lost.

9 4. It is a deceptive and unfair practice for a car rental  
10 company or employee to knowingly and intentionally misrepresent  
11 any material element of a rental agreement transaction [or to  
12 fail to disclose to consumers all material facts and restrictions  
13 applicable to the rental of a vehicle or in the sale of optional  
14 products or services] including the sale of collision damage  
15 waiver and car rental insurance. The company shall disclose in  
16 the rental agreement the extent of the consumer's liability for  
17 the vehicle and applicable mileage limitations and charges. When  
18 the consumer elects the collision damage waiver or car rental  
19 insurance, the price for collision damage waiver and [applicable  
20 mileage limitations and charges] car rental insurance shall  
21 appear on the rental agreement. A car rental company shall not  
22 require the purchase of collision damage waiver or car rental  
23 insurance. No car rental company shall sell to a consumer or  
24 offer to sell a consumer a collision damage waiver [product] or  
25 car rental insurance as a part of the rental agreement unless the

1 car rental company [first] provides the consumer with the  
2 following written notice:

3 [NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A  
4 COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE  
5 TO THE VEHICLE. BEFORE YOU DECIDE WHETHER TO PURCHASE THE  
6 COLLISION DAMAGE WAIVER PRODUCT, YOU MAY WISH TO DETERMINE  
7 WHETHER YOUR OWN VEHICLE INSURANCE AFFORDS YOU COVERAGE FOR  
8 DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE  
9 UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS  
10 COLLISION DAMAGE WAIVER PRODUCT IS NOT MANDATORY AND MAY BE  
11 DECLINED.] COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE

12 NOTICE: OUR CONTRACT OFFERS FOR AN ADDITIONAL CHARGE COLLISION  
13 DAMAGE AND CAR RENTAL INSURANCE PRODUCTS. BEFORE DECIDING  
14 WHETHER TO PURCHASE ANY OF THESE OPTIONAL PRODUCTS, YOU MAY WISH  
15 TO DETERMINE WHETHER YOUR PERSONAL INSURANCE OR CREDIT CARD  
16 PROVIDES YOU COVERAGE DURING THE RENTAL PERIOD. THE PURCHASE OF  
17 ANY OF THESE OPTIONAL PRODUCTS IS NOT REQUIRED TO RENT A VEHICLE.

18 THIS NOTICE REQUIREMENT SHALL BE DEED SATISFIED IF THIS  
19 WRITTEN NOTICE APPEARS IN MATERIALS FURNISHED TO A CONSUMER  
20 DURING THE ENROLLMENT PROCESS INTO A MASTER RENTAL AGREEMENT OR  
21 IF PLACED ON THE RENTAL COMPANY'S PROPRIETARY WEB SITE AFTER THE  
22 EFFECTIVE DATE OF THIS STATUTE. THIS NOTICE PROVISION IS DEEMED  
23 COMPLIED WITH FOR ALL CONSUMERS WHO HAVE PREVIOUSLY ENROLLED INTO  
24 A MASTER RENTAL AGREEMENT PRIOR TO THE EFFECTIVE DATE OF THIS  
25 STATUTE AND NO FURTHER NOTICE SHALL BE REQUIRED.



1 Such notice shall be made on the face of the rental agreement as  
2 part of the written contract[, ] and shall be set apart in  
3 boldface type and in no smaller print than 10-point type[, and  
4 shall include a space for the consumer to acknowledge his receipt  
5 of this notice].

6 5. The car rental company shall provide a notice at the  
7 rental office in the form of a sign, placard, or brochure that  
8 informs the consumer of the following:

9 (1) The availability of collision damage waiver;

10 (2) The availability of car rental insurance;

11 (3) A statement that the purchase of collision damage  
12 waiver and/or car rental insurance is not required in order to  
13 rent.

14 The following language may be used to comply with the  
15 requirements of this section, but shall not be considered the  
16 exclusive language that may be used:

17 COLLISION DAMAGE WAIVER AND CAR RENTAL INSURANCE NOTICE:

18 Our contract offers for an additional charge optional  
19 products which provide you protection during your rental,  
20 including:

21 1. Collision Damage Waiver: You are responsible for all  
22 damages to or loss of the rental vehicle. A Collision Damage  
23 Waiver will relieve you of responsibility for all or part of the  
24 damage to the rental vehicle that may occur during the rental

1 period.

2 2. Personal Accident Insurance: Personal Accident  
3 Insurance provides accidental death and accident medical  
4 insurance that protects you during the rental period in or out of  
5 the rental vehicle and your passengers while in the rental  
6 vehicle.

7 3. Personal Effects Coverage: Personal Effects Coverage  
8 protects your possessions from loss or damage during the rental  
9 period.

10 4. Liability Insurance: Liability Insurance provides  
11 protection to cover injuries or death to third parties or damage  
12 to a third party's property if you are at fault in an accident  
13 with the rental vehicle during the rental period.

14 Before deciding to purchase any of these optional products,  
15 you may wish to determine whether your personal insurance or  
16 credit card provides you coverage during the rental period.

17 The purchase of any of these products is not required to  
18 rent a vehicle.

19 6. Car rental companies shall not place a hold against a  
20 consumer's credit limit or charge a consumer's credit card in a  
21 deceptive or unfair manner, and without full and complete  
22 disclosure of such practice.

23 7. The sole and exclusive remedies for any violation by a  
24 car rental company of any provision of sections 407.730 to  
25 407.735, or for any conduct, act, or practice prescribed by any

1 provisions of sections 407.730 to 407.735, shall be injunctive  
2 relief and monetary damages in an amount not to exceed fifty  
3 dollars for each violation. The aggregate amount of monetary  
4 damages which may be assessed against a car rental company for  
5 violations of any provisions of sections 407.730 to 407.735, or  
6 for any conduct, act, or practice prescribed by any provisions of  
7 sections 407.730 to 407.735, shall not exceed the sum of ten  
8 thousand dollars in the aggregate during any calendar year.  
9 These remedies are in lieu of, and supercede, all other remedies  
10 provided by this chapter, other Missouri statutes, common law, or  
11 equity.