

BILL ANALYSIS

Senate Research Center
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H.B. 3091
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Administration
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Committee Report (Amended)

DIGEST

Currently, Article 9026, V.T.C.S., governs the sale of loss damage waivers to renters of private passenger vehicles. Loss damage waivers are offered as an additional service by the rental company, and their purchase is entirely voluntary and at the discretion of the renter of the vehicle. A majority of states have adopted a model law regulating the sale of loss damage waivers to motor vehicle renters. This bill would adopt the model consumers protection law now in effect in a majority of states, put Texas law in the national mainstream in protecting consumers from abuses stemming from non-disclosure of mandatory charges, establish procedures and guidelines for the purchase of rental car damage waivers, and provide penalties for violations of this Act.

PURPOSE

As proposed, H.B. 3091 establishes procedures and guidelines for the purchase of rental car damage waivers and provides penalties for violations of this Act.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Chapter 20, Title 132, V.T.C.S., by adding Article 9026c, as follows:

Art. 9026c. RENTAL CAR DAMAGE WAIVER

Sec. 1. DEFINITIONS. Defines “rental company,” “renter,” “rental agreement,” “damage,” “private passenger vehicle,” “authorized driver,” and “damage waiver.”

Sec. 2. PROHIBITED PRACTICES. Prohibits a rental company from selling a damage waiver unless the renter agrees to the damage waiver in writing before the time the rental agreement is executed. Prohibits a rental company from voiding a damage waiver except for certain reasons regarding the cause of the damage.

Sec. 3. DISCLOSURE NOTICE REQUIREMENTS. Requires a rental company to provide a disclosure notice to each renter who purchases a damage waiver that is not included in the base rental rate. Sets forth required text and format of the required notice. Requires a rental company to post a notice to Texas residents regarding damage waivers (waiver notice) in a location where a damage waiver is being offered. Sets forth required text of the waiver notice.

Sec. 4. MANDATORY CHARGES. Defines “mandatory charges.” Requires a rental agreement containing a mandatory charge to prominently display and fully disclose the charge separately on the face of the agreement and in all the rental company’s price advertising, price displays, price quotes, and price offers. Prohibits a rental company from imposing or requiring the purchase of a damage waiver as a mandatory charge.

Sec. 5. PROHIBITED REPRESENTATIONS. Prohibits oral or written representations from being made by an employee or agent of a rental company which contradict provisions of this Act. Provides that no coercive language or action shall be used in an attempt to persuade a rental consumer to purchase a damage waiver. Specifies language deemed coercive.

Sec. 6. PENALTY. Subjects a rental company that violates this article to a civil penalty in an amount of at least \$500 and not to exceed \$1,000 for each violation. Authorizes a county or district attorney or the attorney general to institute and conduct a suit in the name of the state to recover the civil penalty, injunctive relief, or both. Authorizes any person or entity injured or threatened with injury by a violation of this article to seek injunctive relief against any company or person who violates this article.

SECTION 2. Repealer: Article 9026, V.T.C.S. (Automobile rental agreements).

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 1999.

SECTION 5. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 2, Chapter 20, Title 132, V.T.C.S., to respecify conditions under which a rental company is allowed to void a damage waiver.

Amends Section 3, Chapter 20, Title 132, V.T.C.S., to require a rental company to post a waiver notice and set forth required text of the waiver notice.

Adds Section 5, Chapter 20, Title 132, V.T.C.S., to prohibit oral or written representations from being made by an employee or agent of a rental company which contradict provisions of this Act. Provides that no coercive language or action shall be used in an attempt to persuade a rental consumer to purchase a damage waiver. Specifies language deemed coercive. Redesignates proposed Section 5 as Section 6.