

Reprinted

SENATE FILE

491

BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 269)

Passed Senate, Date 4/8/91 (p. 1115)

Passed House, Date 4/17/91

(P. 1307)

Vote: Ayes 49 Nays 0

Vote: Ayes 94 Nays 0

Approved May 28, 1991

A BILL FOR

1 An Act relating to the rental of motor vehicles for a period of
2 sixty days or less from a location in this state, and
3 providing civil and criminal penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 491

1 Section 1. NEW SECTION. 516D.1 TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Car Rental and Collision Damage Waiver Act".

4 Sec. 2. NEW SECTION. 516D.2 SCOPE.

5 This chapter applies to advertising and business practices
6 relating to vehicle rental agreements entered into in this
7 state.

8 Sec. 3. NEW SECTION. 516D.3 DEFINITIONS.

9 As used in this chapter, unless the context requires
10 otherwise:

11 1. "Authorized driver" means any of the following:

12 a. A customer to whom a vehicle is rented.

13 b. A person expressly listed by a rental company on a
14 rental agreement as an authorized driver.

15 c. A customer's spouse, if the spouse is a licensed driver
16 and satisfies the rental company's minimum age requirement.

17 d. A customer's employer or coworker, if the employer or
18 coworker is engaged in a business activity with the customer
19 to whom the vehicle is rented, is a licensed driver, and
20 satisfies the rental company's minimum age requirement.

3344 21 2. "Collision damage waiver" means a contract or
22 contractual provision, whether separate from or a part of a
23 rental agreement, whereby the rental company agrees, for a
24 charge, to waive any and all claims against an authorized
25 driver for any damages to the rental vehicle, loss due to
26 theft of the rental vehicle, or damages resulting from the
27 loss of use of the rental vehicle.

28 3. "Customer" means a person entering into a rental
29 agreement and obtaining the use of a rental vehicle from a
30 rental company under the terms of the rental agreement.

31 4. "Estimated time for repair" means a good faith estimate
32 of the reasonable number of hours of labor, or fraction of an
33 hour, needed to repair a damaged vehicle or damaged vehicle
34 parts.

35 5. "Estimated time for replacement" means the number of

1 hours of labor, or fraction of an hour, needed to replace
2 damaged vehicle parts as set forth in collision damage
3 estimating guides generally used in the vehicle repair
4 business and commonly known as crash books.

5 6. "Mandatory charge" means any charge, fee differential,
6 or surcharge that all or a majority of customers must pay in
7 order to obtain or operate a rental vehicle except as follows:

8 a. Mandatory charge does not include an optional airport
9 imposed fee if the existence and amount of the fee are clearly
10 and conspicuously disclosed immediately adjacent to any
11 advertised rental price. The advertisement must clearly and
12 conspicuously state the method of avoiding the airport access
13 fee and the customer must be informed of the amount of the fee
14 when the reservation is made. When an advertisement
15 encompasses more than one rental location, the fee may be
16 expressed as the maximum fee or range of fees.

17 b. Mandatory charge does not include taxes imposed
18 directly upon the rental transaction by an authorized taxing
19 authority. An airport imposed fee on gross receipts or an
20 airport access fee is not such a tax.

21 c. Mandatory charge does not include mileage fees as long
22 as the existence of any mileage limitation and cost per mile
23 for excess mileage is clearly and conspicuously disclosed
24 immediately adjacent to the advertised price.

25 7. "Material restriction" means a restriction, limitation,
26 or other requirement which significantly affects the price of,
27 normal anticipated use of, or a consumer's financial
28 responsibility for, a rental vehicle. Restrictions against
29 any or all of the following activities in connection with the
30 acquisition or use of a rental vehicle are not material
31 restrictions:

32 a. Obtaining a rental vehicle by use of false or
33 misleading information.

34 b. Operating a rental vehicle while intoxicated or under
35 the influence of any drug.

1 c. Using a rental vehicle to transport persons or property
2 for hire.

3 d. Using a rental vehicle to engage in a race, training
4 activity, contest, or use for an illegal purpose.

5 e. Using a rental vehicle to push or tow a vehicle or
6 other object.

7 f. Operating a rental vehicle in an abusive or reckless
8 manner.

9 g. Operating a rental vehicle other than on regularly
10 maintained hard surface roadways, including private driveways
11 and parking lots. For purposes of this chapter, "hard surface
12 roadways" includes, but is not limited to, all regularly
13 maintained gravel-covered surfaces.

14 h. Operating a rental vehicle outside the continental
15 United States unless specifically authorized by the rental
16 agreement.

17 8. "Placing a block" means any procedure or mechanism
18 which reserves a specified amount of the customer's otherwise
19 available credit on the customer's credit or charge card
20 account so that the amount is not available for future credit
21 purchases.

22 9. "Rental agreement" means a written contract containing
23 the terms and conditions for the use of a rental vehicle by a
24 customer for a term of sixty days or less.

25 10. "Rental company" means a person in the business of
26 providing rental vehicles to customers.

27 11. "Rental vehicle" means a private passenger type
28 vehicle which, upon the execution of a rental agreement, is
29 made available to a customer for the customer's use or other
30 authorized driver's use.

31 Sec. 4. NEW SECTION. 516D.4 COLLISION DAMAGE AND LOSS.

32 1. A rental company shall not hold, or attempt to hold, an
33 authorized driver liable for physical damage to a rental
34 vehicle, loss due to theft of a rental vehicle, or damages
35 resulting from the loss of use of a rental vehicle, unless the

1 rental company offers the customer a collision damage waiver
2 under the terms and conditions described in subsection 2 of
3 this section, or unless one or more of the following applies:

4 a. The damage or loss is caused intentionally by an
5 authorized driver or is a result of the authorized driver's
6 willful, abusive, reckless, or wanton misconduct.

7 b. The damage or loss arises out of the authorized
8 driver's operation of the rental vehicle while intoxicated or
9 under the influence of a drug.

10 c. The damage or loss is caused while the authorized
11 driver is engaged in a race, training activity, contest, or
12 use of the rental vehicle for an illegal purpose.

13 d. The rental agreement is based on false or misleading
14 information supplied by the customer or an authorized driver.

15 e. The damage or loss is caused by operating the rental
16 vehicle other than on regularly maintained hard surface
17 roadways, including private driveways and parking lots.

18 f. The damage or loss arises out of the use of the rental
19 vehicle to transport persons or property for hire or to push
20 or tow anything.

21 g. The damage or loss occurs while the rental vehicle is
22 operated by a driver other than an authorized driver.

23 h. The damage or loss arises out of the use of the rental
24 vehicle outside the continental United States unless such use
25 is specifically authorized by the rental agreement.

26 i. The damage or loss is attributable to theft which
27 occurs with the prior knowledge or knowing participation of an
28 authorized driver, or which is attributable to the authorized
29 driver leaving the rental vehicle unattended with the keys in
30 the rental vehicle.

31 This section does not alter the liability of a customer or
32 authorized driver for bodily injury or the death of another
33 and for property damage other than to the rental vehicle in
34 accordance with the rental agreement. This section does not
35 prohibit a rental company from accepting or negotiating master

1 contracts with companies or government entities in advance of
2 need whereby the companies or government entities specifically
3 agree to assume liability in exchange for rate concessions.
4 This section does not prohibit a rental company from entering
5 into written agreements with insurance companies to provide
6 replacement vehicles to insurance company customers whereby
7 the insurance company agrees to assume the risk of loss.

8 If the rental vehicle is not repaired, damages shall not
9 exceed the fair market value of the vehicle, as determined in
10 the customary market for that vehicle, less salvage or actual
11 sale value, plus additional license and tax fees incurred
12 because of the sale, plus administrative fees. A claim shall
13 not be made for loss of use if the rental vehicle is not
14 repaired.

15 2. A rental company may offer a collision damage waiver
16 under the following terms and conditions:

17 a. The rental company agrees to waive any and all claims
18 against the customer for any damages to or loss of the rental
19 vehicle during the term of the rental agreement up to five
20 hundred dollars for a cost not to exceed three dollars per
21 day; up to three thousand dollars for a cost not to exceed
22 five dollars per day; and up to the full value of the rental
23 vehicle for a cost not to exceed six dollars per day.

24 The cost of the collision damage waiver for the full value
25 of the vehicle may be adjusted on an annual basis by an amount
26 equal to the current allowable charge for the collision damage
27 waiver multiplied by the percent of increase in the consumer
28 price index for the preceding calendar year. The attorney
29 general shall publish by rule at least thirty days prior to
30 January of each year, the maximum amounts which can be charged
31 for a collision damage waiver.

32 b. The rental company must offer the customer the option
33 of purchasing any of the three options and the rental
34 agreement must contain the terms of the collision damage
35 waiver in simple and readable words with common meanings.

1 c. All restrictions, conditions, and exclusions must be
2 printed in the rental agreement, or on a separate sheet or
3 document, in ten-point type, or larger; or written in pen and
4 ink or typewritten in or on the face of the rental agreement
5 in a blank space provided for such restrictions, conditions,
6 and exclusions. The rental agreement may provide that the
7 collision damage waiver may be voided under the conditions set
8 forth in subsection 1, paragraphs "a" through "i".

9 d. The rental agreement, separate sheet, or document must
10 clearly and conspicuously state both the daily and estimated
11 total charge for the collision damage waiver.

12 e. The rental agreement, separate sheet, or document given
13 to the customer prior to entering into the rental agreement
14 must display in ten-point type, or larger, the following
15 notice:

16 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A
17 COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR
18 RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

19 BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE
20 WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE
21 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL
22 VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN
23 INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE
24 WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

25 The customer must separately acknowledge that the customer
26 received the above notice, that the customer desires to
27 purchase the collision damage waiver, and the terms of the
28 collision damage waiver to which the customer agrees.

29 f. The car rental company shall not pay commissions to a
30 rental counter agent or representative for selling collision
31 damage waivers and is prohibited from considering volume of
32 sales of collision damage waivers in an employee evaluation or
33 determination of promotion.

34 However, notwithstanding whether a rental company offers a
35 collision damage waiver under the provisions of this

1 subsection, the rental company shall not hold an authorized
2 driver liable for damage or loss due to theft except where
3 subsection 1, paragraph "i" applies.

4 Sec. 5. NEW SECTION. 516D.5 RECOVERY FOR DAMAGE OR LOSS.

5 A claim against an authorized driver resulting from damage
6 to a rental vehicle, loss due to theft of a rental vehicle, or
7 damages resulting from the loss of use of a rental vehicle,
8 must be reasonably and rationally related to the actual loss
9 incurred. A rental company shall mitigate damages where
10 possible and shall not assert or collect any claim for
11 physical damage which exceeds the actual cost of the repair,
12 including all discounts or price reductions. Administrative
13 fees shall be limited to the reasonable administrative costs
14 associated with processing the damage claim. A claim made for
15 loss of use shall not exceed the daily rental rate stated in
16 the customer's contract, excluding optional charges,
17 multiplied by the total of the estimated time for replacement
18 and the estimated time for repair, divided by eight.

19 Sec. 6. NEW SECTION. 516D.6 DISCLOSURES.

20 1. All material restrictions on an advertised rate or on
21 the use of the rental vehicle must be clearly and
22 conspicuously disclosed in any price advertisement.

23 2. A rental company shall only advertise, quote, and
24 charge a rental rate that includes all mandatory charges. A
25 rental company shall not impose any mandatory charges in
26 addition to the advertised or quoted rental rate.

27 Sec. 7. NEW SECTION. 516D.7 PROHIBITIONS.

28 Unfair or deceptive acts or practices in the advertisement
29 or rental of vehicles are prohibited. Unfair or deceptive
30 acts or practices include, but are not limited to, the
31 following:

32 1. A representation connected with the advertisement or
33 rental of a vehicle that the purchase of a collision damage
34 waiver is mandatory.

35 2. Failure to provide disclosures as required by this

1 chapter.

2 3. Failure to disclose in a manner likely to be noticed
3 and comprehended in an advertisement, as defined in section
4 714.16, subsection 1, paragraph "a", the availability of a
5 collision damage waiver, and the cost of the waiver.

6 4. Misrepresentation of a customer's need for a collision
7 damage waiver, personal accident insurance, or personal
8 effects insurance.

9 5. Misrepresentation of the characteristics or
10 availability of a reserved rental vehicle in order to rent a
11 customer a more expensive vehicle than the one reserved.

12 6. Failure to provide a vehicle in the class reserved, or,
13 if the reserved vehicle is out of stock, failure to provide
14 another vehicle in the class reserved or a more expensive
15 vehicle. A replacement vehicle for an out of stock reserved
16 vehicle may be provided from the stock of the rental company
17 or from another rental company but, in any event, must be
18 provided at the rate quoted for the vehicle reserved.

19 7. Failure to disclose the following material
20 restrictions, where applicable, in response to direct consumer
21 inquiries regarding the price of renting a vehicle, when the
22 rental company discloses a vehicle rental rate, and at the
23 time the reservation is accepted:

24 a. Specific geographic restrictions and limitations, other
25 than travel outside the continental United States.

26 b. Advance reservation and payment requirements.

27 c. The existence of penalties or higher rates that may
28 apply for early or late returns.

29 d. Cost of an additional driver fee.

30 e. Credit or cash deposit requirements.

31 f. Extent of liability for damage or loss and price range
32 of collision damage waiver.

33 g. Mileage limitations and charges.

34 8. Placement of a block against a customer's credit limit
35 or charge against a customer's credit card in the following

1 manner:

2 a. Placing a block or charge against a customer's credit
3 limit without disclosing in the rental agreement in a clear
4 and conspicuous manner the fact that a block or charge will be
5 placed against the customer's credit card, and the amount of
6 the block or charge. Such disclosure shall also be made
7 orally whenever possible.

8 b. Placing a block or charge against a portion or the
9 entirety of the credit limit of the card or otherwise placing
10 a block or charge against the card in excess of the estimated
11 total daily or weekly charges, including taxes and charges of
12 optional services accepted by the customer, stated in the
13 rental agreement multiplied by the number of days of the
14 estimated rental if rented on a daily basis or, if rented on a
15 weekly basis, multiplied by the number of weeks of the
16 estimated rental.

17 c. Placing a block or charge against a customer's credit
18 card and then failing to clear the unused amount of the block
19 or charge against the consumer's credit card after the
20 customer returns the rental vehicle in the same amount of
21 time, subject to credit card company or charge card company
22 availability, as it took the rental company to place the block
23 or charge against the customer's card when the customer rented
24 the vehicle.

25 d. Placing or threatening to place a block or charge on a
26 customer's credit card when seeking to recover any portion of
27 a claim arising out of damage to, or loss of use of, the
28 rental vehicle, unless, after the rental vehicle is damaged or
29 lost, the rental company determines the exact amount of the
30 repair or replacement costs and the customer authorizes the
31 charge.

32 e. Charging an amount to a customer's credit card for
33 damage to, or loss of use of, a rental vehicle after the
34 customer has left the location where the rental vehicle was
35 returned, unless the customer has authorized the specific

1 charge, in a specific amount, to be charged to the customer's
2 credit card. This subsection does not apply to a block in the
3 amount of one dollar obtained for authorized charge amounts.

4 9. Assessment of additional driver fees for licensed
5 drivers who are spouses or business associates engaged in
6 business activities with the customer to whom the vehicle is
7 rented, other than charges for a person who does not satisfy
8 the rental company's minimum age requirement, if applicable.

9 Sec. 8. NEW SECTION. 516D.8 RULES.

10 The attorney general shall prescribe forms and adopt rules
11 pursuant to chapter 17A as necessary to administer this
12 chapter.

13 Sec. 9. NEW SECTION. 516D.9 ENFORCEMENT.

14 A violation of this chapter or any rules adopted by the
15 attorney general pursuant to this chapter is a violation of
16 section 714.16, subsection 2, paragraph "a". The provisions
17 of section 714.16, including, but not limited to, provisions
18 relating to investigation, injunctive relief, and penalties,
19 apply to violations of this chapter.

20 Sec. 10. Chapter 516C is repealed.

21 EXPLANATION

22 This bill regulates persons in the business of renting a
23 motor vehicle for a period of sixty days or less from a
24 location within this state. Chapter 516C, which requires
25 certain disclosures relating to the sale of collision damage
26 waivers as part of motor vehicle rental transactions, is
27 repealed.

28 Section 1 establishes the title of new chapter 516D.

29 Section 2 defines the scope of the new chapter as applying
30 to advertising and business practices relating to vehicle
31 rental agreements entered into in this state.

32 Section 3 defines the terms used in this chapter.

33 Section 4 establishes restrictions relating to the sale of
34 a collision damage waiver. A rental company shall not hold,
35 or attempt to hold an authorized driver liable for any damages

1 to a rental vehicle except under certain circumstances
2 primarily involving damage resulting from a breach of the
3 rental agreement or except where a collision damage waiver is
4 offered in accordance with the provisions of this chapter.
5 The section also provides that a rental company may offer
6 three collision damage waiver options including waivers in the
7 amounts of \$500, \$3,000, and the full value of the vehicle.
8 The cost of each is capped at \$3, \$5, and \$6 respectively.
9 The terms of the collision damage waiver must be explained in
10 the rental agreement, and all restrictions must be set forth
11 in ten-point type. The customer must separately acknowledge
12 the desire to purchase the collision damage waiver. A
13 customer must also be provided a disclosure statement which
14 advises the customer that the collision damage waiver is
15 optional and that the customer should check to see if coverage
16 is provided under the customer's personal automobile
17 insurance. If the rental company does not offer the three
18 collision damage waiver options to the customer, it may not
19 shift liability for damage to the customer.

20 Sections 5 and 6 require the rental company to disclose all
21 material restrictions on an advertised rate or on the use of
22 the rental vehicle.

23 Section 7 prohibits unfair or deceptive acts or practices
24 in the advertisement or rental of vehicles, and lists a number
25 of items deemed to be unfair or deceptive acts or practices.

26 Section 8 authorizes the attorney general to adopt rules to
27 enforce the provisions of chapter 516D.

28 Section 9 relates to the enforcement of chapter 516D.

29 Section 10 repeals chapter 516C.

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SENATE FILE 491

S-3344

1 Amend Senate File 491 as follows:

DIV. 2 1. Page 1, line 24, by striking the words "any
3 and all".

4 2. Page 1, line 25, by striking the word "any"
5 and inserting the following: "all, or any portion
6 of,".

7 3. Page 5, line 5, by striking the word
8 "written".

DIV. 9 4. Page 5, lines 24 and 25, by striking the words
B 10 "for the full value of the vehicle".

11 5. Page 5, by striking lines 28 through 31 and
12 inserting the following: "price index for the
13 preceding calendar year. A rental company may exceed
14 the permissible cost in this section provided that the
15 rental company has placed on file with the attorney
16 general the reasons for exceeding such cost and the
17 attorney general deems the cost as established by the
18 rental company to be reasonable and necessary."

By WILLIAM D. PALMER
EMIL J. HUSAK

JIM LIND
JACK NYSTROM

S-3344 FILED APRIL 8, 1991
DIVISION A-ADOPTED, DIVISION B-LOST (pp. 1116, 1117)

SENATE FILE 491

S-3348

1 Amend Senate File 491 as follows:

2 1. Page 5, by striking lines 17 through 35.

3 2. By renumbering as necessary.

By HARRY SLIFE
DONALD V. DOYLE

S-3348 FILED APRIL 8, 1991
ADOPTED (p. 1118)

1 Section 1. NEW SECTION. 516D.1 TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Car Rental and Collision Damage Waiver Act".

4 Sec. 2. NEW SECTION. 516D.2 SCOPE.

5 This chapter applies to advertising and business practices
6 relating to vehicle rental agreements entered into in this
7 state.

8 Sec. 3. NEW SECTION. 516D.3 DEFINITIONS.

9 As used in this chapter, unless the context requires
10 otherwise:

11 1. "Authorized driver" means any of the following:

12 a. A customer to whom a vehicle is rented.

13 b. A person expressly listed by a rental company on a
14 rental agreement as an authorized driver.

15 c. A customer's spouse, if the spouse is a licensed driver
16 and satisfies the rental company's minimum age requirement.

17 d. A customer's employer or coworker, if the employer or
18 coworker is engaged in a business activity with the customer
19 to whom the vehicle is rented, is a licensed driver, and
20 satisfies the rental company's minimum age requirement.

21 2. "Collision damage waiver" means a contract or
22 contractual provision, whether separate from or a part of a
23 rental agreement, whereby the rental company agrees, for a
* 24 charge, to waive claims against an authorized driver for all,
25 or any portion of, damages to the rental vehicle, loss due to
26 theft of the rental vehicle, or damages resulting from the
27 loss of use of the rental vehicle.

28 3. "Customer" means a person entering into a rental
29 agreement and obtaining the use of a rental vehicle from a
30 rental company under the terms of the rental agreement.

31 4. "Estimated time for repair" means a good faith estimate
32 of the reasonable number of hours of labor, or fraction of an
33 hour, needed to repair a damaged vehicle or damaged vehicle
34 parts.

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5 6. "Mandatory charge" means any charge, fee differential,
6 or surcharge that all or a majority of customers must pay in
7 order to obtain or operate a rental vehicle except as follows:

8 a. Mandatory charge does not include an optional airport
9 imposed fee if the existence and amount of the fee are clearly
10 and conspicuously disclosed immediately adjacent to any
11 advertised rental price. The advertisement must clearly and
12 conspicuously state the method of avoiding the airport access
13 fee and the customer must be informed of the amount of the fee
14 when the reservation is made. When an advertisement
15 encompasses more than one rental location, the fee may be
16 expressed as the maximum fee or range of fees.

17 b. Mandatory charge does not include taxes imposed
18 directly upon the rental transaction by an authorized taxing
19 authority. An airport imposed fee on gross receipts or an
20 airport access fee is not such a tax.

21 c. Mandatory charge does not include mileage fees as long
22 as the existence of any mileage limitation and cost per mile
23 for excess mileage is clearly and conspicuously disclosed
24 immediately adjacent to the advertised price.

25 7. "Material restriction" means a restriction, limitation,
26 or other requirement which significantly affects the price of,
27 normal anticipated use of, or a consumer's financial
28 responsibility for, a rental vehicle. Restrictions against
29 any or all of the following activities in connection with the
30 acquisition or use of a rental vehicle are not material
31 restrictions:

32 a. Obtaining a rental vehicle by use of false or
33 misleading information.

34 b. Operating a rental vehicle while intoxicated or under
35 the influence of any drug.

1 c. Using a rental vehicle to transport persons or property
2 for hire.

3 d. Using a rental vehicle to engage in a race, training
4 activity, contest, or use for an illegal purpose.

5 e. Using a rental vehicle to push or tow a vehicle or
6 other object.

7 f. Operating a rental vehicle in an abusive or reckless
8 manner.

9 g. Operating a rental vehicle other than on regularly
10 maintained hard surface roadways, including private driveways
11 and parking lots. For purposes of this chapter, "hard surface
12 roadways" includes, but is not limited to, all regularly
13 maintained gravel-covered surfaces.

14 h. Operating a rental vehicle outside the continental
15 United States unless specifically authorized by the rental
16 agreement.

17 8. "Placing a block" means any procedure or mechanism
18 which reserves a specified amount of the customer's otherwise
19 available credit on the customer's credit or charge card
20 account so that the amount is not available for future credit
21 purchases.

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23 the terms and conditions for the use of a rental vehicle by a
24 customer for a term of sixty days or less.

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26 providing rental vehicles to customers.

27 11. "Rental vehicle" means a private passenger type
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35 resulting from the loss of use of a rental vehicle, unless the

1 rental company offers the customer a collision damage waiver
2 under the terms and conditions described in subsection 2 of
3 this section, or unless one or more of the following applies:

4 a. The damage or loss is caused intentionally by an
5 authorized driver or is a result of the authorized driver's
6 willful, abusive, reckless, or wanton misconduct.

7 b. The damage or loss arises out of the authorized
8 driver's operation of the rental vehicle while intoxicated or
9 under the influence of a drug.

10 c. The damage or loss is caused while the authorized
11 driver is engaged in a race, training activity, contest, or
12 use of the rental vehicle for an illegal purpose.

13 d. The rental agreement is based on false or misleading
14 information supplied by the customer or an authorized driver.

15 e. The damage or loss is caused by operating the rental
16 vehicle other than on regularly maintained hard surface
17 roadways, including private driveways and parking lots.

18 f. The damage or loss arises out of the use of the rental
19 vehicle to transport persons or property for hire or to push
20 or tow anything.

21 g. The damage or loss occurs while the rental vehicle is
22 operated by a driver other than an authorized driver.

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24 vehicle outside the continental United States unless such use
25 is specifically authorized by the rental agreement.

26 i. The damage or loss is attributable to theft which
27 occurs with the prior knowledge or knowing participation of an
28 authorized driver, or which is attributable to the authorized
29 driver leaving the rental vehicle unattended with the keys in
30 the rental vehicle.

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34 accordance with the rental agreement. This section does not
35 prohibit a rental company from accepting or negotiating master

1 contracts with companies or government entities in advance of
2 need whereby the companies or government entities specifically
3 agree to assume liability in exchange for rate concessions.
4 This section does not prohibit a rental company from entering
*5 into agreements with insurance companies to provide
6 replacement vehicles to insurance company customers whereby
7 the insurance company agrees to assume the risk of loss.

8 If the rental vehicle is not repaired, damages shall not
9 exceed the fair market value of the vehicle, as determined in
10 the customary market for that vehicle, less salvage or actual
11 sale value, plus additional license and tax fees incurred
12 because of the sale, plus administrative fees. A claim shall
13 not be made for loss of use if the rental vehicle is not
14 repaired.

15 2. A rental company may offer a collision damage waiver
16 under the following terms and conditions:

3659 *17 a. All restrictions, conditions, and exclusions must be
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19 document, in ten-point type, or larger; or written in pen and
20 ink or typewritten in or on the face of the rental agreement
21 in a blank space provided for such restrictions, conditions,
22 and exclusions. The rental agreement may provide that the
23 collision damage waiver may be voided under the conditions set
24 forth in subsection 1, paragraphs "a" through "i".

3659 25 b. The rental agreement, separate sheet, or document must
26 clearly and conspicuously state both the daily and estimated
27 total charge for the collision damage waiver.

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29 to the customer prior to entering into the rental agreement
30 must display in ten-point type, or larger, the following
31 notice:

32 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A
33 COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR
34 RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

35 BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE

1 WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE
2 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL
3 VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN
4 INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE
5 WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

6 The customer must separately acknowledge that the customer
7 received the above notice, that the customer desires to
8 purchase the collision damage waiver, and the terms of the
9 collision damage waiver to which the customer agrees.

10 d. The car rental company shall not pay commissions to a
11 rental counter agent or representative for selling collision
12 damage waivers and is prohibited from considering volume of
13 sales of collision damage waivers in an employee evaluation or
14 determination of promotion.

15 However, notwithstanding whether a rental company offers a
16 collision damage waiver under the provisions of this
17 subsection, the rental company shall not hold an authorized
18 driver liable for damage or loss due to theft except where
19 subsection 1, paragraph "i" applies.

20 Sec. 5. NEW SECTION. 516D.5 RECOVERY FOR DAMAGE OR LOSS.

21 A claim against an authorized driver resulting from damage
22 to a rental vehicle, loss due to theft of a rental vehicle, or
23 damages resulting from the loss of use of a rental vehicle,
24 must be reasonably and rationally related to the actual loss
25 incurred. A rental company shall mitigate damages where
26 possible and shall not assert or collect any claim for
27 physical damage which exceeds the actual cost of the repair,
28 including all discounts or price reductions. Administrative
29 fees shall be limited to the reasonable administrative costs
30 associated with processing the damage claim. A claim made for
31 loss of use shall not exceed the daily rental rate stated in
32 the customer's contract, excluding optional charges,
33 multiplied by the total of the estimated time for replacement
34 and the estimated time for repair, divided by eight.

35 Sec. 6. NEW SECTION. 516D.6 DISCLOSURES.

1 1. All material restrictions on an advertised rate or on
2 the use of the rental vehicle must be clearly and
3 conspicuously disclosed in any price advertisement.

4 2. A rental company shall only advertise, quote, and
5 charge a rental rate that includes all mandatory charges. A
6 rental company shall not impose any mandatory charges in
7 addition to the advertised or quoted rental rate.

8 Sec. 7. NEW SECTION. 516D.7 PROHIBITIONS.

9 Unfair or deceptive acts or practices in the advertisement
10 or rental of vehicles are prohibited. Unfair or deceptive
11 acts or practices include, but are not limited to, the
12 following:

13 1. A representation connected with the advertisement or
14 rental of a vehicle that the purchase of a collision damage
15 waiver is mandatory.

16 2. Failure to provide disclosures as required by this
17 chapter.

18 3. Failure to disclose in a manner likely to be noticed
19 and comprehended in an advertisement, as defined in section
20 714.16, subsection 1, paragraph "a", the availability of a
21 collision damage waiver, and the cost of the waiver.

22 4. Misrepresentation of a customer's need for a collision
23 damage waiver, personal accident insurance, or personal
24 effects insurance.

25 5. Misrepresentation of the characteristics or
26 availability of a reserved rental vehicle in order to rent a
27 customer a more expensive vehicle than the one reserved.

28 6. Failure to provide a vehicle in the class reserved, or,
29 if the reserved vehicle is out of stock, failure to provide
30 another vehicle in the class reserved or a more expensive
31 vehicle. A replacement vehicle for an out of stock reserved
32 vehicle may be provided from the stock of the rental company
33 or from another rental company but, in any event, must be
34 provided at the rate quoted for the vehicle reserved.

35 7. Failure to disclose the following material

1 restrictions, where applicable, in response to direct consumer
2 inquiries regarding the price of renting a vehicle, when the
3 rental company discloses a vehicle rental rate, and at the
4 time the reservation is accepted:

5 a. Specific geographic restrictions and limitations, other
6 than travel outside the continental United States.

7 b. Advance reservation and payment requirements.

8 c. The existence of penalties or higher rates that may
9 apply for early or late returns.

10 d. Cost of an additional driver fee.

11 e. Credit or cash deposit requirements.

12 f. Extent of liability for damage or loss and price range
13 of collision damage waiver.

14 g. Mileage limitations and charges.

15 8. Placement of a block against a customer's credit limit
16 or charge against a customer's credit card in the following
17 manner:

18 a. Placing a block or charge against a customer's credit
19 limit without disclosing in the rental agreement in a clear
20 and conspicuous manner the fact that a block or charge will be
21 placed against the customer's credit card, and the amount of
22 the block or charge. Such disclosure shall also be made
23 orally whenever possible.

24 b. Placing a block or charge against a portion or the
25 entirety of the credit limit of the card or otherwise placing
26 a block or charge against the card in excess of the estimated
27 total daily or weekly charges, including taxes and charges of
28 optional services accepted by the customer, stated in the
29 rental agreement multiplied by the number of days of the
30 estimated rental if rented on a daily basis or, if rented on a
31 weekly basis, multiplied by the number of weeks of the
32 estimated rental.

33 c. Placing a block or charge against a customer's credit
34 card and then failing to clear the unused amount of the block
35 or charge against the consumer's credit card after the

1 customer returns the rental vehicle in the same amount of
2 time, subject to credit card company or charge card company
3 availability, as it took the rental company to place the block
4 or charge against the customer's card when the customer rented
5 the vehicle.

6 d. Placing or threatening to place a block or charge on a
7 customer's credit card when seeking to recover any portion of
8 a claim arising out of damage to, or loss of use of, the
9 rental vehicle, unless, after the rental vehicle is damaged or
10 lost, the rental company determines the exact amount of the
11 repair or replacement costs and the customer authorizes the
12 charge.

13 e. Charging an amount to a customer's credit card for
14 damage to, or loss of use of, a rental vehicle after the
15 customer has left the location where the rental vehicle was
16 returned, unless the customer has authorized the specific
17 charge, in a specific amount, to be charged to the customer's
18 credit card. This subsection does not apply to a block in the
19 amount of one dollar obtained for authorized charge amounts.

20 9. Assessment of additional driver fees for licensed
21 drivers who are spouses or business associates engaged in
22 business activities with the customer to whom the vehicle is
23 rented, other than charges for a person who does not satisfy
24 the rental company's minimum age requirement, if applicable.

25 Sec. 8. NEW SECTION. 516D.8 RULES.

26 The attorney general shall prescribe forms and adopt rules
27 pursuant to chapter 17A as necessary to administer this
28 chapter.

29 Sec. 9. NEW SECTION. 516D.9 ENFORCEMENT.

30 A violation of this chapter or any rules adopted by the
31 attorney general pursuant to this chapter is a violation of
32 section 714.16, subsection 2, paragraph "a". The provisions
33 of section 714.16, including, but not limited to, provisions
34 relating to investigation, injunctive relief, and penalties,
35 apply to violations of this chapter.

1 Sec. 10. Chapter 516C is repealed.
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SENATE FILE 491

H-3659

1 Amend Senate File 491, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 5, by inserting after line 16, the
4 following:

5 "a. The rental company agrees to waive any and all
6 claims against the customer for any damages to or loss
7 of the rental vehicle during the term of the rental
8 agreement for an amount less than or equal to the full
9 value of the rental vehicle for a cost not to exceed
10 six dollars per day.

11 The allowable cost for the collision damage waiver
12 may be adjusted on an annual basis by an amount equal
13 to the current allowable cost for the collision damage
14 waiver multiplied by the percentage increase in the
15 consumer price index for the preceding calendar year.
16 The attorney general shall publish by rule at least
17 thirty days prior to January of each year, the maximum
18 amounts which can be charged for a collision damage
19 waiver."

20 2. Page 5, by inserting after line 25, the
21 following: "contain the terms of the collision damage
22 waiver in simple and readable words with common
23 meanings and must".

24 3. Renumber and reletter as necessary.

By HALVORSON of Webster

H-3659 FILED APRIL 16, 1991

Adopted 4/17/91 (p. 1307)

HOUSE AMENDMENT TO
SENATE FILE 491

S-3581

1 Amend Senate File 491, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 5, by inserting after line 16, the
4 following:

5 "a. The rental company agrees to waive any and all
6 claims against the customer for any damages to or loss
7 of the rental vehicle during the term of the rental
8 agreement for an amount less than or equal to the full
9 value of the rental vehicle for a cost not to exceed
10 six dollars per day.

11 The allowable cost for the collision damage waiver
12 may be adjusted on an annual basis by an amount equal
13 to the current allowable cost for the collision damage
14 waiver multiplied by the percentage increase in the
15 consumer price index for the preceding calendar year.
16 The attorney general shall publish by rule at least
17 thirty days prior to January of each year, the maximum
18 amounts which can be charged for a collision damage
19 waiver."

20 2. Page 5, by inserting after line 25, the
21 following: "contain the terms of the collision damage
22 waiver in simple and readable words with common
23 meanings and must".

24 3. Renumber and reletter as necessary.

RECEIVED FROM THE HOUSE

S-3581 FILED APRIL 24, 1991

*Senate referred to concen 5/1/91 (p. 1581)**Motion to reconsider (p. 1587)**" 4/15 5/6/91**House received 5/8/91 (p. 2168)*

VARN, CH.
GROWSTAL
LIND

SSB 269
Commerce

SENATE/HOUSE FILE 491
BY (PROPOSED ATTORNEY
GENERAL BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the rental of motor vehicles for a period of
2 sixty days or less from a location in this state, and
3 providing civil and criminal penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. NEW SECTION. 516D.1 TITLE.

2 This chapter shall be known and may be cited as the "Iowa
3 Car Rental and Collision Damage Waiver Act".

4 Sec. 2. NEW SECTION. 516D.2 SCOPE.

5 This chapter applies to advertising and business practices
6 relating to vehicle rental agreements entered into in this
7 state.

8 Sec. 3. NEW SECTION. 516D.3 DEFINITIONS.

9 As used in this chapter, unless the context requires
10 otherwise:

11 1. "Authorized driver" means any of the following:

12 a. A customer to whom a vehicle is rented.

13 b. A person expressly listed by a rental company on a
14 rental agreement as an authorized driver.

15 c. A person who operates a rental vehicle with permission
16 of the customer during an emergency situation.

17 d. A customer's spouse, if the spouse is a licensed driver
18 and satisfies the rental company's minimum age requirement.

19 e. A customer's employer or co-worker, if the employer or
20 co-worker is engaged in a business activity with the customer
21 to whom the vehicle is rented, is a licensed driver, and
22 satisfies the rental company's minimum age requirement.

23 2. "Collision damage waiver" means a contract or
24 contractual provision, whether separate from or a part of a
25 rental agreement, whereby the rental company agrees, for a
26 charge, to waive any and all claims against an authorized
27 driver for any damages to the rental vehicle, loss due to
28 theft of the rental vehicle, or damages resulting from the
29 loss of use of the rental vehicle, during the term of the
30 rental agreement.

31 3. "Customer" means a person entering into a rental
32 agreement and obtaining the use of a rental vehicle from a
33 rental company under the terms of the rental agreement.

34 4. "Estimated time for repair" means a good faith estimate
35 of the reasonable number of hours of labor, or fraction of an

1 hour, needed to repair a damaged vehicle or damaged vehicle
2 parts.

3 5. "Estimated time for replacement" means the number of
4 hours of labor, or fraction of an hour, needed to replace
5 damaged vehicle parts as set forth in collision damage
6 estimating guides generally used in the vehicle repair
7 business and commonly known as crash books.

8 6. "Mandatory charge" means any charge, fee differential,
9 or surcharge that all or a majority of customers must pay in
10 order to obtain or operate a rental vehicle except as follows:

11 a. Mandatory charge does not include an optional airport
12 imposed fee if the existence and amount of the fee are clearly
13 and conspicuously disclosed immediately adjacent to any
14 advertised rental price. The advertisement must clearly and
15 conspicuously state the method of avoiding the airport access
16 fee and the customer must be informed of the amount of the fee
17 when the reservation is made. When an advertisement

18 encompasses more than one rental location, the fee may be
19 expressed as the maximum fee or range of fees.

20 b. Mandatory charge does not include taxes imposed
21 directly upon the rental transaction by an authorized taxing
22 authority. An airport imposed fee on gross receipts or an
23 airport access fee is not such a tax.

24 c. Mandatory charge does not include mileage fees as long
25 as the existence of any mileage limitation and cost per mile
26 for excess mileage is clearly and conspicuously disclosed
27 immediately adjacent to the advertised price.

28 7. "Material restriction" means a restriction, limitation,
29 or other requirement which significantly affects the price of,
30 normal anticipated use of, or a consumer's financial
31 responsibility for, a rental vehicle. Restrictions against
32 any or all of the following activities in connection with the
33 acquisition or use of a rental vehicle are not material
34 restrictions:

35 a. Obtaining a rental vehicle by use of false or

1 misleading information.

2 b. Operating a rental vehicle while intoxicated or under
3 the influence of any drug.

4 c. Using a rental vehicle to transport persons or property
5 for hire.

6 d. Using a rental vehicle to engage in a race, training
7 activity, contest, or use for an illegal purpose.

8 e. Using a rental vehicle to push or tow a vehicle or
9 other object.

10 f. Operating a rental vehicle in an abusive or reckless
11 manner.

12 g. Operating a rental vehicle other than on regularly
13 maintained hard surface roadways, including private driveways
14 and parking lots.

15 h. Operating a rental vehicle outside the continental
16 United States unless specifically authorized by the rental
17 agreement.

18 8. "Placing a block" means any procedure or mechanism
19 which reserves a specified amount of the customer's otherwise
20 available credit on the customer's credit or charge card
21 account so that the amount is not available for future credit
22 purchases.

23 9. "Rental agreement" means a written contract containing
24 the terms and conditions for the use of a rental vehicle by a
25 customer for a term of sixty days or less.

26 10. "Rental company" means a person in the business of
27 providing rental vehicles to customers.

28 11. "Rental vehicle" means a private passenger type
29 vehicle which, upon the execution of a rental agreement, is
30 made available to a customer for the customer's use or other
31 authorized driver's use.

32 Sec. 4. NEW SECTION. 516D.4 COLLISION DAMAGE AND LOSS.

33 1. A rental company shall not hold, or attempt to hold, an
34 authorized driver liable for physical damage to a rental
35 vehicle, loss due to theft of a rental vehicle, or damages

1 resulting from the loss of use of a rental vehicle, unless the
2 rental company offers the customer a collision damage waiver
3 under the terms and conditions described in section 516D.5,
4 subsection 2, or unless one or more of the following applies:

5 a. The damage or loss is caused intentionally by an
6 authorized driver or is a result of the authorized driver's
7 willful, abusive, reckless, or wanton misconduct.

8 b. The damage or loss arises out of the authorized
9 driver's operation of the rental vehicle while intoxicated or
10 under the influence of a drug.

11 c. The damage or loss is caused while the authorized
12 driver is engaged in a race, training activity, contest, or
13 use of the rental vehicle for an illegal purpose.

14 d. The rental agreement is based on false or misleading
15 information supplied by the customer or an authorized driver.

16 e. The damage or loss is caused by operating the rental
17 vehicle other than on regularly maintained hard surface
18 roadways, including private driveways and parking lots.

19 f. The damage or loss arises out of the use of the rental
20 vehicle to transport persons or property for hire or to push
21 or tow anything.

22 g. The damage or loss occurs while the rental vehicle is
23 operated by a driver other than an authorized driver.

24 h. The damage or loss arises out of the use of the rental
25 vehicle outside the continental United States unless such use
26 is specifically authorized by the rental agreement.

27 i. The damage or loss is attributable to theft which
28 occurs with the prior knowledge or knowing participation of an
29 authorized driver, or which is attributable to the authorized
30 driver leaving the rental vehicle unattended with the keys in
31 the rental vehicle.

32 This section does not alter the liability of a customer or
33 authorized driver for bodily injury or the death of another
34 and for property damage other than to the rental vehicle in
35 accordance with the rental agreement. This section does not

1 prohibit a rental company from accepting or negotiating master
2 contracts with companies or government entities in advance of
3 need whereby the companies or government entities specifically
4 agree to assume liability in exchange for rate concessions.
5 This section does not prohibit a rental company from entering
6 into written agreements with insurance companies to provide
7 replacement vehicles to insurance company customers whereby
8 the insurance company agrees to assume the risk of loss.

9 If the rental vehicle is not repaired, damages shall not
10 exceed the fair market value of the vehicle, as determined in
11 the customary market for that vehicle, less salvage or actual
12 sale value, plus additional license and tax fees incurred
13 because of the sale, plus administrative fees. A claim shall
14 not be made for loss of use if the rental vehicle is not
15 repaired.

16 2. A rental company may offer a collision damage waiver
17 under the following terms and conditions:

18 a. The rental company agrees to waive any and all claims
19 against the customer for any damages to or loss of the rental
20 vehicle during the term of the rental agreement up to five
21 hundred dollars for a cost not to exceed three dollars per
22 day; up to three thousand dollars for a cost not to exceed
23 five dollars per day; and up to the full value of the rental
24 vehicle for a cost not to exceed six dollars per day.

25 The cost of the collision damage waiver for the full value
26 of the vehicle may be adjusted on an annual basis by an amount
27 equal to the current allowable charge for the collision damage
28 waiver multiplied by the percent of increase in the consumer
29 price index for the preceding calendar year. The attorney
30 general shall publish by rule prior to January of each year,
31 the maximum amounts which can be charged for a collision
32 damage waiver.

33 b. The rental company must offer the customer the option
34 of purchasing any of the three options and the rental
35 agreement must contain the terms of the collision damage

1 waiver in simple and readable words with common meanings.

2 c. All restrictions, conditions, and exclusions must be
3 printed in the rental agreement, or on a separate sheet or
4 document, in ten-point type, or larger; or written in pen and
5 ink or typewritten in or on the face of the rental agreement
6 in a blank space provided for such restrictions, conditions,
7 and exclusions. The rental agreement may provide that the
8 collision damage waiver may be voided under the conditions set
9 forth in subsection 1, paragraphs "a" through "i".

10 d. The rental agreement, separate sheet, or document must
11 clearly and conspicuously state both the daily and estimated
12 total charge for the collision damage waiver.

13 e. The rental agreement, separate sheet, or document given
14 to the customer prior to entering into the rental agreement
15 must display in ten-point type, or larger, the following
16 notice:

17 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A
18 COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR
19 RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

20 BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE
21 WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE
22 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL
23 VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN
24 INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE
25 WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

26 The customer must separately acknowledge that the customer
27 received the above notice, that the customer desires to
28 purchase the collision damage waiver, and the terms of the
29 collision damage waiver to which the customer agrees.

30 f. The car rental company shall not pay commissions to a
31 rental counter agent or representative for selling collision
32 damage waivers and is prohibited from considering volume of
33 sales of collision damage waivers in an employee evaluation or
34 determination of promotion.

35 However, notwithstanding whether a rental company offers a

1 collision damage waiver under the provisions of this
2 subsection, the rental company shall not hold an authorized
3 driver liable for damage or loss due to theft except where
4 subsection 1, paragraph "i" applies.

5 Sec. 5. NEW SECTION. 516D.5 RECOVERY FOR DAMAGE OR LOSS.

6 A claim against an authorized driver resulting from damage
7 to a rental vehicle, loss due to theft of a rental vehicle, or
8 damages resulting from the loss of use of a rental vehicle,
9 must be reasonably and rationally related to the actual loss
10 incurred. A rental company shall mitigate damages where
11 possible and shall not assert or collect any claim for
12 physical damage which exceeds the actual cost of the repair,
13 including all discounts or price reductions. Administrative
14 fees shall be limited to the reasonable administrative costs
15 associated with processing the damage claim. A claim made for
16 loss of use shall not exceed the daily rental rate stated in
17 the customer's contract, excluding optional charges,
18 multiplied by the total of the estimated time for replacement
19 and the estimated time for repair, divided by eight.

20 Sec. 6. NEW SECTION. 516D.6 DISCLOSURES.

21 1. All material restrictions on an advertised rate or on
22 the use of the rental vehicle must be clearly and
23 conspicuously disclosed in any price advertisement.

24 2. A rental company shall only advertise, quote, and
25 charge a rental rate that includes all mandatory charges. A
26 rental company shall not impose any mandatory charges in
27 addition to the advertised or quoted rental rate.

28 Sec. 7. NEW SECTION. 516D.7 PROHIBITIONS.

29 Unfair or deceptive acts or practices in the advertisement
30 or rental of vehicles are prohibited. Unfair or deceptive
31 acts or practices include, but are not limited to, the
32 following:

33 1. A representation connected with the advertisement or
34 rental of a vehicle that the purchase of a collision damage
35 waiver is mandatory.

1 2. Failure to provide disclosures as required by this
2 chapter.

3 3. Failure to disclose in a manner likely to be noticed
4 and comprehended in an advertisement, as defined in section
5 714.16, subsection 1, paragraph "a", the availability of a
6 collision damage waiver, and the cost of the waiver.

7 4. Misrepresentation of a customer's need for a collision
8 damage waiver, personal accident insurance, or personal
9 effects insurance.

10 5. Misrepresentation of the characteristics or
11 availability of a reserved rental vehicle in order to rent a
12 customer a more expensive vehicle than the one reserved.

13 6. Failure to provide a vehicle in the class reserved, or,
14 if the reserved vehicle is out of stock, failure to provide
15 another vehicle in the class reserved or a more expensive
16 vehicle. A replacement vehicle for an out of stock reserved
17 vehicle may be provided from the stock of the rental company
18 or from another rental company but, in any event, must be
19 provided at the rate quoted for the vehicle reserved.

20 7. Failure to disclose the following material
21 restrictions, where applicable, in response to direct consumer
22 inquiries regarding the price of renting a vehicle, when the
23 rental company discloses a vehicle rental rate, and at a
24 rental company's counter when the rental agreement is made:

25 a. Specific geographic restrictions and limitations, other
26 than travel outside the continental United States.

27 b. Advance reservation and payment requirements.

28 c. The existence of penalties or higher rates that may
29 apply for early or late returns.

30 d. Cost of an additional driver fee.

31 e. Credit or cash deposit requirements.

32 f. Extent of liability for damage or loss.

33 g. Mileage limitations and charges.

34 8. Placement of a block against a customer's credit limit
35 or charge against a customer's credit card in the following

1 manner:

2 a. Placing a block or charge against a customer's credit
3 limit without disclosing in the rental agreement in a clear
4 and conspicuous manner the fact that a block or charge will be
5 placed against the customer's credit card, and the amount of
6 the block or charge. Such disclosure shall also be made
7 orally whenever possible.

8 b. Placing a block or charge against a portion or the
9 entirety of the credit limit of the card or otherwise placing
10 a block or charge against the card in excess of the estimated
11 total daily or weekly charges, including taxes and charges of
12 optional services accepted by the customer, stated in the
13 rental agreement multiplied by the number of days of the
14 estimated rental if rented on a daily basis or, if rented on a
15 weekly basis, multiplied by the number of weeks of the
16 estimated rental.

17 c. Placing a block or charge against a customer's credit
18 card and then failing to clear the unused amount of the block
19 or charge against the consumer's credit card after the
20 customer returns the rental vehicle in the same amount of
21 time, subject to credit card company or charge card company
22 availability, as it took the rental company to place the block
23 or charge against the customer's card when the customer rented
24 the vehicle.

25 d. Placing or threatening to place a block or charge on a
26 customer's credit card when seeking to recover any portion of
27 a claim arising out of damage to, or loss of use of, the
28 rental vehicle, unless, after the rental vehicle is damaged or
29 lost, the rental company determines the exact amount of the
30 repair or replacement costs and the customer authorizes the
31 charge.

32 e. Charging an amount to a customer's credit card for
33 damage to, or loss of use of, a rental vehicle after the
34 customer has left the location where the rental vehicle was
35 returned, unless the customer has authorized the specific

1 charge, in a specific amount, to be charged to the customer's
2 credit card. This subsection does not apply to a block in the
3 amount of one dollar obtained for authorized charge amounts.

4 9. Assessment of additional driver fees for licensed
5 drivers who are spouses or business associates engaged in
6 business activities with the customer to whom the vehicle is
7 rented, other than charges for a person who does not satisfy
8 the rental company's minimum age requirement, if applicable.

9 Sec. 8. NEW SECTION. 516D.8 RULES. .

10 The attorney general shall prescribe forms and adopt rules
11 pursuant to chapter 17A as necessary to administer this
12 chapter.

13 Sec. 9. NEW SECTION. 516D.9 ENFORCEMENT.

14 A violation of this chapter or any rules adopted by the
15 attorney general pursuant to this chapter is a violation of
16 section 714.16, subsection 2, paragraph "a". The provisions
17 of section 714.16, including, but not limited to, provisions
18 relating to investigation, injunctive relief, and penalties,
19 apply to violations of this chapter.

20 Sec. 10. Chapter 516C is repealed.

21 EXPLANATION

22 This bill regulates persons in the business of renting a
23 motor vehicle for a period of sixty days or less from a
24 location within this state. Chapter 516C, which requires
25 certain disclosures relating to the sale of collision damage
26 waivers as part of motor vehicle rental transactions, is
27 repealed.

28 Section 1 establishes the title of new chapter 516D.

29 Section 2 defines the scope of the new chapter as applying
30 to advertising and business practices relating to vehicle
31 rental agreements entered into in this state.

32 Section 3 defines the terms used in this chapter.

33 Section 4 establishes restrictions relating to the sale of
34 a collision damage waiver. A rental company shall not hold,
35 or attempt to hold an authorized driver liable for any damages

1 to a rental vehicle except under certain circumstances
2 primarily involving damage resulting from a breach of the
3 rental agreement or except where a collision damage waiver is
4 offered in accordance with the provisions of this chapter.
5 The section also provides that a rental company may offer
6 three collision damage waiver options including waivers in the
7 amounts of \$500, \$3,000, and the full value of the vehicle.
8 The cost of each is capped at \$3, \$5, and \$6 respectively.
9 The terms of the collision damage waiver must be explained in
10 the rental agreement, and all restrictions must be set forth
11 in ten-point type. The customer must separately acknowledge
12 the desire to purchase the collision damage waiver. A
13 customer must also be provided a disclosure statement which
14 advises the customer that the collision damage waiver is
15 optional and that the customer should check to see if coverage
16 is provided under the customer's personal automobile
17 insurance. If the rental company does not offer the three
18 collision damage waiver options to the customer, it may not
19 shift liability for damage to the customer.

20 Sections 5 and 6 require the rental company to disclose all
21 material restrictions on an advertised rate or on the use of
22 the rental vehicle.

23 Section 7 prohibits unfair or deceptive acts or practices
24 in the advertisement or rental of vehicles, and lists a number
25 of items deemed to be unfair or deceptive acts or practices.

26 Section 8 authorizes the attorney general to adopt rules to
27 enforce the provisions of chapter 516D.

28 Section 9 relates to the enforcement of chapter 516D.

29 Section 10 repeals chapter 516C.

30 BACKGROUND STATEMENT

31 SUBMITTED BY THE AGENCY

32 The attorney general's office has been involved in the
33 investigation of car rental industry advertising and business
34 practices, at both the state and national levels, since March
35 1988. The legislation being proposed is intended to address

1 the abuses identified in that investigation. Among others,
2 these abuses include:

3 1. The failure to include mandatory charges such as add-on
4 fuel charges, surcharges, and airport fees in the advertised
5 price;

6 2. The failure to clearly and conspicuously disclose
7 material restrictions at the point of reservation and at the
8 point of rental; and

9 3. The use of deceptive, unfair, and unconscionable
10 business practices in the sale of collision damage waivers.

11 In March 1989, the national association of attorneys
12 general adopted the final report and recommendations of the
13 task force on car rental industry advertising and practices.
14 The Iowa attorney general's office played a key role in the
15 formulation and adoption of this report. The proposed
16 legislation is consistent with the recommendations made in
17 association's final report.

18 The attorney general's office has entered into a settlement
19 agreement with a significant number of Iowa car rental
20 agencies on the issue of failure to include mandatory
21 surcharges (in this case, ranging from \$2.00 to 5.2% of the
22 rental price) in the advertised and quoted rental rate. The
23 agreements regulate, in addition to mandatory surcharges, the
24 sale of collision damage waivers, repair charges, advertising
25 and reservation disclosures, and rental practices. This
26 legislation would extend these requirements to the remainder
27 of the car rental industry. The car and truck renting and
28 leasing association of Iowa supports the proposed legislation.

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SENATE FILE 491

AN ACT
RELATING TO THE RENTAL OF MOTOR VEHICLES FOR A PERIOD OF
SIXTY DAYS OR LESS FROM A LOCATION IN THIS STATE, AND
PROVIDING CIVIL AND CRIMINAL PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 516D.1 TITLE.

This chapter shall be known and may be cited as the "Iowa
Car Rental and Collision Damage Waiver Act".

Sec. 2. NEW SECTION. 516D.2 SCOPE.

This chapter applies to advertising and business practices
relating to vehicle rental agreements entered into in this
state.

Sec. 3. NEW SECTION. 516D.3 DEFINITIONS.

As used in this chapter, unless the context requires
otherwise:

1. "Authorized driver" means any of the following:
 - a. A customer to whom a vehicle is rented.
 - b. A person expressly listed by a rental company on a rental agreement as an authorized driver.
 - c. A customer's spouse, if the spouse is a licensed driver and satisfies the rental company's minimum age requirement.
 - d. A customer's employer or coworker, if the employer or coworker is engaged in a business activity with the customer to whom the vehicle is rented, is a licensed driver, and satisfies the rental company's minimum age requirement.
2. "Collision damage waiver" means a contract or contractual provision, whether separate from or a part of a rental agreement, whereby the rental company agrees, for a charge, to waive claims against an authorized driver for all, or any portion of, damages to the rental vehicle, loss due to

theft of the rental vehicle, or damages resulting from the loss of use of the rental vehicle.

3. "Customer" means a person entering into a rental agreement and obtaining the use of a rental vehicle from a rental company under the terms of the rental agreement.

4. "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction of an hour, needed to repair a damaged vehicle or damaged vehicle parts.

5. "Estimated time for replacement" means the number of hours of labor, or fraction of an hour, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as crash books.

6. "Mandatory charge" means any charge, fee differential, or surcharge that all or a majority of customers must pay in order to obtain or operate a rental vehicle except as follows:

a. Mandatory charge does not include an optional airport imposed fee if the existence and amount of the fee are clearly and conspicuously disclosed immediately adjacent to any advertised rental price. The advertisement must clearly and conspicuously state the method of avoiding the airport access fee and the customer must be informed of the amount of the fee when the reservation is made. When an advertisement encompasses more than one rental location, the fee may be expressed as the maximum fee or range of fees.

b. Mandatory charge does not include taxes imposed directly upon the rental transaction by an authorized taxing authority. An airport imposed fee on gross receipts or an airport access fee is not such a tax.

c. Mandatory charge does not include mileage fees as long as the existence of any mileage limitation and cost per mile for excess mileage is clearly and conspicuously disclosed immediately adjacent to the advertised price.

7. "Material restriction" means a restriction, limitation, or other requirement which significantly affects the price of,

normal anticipated use of, or a consumer's financial responsibility for, a rental vehicle. Restrictions against any or all of the following activities in connection with the acquisition or use of a rental vehicle are not material restrictions:

- a. Obtaining a rental vehicle by use of false or misleading information.
 - b. Operating a rental vehicle while intoxicated or under the influence of any drug.
 - c. Using a rental vehicle to transport persons or property for hire.
 - d. Using a rental vehicle to engage in a race, training activity, contest, or use for an illegal purpose.
 - e. Using a rental vehicle to push or tow a vehicle or other object.
 - f. Operating a rental vehicle in an abusive or reckless manner.
 - g. Operating a rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots. For purposes of this chapter, "hard surface roadways" includes, but is not limited to, all regularly maintained gravel-covered surfaces.
 - h. Operating a rental vehicle outside the continental United States unless specifically authorized by the rental agreement.
8. "Placing a block" means any procedure or mechanism which reserves a specified amount of the customer's otherwise available credit on the customer's credit or charge card account so that the amount is not available for future credit purchases.
9. "Rental agreement" means a written contract containing the terms and conditions for the use of a rental vehicle by a customer for a term of sixty days or less.
10. "Rental company" means a person in the business of providing rental vehicles to customers.

11. "Rental vehicle" means a private passenger type vehicle which, upon the execution of a rental agreement, is made available to a customer for the customer's use or other authorized driver's use.

Sec. 4. NEW SECTION. 516D.4 COLLISION DAMAGE AND LOSS.

1. A rental company shall not hold, or attempt to hold, an authorized driver liable for physical damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, unless the rental company offers the customer a collision damage waiver under the terms and conditions described in subsection 2 of this section, or unless one or more of the following applies:
- a. The damage or loss is caused intentionally by an authorized driver or is a result of the authorized driver's willful, abusive, reckless, or wanton misconduct.
 - b. The damage or loss arises out of the authorized driver's operation of the rental vehicle while intoxicated or under the influence of a drug.
 - c. The damage or loss is caused while the authorized driver is engaged in a race, training activity, contest, or use of the rental vehicle for an illegal purpose.
 - d. The rental agreement is based on false or misleading information supplied by the customer or an authorized driver.
 - e. The damage or loss is caused by operating the rental vehicle other than on regularly maintained hard surface roadways, including private driveways and parking lots.
 - f. The damage or loss arises out of the use of the rental vehicle to transport persons or property for hire or to push or tow anything.
 - g. The damage or loss occurs while the rental vehicle is operated by a driver other than an authorized driver.
 - h. The damage or loss arises out of the use of the rental vehicle outside the continental United States unless such use is specifically authorized by the rental agreement.
 - i. The damage or loss is attributable to theft which occurs with the prior knowledge or knowing participation of an

authorized driver, or which is attributable to the authorized driver leaving the rental vehicle unattended with the keys in the rental vehicle.

This section does not alter the liability of a customer or authorized driver for bodily injury or the death of another and for property damage other than to the rental vehicle in accordance with the rental agreement. This section does not prohibit a rental company from accepting or negotiating master contracts with companies or government entities in advance of need whereby the companies or government entities specifically agree to assume liability in exchange for rate concessions. This section does not prohibit a rental company from entering into agreements with insurance companies to provide replacement vehicles to insurance company customers whereby the insurance company agrees to assume the risk of loss.

If the rental vehicle is not repaired, damages shall not exceed the fair market value of the vehicle, as determined in the customary market for that vehicle, less salvage or actual sale value, plus additional license and tax fees incurred because of the sale, plus administrative fees. A claim shall not be made for loss of use if the rental vehicle is not repaired.

2. A rental company may offer a collision damage waiver under the following terms and conditions:

a. All restrictions, conditions, and exclusions must be printed in the rental agreement, or on a separate sheet or document, in ten-point type, or larger; or written in pen and ink or typewritten in or on the face of the rental agreement in a blank space provided for such restrictions, conditions, and exclusions. The rental agreement may provide that the collision damage waiver may be voided under the conditions set forth in subsection 1, paragraphs "a" through "i".

b. The rental agreement, separate sheet, or document must clearly and conspicuously state both the daily and estimated total charge for the collision damage waiver.

c. The rental agreement, separate sheet, or document given to the customer prior to entering into the rental agreement must display in ten-point type, or larger, the following notice:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER ALL OR PART OF YOUR RESPONSIBILITY FOR DAMAGE TO THE RENTAL VEHICLE.

BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED.

The customer must separately acknowledge that the customer received the above notice, that the customer desires to purchase the collision damage waiver, and the terms of the collision damage waiver to which the customer agrees.

d. The car rental company shall not pay commissions to a rental counter agent or representative for selling collision damage waivers and is prohibited from considering volume of sales of collision damage waivers in an employee evaluation or determination of promotion.

However, notwithstanding whether a rental company offers a collision damage waiver under the provisions of this subsection, the rental company shall not hold an authorized driver liable for damage or loss due to theft except where subsection 1, paragraph "i" applies.

Sec. 5. NEW SECTION. 516D.5 RECOVERY FOR DAMAGE OR LOSS.

A claim against an authorized driver resulting from damage to a rental vehicle, loss due to theft of a rental vehicle, or damages resulting from the loss of use of a rental vehicle, must be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect any claim for physical damage which exceeds the actual cost of the repair, including all discounts or price reductions. Administrative

fees shall be limited to the reasonable administrative costs associated with processing the damage claim. A claim made for loss of use shall not exceed the daily rental rate stated in the customer's contract, excluding optional charges, multiplied by the total of the estimated time for replacement and the estimated time for repair, divided by eight.

Sec. 6. NEW SECTION. 516D.6 DISCLOSURES.

1. All material restrictions on an advertised rate or on the use of the rental vehicle must be clearly and conspicuously disclosed in any price advertisement.

2. A rental company shall only advertise, quote, and charge a rental rate that includes all mandatory charges. A rental company shall not impose any mandatory charges in addition to the advertised or quoted rental rate.

Sec. 7. NEW SECTION. 516D.7 PROHIBITIONS.

Unfair or deceptive acts or practices in the advertisement or rental of vehicles are prohibited. Unfair or deceptive acts or practices include, but are not limited to, the following:

1. A representation connected with the advertisement or rental of a vehicle that the purchase of a collision damage waiver is mandatory.

2. Failure to provide disclosures as required by this chapter.

3. Failure to disclose in a manner likely to be noticed and comprehended in an advertisement, as defined in section 714.16, subsection 1, paragraph "a", the availability of a collision damage waiver, and the cost of the waiver.

4. Misrepresentation of a customer's need for a collision damage waiver, personal accident insurance, or personal effects insurance.

5. Misrepresentation of the characteristics or availability of a reserved rental vehicle in order to rent a customer a more expensive vehicle than the one reserved.

6. Failure to provide a vehicle in the class reserved, or, if the reserved vehicle is out of stock, failure to provide

another vehicle in the class reserved or a more expensive vehicle. A replacement vehicle for an out of stock reserved vehicle may be provided from the stock of the rental company or from another rental company but, in any event, must be provided at the rate quoted for the vehicle reserved.

7. Failure to disclose the following material restrictions, where applicable, in response to direct consumer inquiries regarding the price of renting a vehicle, when the rental company discloses a vehicle rental rate, and at the time the reservation is accepted:

a. Specific geographic restrictions and limitations, other than travel outside the continental United States.

b. Advance reservation and payment requirements.

c. The existence of penalties or higher rates that may apply for early or late returns.

d. Cost of an additional driver fee.

e. Credit or cash deposit requirements.

f. Extent of liability for damage or loss and price range of collision damage waiver.

g. Mileage limitations and charges.

8. Placement of a block against a customer's credit limit or charge against a customer's credit card in the following manner:

a. Placing a block or charge against a customer's credit limit without disclosing in the rental agreement in a clear and conspicuous manner the fact that a block or charge will be placed against the customer's credit card, and the amount of the block or charge. Such disclosure shall also be made orally whenever possible.

b. Placing a block or charge against a portion or the entirety of the credit limit of the card or otherwise placing a block or charge against the card in excess of the estimated total daily or weekly charges, including taxes and charges of optional services accepted by the customer, stated in the rental agreement multiplied by the number of days of the estimated rental if rented on a daily basis or, if rented on a

weekly basis, multiplied by the number of weeks of the estimated rental.

c. Placing a block or charge against a customer's credit card and then failing to clear the unused amount of the block or charge against the consumer's credit card after the customer returns the rental vehicle in the same amount of time, subject to credit card company or charge card company availability, as it took the rental company to place the block or charge against the customer's card when the customer rented the vehicle.

d. Placing or threatening to place a block or charge on a customer's credit card when seeking to recover any portion of a claim arising out of damage to, or loss of use of, the rental vehicle, unless, after the rental vehicle is damaged or lost, the rental company determines the exact amount of the repair or replacement costs and the customer authorizes the charge.

e. Charging an amount to a customer's credit card for damage to, or loss of use of, a rental vehicle after the customer has left the location where the rental vehicle was returned, unless the customer has authorized the specific charge, in a specific amount, to be charged to the customer's credit card. This subsection does not apply to a block in the amount of one dollar obtained for authorized charge amounts.

9. Assessment of additional driver fees for licensed drivers who are spouses or business associates engaged in business activities with the customer to whom the vehicle is rented, other than charges for a person who does not satisfy the rental company's minimum age requirement, if applicable.

Sec. 8. NEW SECTION. 516D.8 RULES.

The attorney general shall prescribe forms and adopt rules pursuant to chapter 17A as necessary to administer this chapter.

Sec. 9. NEW SECTION. 516D.9 ENFORCEMENT.

A violation of this chapter or any rules adopted by the attorney general pursuant to this chapter is a violation of

section 714.16, subsection 2, paragraph "a". The provisions of section 714.16, including, but not limited to, provisions relating to investigation, injunctive relief, and penalties, apply to violations of this chapter.

Sec. 10. Chapter 516C is repealed.

JOE J. WELSH
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 491, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate
Approved *May 28*, 1991

TERRY E. BRANSTAD
Governor

SF 491