

COMMERCE: Lind, Chair: Welsh and Mann

Amended per S-5562 to H. File 653 3/25/88 (p. 1242)

MAR 26 1987

Place On Calendar

HOUSE FILE **653**
BY COMMITTEE ON SMALL BUSINESS
AND COMMERCE

(Formerly House Study Bill 271)

Passed House, Date 3-30-87 (p. 949) Passed Senate, Date 5/14/88 (p. 1242)

Vote: Ayes 91 Nays 0 Vote: Ayes 49 Nays 0

Approved May 3, 1988
Referred to House 4/14/88 (p. 1242) *Referred to Senate 4/14/88 (p. 1242)*
94-0 44-0

A BILL FOR

1 An Act relating to issuance of collision damage waivers in motor
2 vehicle rental agreements, making penalties applicable, and
3 providing an effective date.

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

5

6

HOUSE FILE 653

S-5640

1 Amend the amendment S-5562 to House File 653 as
2 passed by the House, as follows:
3 1. Page 3, by striking line 6, and inserting the
4 following: "of this chapter.
5 Sec. ____ . NEW SECTION. 516C.7 INSURANCE.
6 No automobile insurance policy or motor vehicle
7 liability insurance policy shall be issued or renewed
8 after January 1, 1989, unless the policy provides that
9 all coverages under the policy are extended to any
10 rental motor vehicle being rented by the named
11 insured. The policy must also provide that all or any
12 part of the obligation of the named insured for
13 property damage to a rental motor vehicle is covered
14 by the collision or comprehensive portion of the
15 policy."

S-5640

Filed March 29, 1988

ADOPTED
(p. 1142)

BY JIM LIND
MICHAEL E. GRONSTAL

1 Section 1. NEW SECTION. 516C.1 TITLE.

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

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

5 This chapter applies to all persons in the business of
6 leasing rental motor vehicles for a period of sixty days or
7 less from locations in this state under an agreement which
8 imposes upon the lessee an obligation to pay for any damages
9 caused to the leased vehicle. The provisions of this chapter
10 apply solely to the collision damage waiver portion of the
11 rental agreement.

12 Sec. 3. NEW SECTION. 516C.3 DEFINITIONS.

13 As used in this chapter, unless the context requires other-
14 wise:

15 1. "Collision damage waiver" means a contract or
16 contractual provision, whether separate from or a part of a
17 motor vehicle rental agreement, whereby the lessor agrees for
18 a charge to waive any and all claims against the lessee for
19 damages to the rental motor vehicle during the term of the
20 rental agreement.

21 2. "Lessor" means a person or organization in the business
22 of providing rental motor vehicles to the public.

23 3. "Lessee" means a person or organization obtaining the
24 use of a rental motor vehicle from a lessor under the terms of
25 a rental agreement.

26 4. "Rental agreement" means a written agreement setting
27 forth the terms and conditions governing the use of the rental
28 motor vehicle by the lessee for a term of sixty days or less.

29 5. "Rental motor vehicle" means a private passenger type
30 vehicle or commercial type vehicle which, upon execution of a
31 rental agreement, is made available to a lessee for its use.

32 6. "Commissioner" means the commissioner of insurance.

33 Sec. 4. NEW SECTION. 516C.4 LICENSE REQUIRED --

34 APPLICATION FEE.

35 1. A lessor shall not issue or offer to issue a collision

1 damage waiver in this state until a license has been granted
2 by the commissioner as provided in this chapter. Application
3 for a license shall be made in writing, in a form prescribed
4 by the commissioner, and shall be accompanied by payment of an
5 application fee of one hundred dollars.

6 2. A lessor of rental motor vehicles with one or more
7 locations within the state is not required to obtain more than
8 one license.

9 Sec. 5. NEW SECTION. 516C.5 EXPIRATION AND RENEWAL OF
10 LICENSE.

11 Each license is renewable annually on the license
12 anniversary date. A renewal license shall not be issued
13 unless and until the lessor has paid the renewal fee of one
14 hundred dollars.

15 Sec. 6. NEW SECTION. 516C.6 COLLISION DAMAGE WAIVER --
16 FORM FILING REQUIREMENTS.

17 1. A lessor shall not deliver or issue for delivery in
18 this state a rental agreement containing a collision damage
19 waiver unless the agreement is filed with the commissioner at
20 least thirty days prior to its effective date and the
21 commissioner has not disapproved the collision damage waiver
22 portion of the agreement within the thirty-day period.

23 2. A collision damage waiver shall not be approved unless:

24 a. It is written in simple and readable words with common
25 meanings and is understandable.

26 b. The terms of the collision damage waiver are
27 prominently displayed including, but not limited to, any
28 conditions or exclusions applicable to the collision damage
29 waiver. The collision damage waiver may exclude the
30 following:

31 (1) Damages caused intentionally by the lessee or as a re-
32 sult of the lessee's willful or wanton misconduct.

33 (2) Damages caused by driving while intoxicated or under
34 the influence of a controlled substance.

35 (3) Damages caused while engaging in a speed contest.

1 c. All restrictions, conditions, or provisions in or en-
2 dorsed on a collision damage waiver are printed in type as
3 large as ten-point type, or written in pen and ink or
4 typewritten in or on the waiver agreement. However, this
5 section does not apply to photographic copies of applications
6 or parts of applications, attached to or made part of the
7 waiver agreement.

8 d. The collision damage waiver includes a statement of the
9 total charge for the waiver period.

10 e. The agreement containing the collision damage waiver
11 displays the following notice on the face of the agreement,
12 set apart and in boldface type and in no smaller print than
13 ten-point type:

14 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A
15 COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR
16 DAMAGE TO THE VEHICLE.

17 BEFORE DECIDING WHETHER TO PURCHASE THE COLLISION DAMAGE
18 WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN AUTOMOBILE
19 INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VE-
20 HICLE AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSUR-
21 ANCE COVERAGE. THE PURCHASE OF THIS COLLISION DAMAGE WAIVER
22 IS NOT MANDATORY AND MAY BE WAIVED.

23 Sec. 7. NEW SECTION. 516C.7 COLLISION DAMAGE WAIVER --
24 RATE FILING REQUIREMENTS.

25 1. A lessor licensed pursuant to this chapter shall file
26 with the commissioner all rates and supplementary rate
27 information and all charges and amendments of charges made by
28 it for use in this state thirty days prior to the effective
29 date of the rates or charges.

30 2. The rates filed pursuant to this section shall not be
31 excessive or unfairly discriminatory. All rates shall be made
32 in accordance with the following provisions:

33 a. Due consideration shall be given to past and prospec-
34 tive collision loss experience within and outside the
35 particular locale.

1 b. Consideration may be given to past and prospective col-
2 lision loss experience of the private insurance industry for
3 the locale.

4 c. Expenses may include marginal expenses of the lessor
5 attributable to the sale and direct administration of the
6 collision damage waiver component, as well as a reasonable
7 overhead expense.

8 d. A reasonable overhead expense is the total overhead for
9 the covered location multiplied by the ratio of collision
10 damage waiver revenues to the total revenue for the location.
11 The cost of the vehicles to be rented shall not be considered
12 an overhead expense.

13 3. A lessor shall not make or issue a collision damage
14 waiver except in accordance with the filings which are in ef-
15 fect for the lessor. A lessor or an officer, employee, or
16 other representative of a lessor shall not charge or receive a
17 fee, compensation, or consideration for the collision damage
18 waiver which is not included in the rate in effect for the
19 lessor.

20 Sec. 8. NEW SECTION. 516C.8 UNFAIR OR DECEPTIVE ACTS OR
21 PRACTICES.

22 The following are unfair or deceptive acts or practices
23 when conducted by a lessor licensed under this chapter, or its
24 officials or representatives:

25 1. The making of a false or misleading statement either
26 orally or in writing, in connection with the sale, offer to
27 sell, or advertisement of a collision damage waiver.

28 2. The omission of a material statement in connection with
29 the sale, offer to sell, or advertisement of a collision
30 damage waiver, which under the circumstances should have been
31 made in order to make the statements that were made not
32 misleading.

33 3. The making of a statement that the purchase of a col-
34 lision damage waiver is mandatory.

35 4. The failure to provide proper disclosure that the pur-

1 chase of a collision damage waiver may be duplicative of the
2 lessee's automobile insurance contract.

3 Chapter 507B applies to the commission of these practices.
4 The issuance, procurement, or negotiation of each single
5 collision damage waiver is a separate violation.

6 Sec. 9. NEW SECTION. 516C.9 APPLICATION OF INSURANCE
7 LAWS.

8 Except as otherwise specifically provided in this chapter,
9 none of the other provisions of this title apply to collision
10 damage waivers. None of the provisions of this chapter apply
11 to the issuance of collision insurance underwritten by an
12 insurer authorized to transact property and casualty business
13 in this state except as provided under section 507B.4. A
14 lessor to whom this chapter applies shall not be compelled to
15 join or contribute financially to any insurance plan, pool, or
16 association, or guaranty or insolvency fund in this state.

17 Sec. 10. NEW SECTION. 516C.10 RULES.

18 The commissioner shall adopt rules pursuant to chapter 17A
19 as necessary to carry out the provisions of this chapter.

20 Sec. 11. Section 507B.4, Code 1987, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 12. A violation of section 516C.8.

23 Sec. 12. This bill takes effect January 1, 1988.

24 EXPLANATION

25 This bill creates a new chapter of the Code to be known as
26 the Iowa Collision Damage Waiver Act. The bill prohibits
27 certain practices with regard to the issuance of collision
28 damage waivers in connection with leasing arrangements of
29 rental motor vehicles. Lessors of the motor vehicles which
30 offer a collision damage waiver are required to obtain a li-
31 cense for which there is a fee of one hundred dollars. A
32 collision damage waiver may not be issued without the agree-
33 ment being filed with the commissioner of insurance at least
34 thirty days prior to its effective date. The commissioner may
35 disapprove of the collision damage waiver portion of the

1 agreement within the thirty-day period.

2 Section 8 of the bill defines unfair or deceptive acts or
3 practices, and commission of these acts or practices subjects
4 the lessor to the enforcement provisions of chapter 507B.
5 This includes issuance of cease and desist orders, and
6 monetary penalties of not more than ten thousand dollars for
7 each violation. The issuance, procurement, or negotiation of
8 a single collision damage waiver is deemed a separate viola-
9 tion.

10 The bill takes effect January 1, 1988.

11 The bill creates and internally cites new sections 516C.1
12 through 516C.10.

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HOUSE FILE 653

5562

1 Amend House File 653 as passed by the House as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 516C.1 TITLE.

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

8 Sec. 2. NEW SECTION. 516C.2 SCOPE.

9 This chapter applies to a person in the business of
10 renting a motor vehicle for a period of sixty days or
11 less from a location in this state under an agreement
12 which imposes upon the customer an obligation to pay
13 for any damages caused to the rented vehicle. This
14 chapter applies solely to the collision damage waiver
15 portion of the rental agreement.

16 Sec. 3. NEW SECTION. 516C.3 DEFINITIONS.

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

19 1. "Collision damage waiver" means a contract or
20 contractual provision, whether separate from or a part
21 of a motor vehicle rental agreement, whereby the
22 rental company agrees, for a charge, to waive any and
23 all claims against the customer for any damages to the
24 rental vehicle during the term of the rental
25 agreement.

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

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

31 4. "Rental agreement" means a written agreement
32 containing the terms and conditions for the use of the
33 rental motor vehicle by the customer for a term of
34 sixty days or less.

35 5. "Rental motor vehicle" means a private
36 passenger type vehicle or commercial type vehicle
37 which, upon execution of a rental agreement, is made
38 available to a customer for its use.

39 Sec. 4. NEW SECTION. 516C.4 PROHIBITIONS.

40 A rental company shall not deliver or issue for
41 delivery in this state a rental agreement containing a
42 collision damage waiver unless:

43 1. The rental agreement contains the terms of the
44 collision damage waiver in simple and readable words
45 with common meanings and the collision damage waiver
46 is understandable.

47 2. All restrictions, conditions, and exclusions
48 are printed in the rental agreement in eight-point
49 type, or larger; or written in pen and ink or
50 typewritten in or on the face of the rental agreement

1 in a blank space provided therefore. The collision
2 damage waiver may exclude the following:
3 a. Damages caused intentionally by the customer or
4 as a result of the customer's willful or wanton
5 misconduct.
6 b. Damages caused by driving while intoxicated or
7 under the influence of a controlled substance.
8 The collision damage waiver may not exclude simple
9 negligence.

10 3. The collision damage waiver includes a
11 statement of the total charge for the waiver period.

12 4. The rental agreement displays on the face of
13 the agreement in boldface capitals in eight-point
14 type, or larger, the following notice:

15 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL
16 CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR
17 RESPONSIBILITY FOR DAMAGE TO THE VEHICLE.

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

25 However, prior to July 1, 1989, the disclosures
26 required to be made as part of a rental agreement
27 pursuant to this chapter may be made on a separate
28 sheet or handout given to the customer prior to
29 entering into the rental agreement. The separate
30 sheet or handout must be acknowledged by the customer
31 as being received prior to entering into the rental
32 agreement.

33 Sec. 5. NEW SECTION. 516C.5 UNFAIR OR DECEPTIVE
34 ACTS OR PRACTICES.

35 Unfair or deceptive acts or practices in the
36 advertisement or sale of collision damage waivers are
37 prohibited. Unfair and deceptive practices include,
38 but are not limited to, the following:

39 1. The representation in connection with the sale
40 or advertisement of a rental agreement or collision
41 damage waiver that the purchase of a collision damage
42 waiver is mandatory.

43 2. The failure to provide disclosures as required
44 in this chapter.

45 3. The failure to disclose in a manner likely to
46 be notice and comprehended in any advertisement, as
47 defined in section 714.16, subsection 1, paragraph
48 "a", if a collision damage waiver is available, and
49 the cost of the waiver.

50 Sec. 6. NEW SECTION. 516C.6 ENFORCEMENT.

Page 3

1 A violation of this chapter is a violation of
2 section 714.16, subsection 2, paragraph "a". The
3 provisions of section 714.16, including, but not
4 limited to, provisions relating to investigation,
5 injunctive relief, and penalties, apply to violations
6 of this chapter."

7 2. Title page, line 1, by inserting after the
8 word "to" the following: "motor vehicle rental
9 insurance and".

Adopted as amended by S.L. 40
S-5562 3/29/88 (p. 112)
Filed March 25, 1988

BY COMMITTEE ON COMMERCE

SENATE AMENDMENT TO HOUSE FILE 653

H-6892

1 Amend House File 653 as passed by the House as
2 follows:

3 1. By striking everything after the enacting
4 clause and inserting the following:

5 "Section 1. NEW SECTION. 516C.1 TITLE.

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

8 Sec. 2. NEW SECTION. 516C.2 SCOPE.

9 This chapter applies to a person in the business of
10 renting a motor vehicle for a period of sixty days or
11 less from a location in this state under an agreement
12 which imposes upon the customer an obligation to pay
13 for any damages caused to the rented vehicle. This
14 chapter applies solely to the collision damage waiver
15 portion of the rental agreement.

16 Sec. 3. NEW SECTION. 516C.3 DEFINITIONS.

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

19 1. "Collision damage waiver" means a contract or
20 contractual provision, whether separate from or a part
21 of a motor vehicle rental agreement, whereby the
22 rental company agrees, for a charge, to waive any and
23 all claims against the customer for any damages to the
24 rental vehicle during the term of the rental
25 agreement.

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

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

31 4. "Rental agreement" means a written agreement
32 containing the terms and conditions for the use of the
33 rental motor vehicle by the customer for a term of
34 sixty days or less.

35 5. "Rental motor vehicle" means a private
36 passenger type vehicle or commercial type vehicle
37 which, upon execution of a rental agreement, is made
38 available to a customer for its use.

39 Sec. 4. NEW SECTION. 516C.4 PROHIBITIONS.

40 A rental company shall not deliver or issue for
41 delivery in this state a rental agreement containing a
42 collision damage waiver unless:

43 1. The rental agreement contains the terms of the
44 collision damage waiver in simple and readable words
45 with common meanings and the collision damage waiver
46 is understandable.

47 2. All restrictions, conditions, and exclusions
48 are printed in the rental agreement in eight-point
49 type, or larger; or written in pen and ink or
50 typewritten in or on the face of the rental agreement

H-6092

Page Two

1 in a blank space provided therefore. The collision
2 damage waiver may exclude the following:

3 a. Damages caused intentionally by the customer or
4 as a result of the customer's willful or wanton
5 misconduct.

6 b. Damages caused by driving while intoxicated or
7 under the influence of a controlled substance.

8 The collision damage waiver may not exclude simple
9 negligence.

10 3. The collision damage waiver includes a
11 statement of the total charge for the waiver period.

12 4. The rental agreement displays on the face of
13 the agreement in boldface capitals in eight-point
14 type, or larger, the following notice:

15 NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL
16 CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR
17 RESPONSIBILITY FOR DAMAGE TO THE VEHICLE.

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

25 However, prior to July 1, 1989, the disclosures
26 required to be made as part of a rental agreement
27 pursuant to this chapter may be made on a separate
28 sheet or handout given to the customer prior to
29 entering into the rental agreement. The separate
30 sheet or handout must be acknowledged by the customer
31 as being received prior to entering into the rental
32 agreement.

33 Sec. 5. NEW SECTION. 516C.5 UNFAIR OR DECEPTIVE
34 ACTS OR PRACTICES.

35 Unfair or deceptive acts or practices in the
36 advertisement or sale of collision damage waivers are
37 prohibited. Unfair and deceptive practices include,
38 but are not limited to, the following:

39 1. The representation in connection with the sale
40 or advertisement of a rental agreement or collision
41 damage waiver that the purchase of a collision damage
42 waiver is mandatory.

43 2. The failure to provide disclosures as required
44 in this chapter.

45 3. The failure to disclose in a manner likely to
46 be notice and comprehended in any advertisement, as
47 defined in section 714.16, subsection 1, paragraph
48 "a", if a collision damage waiver is available, and
49 the cost of the waiver.

50 Sec. 6. NEW SECTION. 516C.6 ENFORCEMENT.

H-6092

Page Three

A violation of 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.

7 Sec. 7. NEW SECTION. 516C.7 INSURANCE.

8 No automobile insurance policy or motor vehicle
9 liability insurance policy shall be issued or renewed
10 after January 1, 1989, unless the policy provides that
11 all coverages under the policy are extended to any
12 rental motor vehicle being rented by the named
13 insured. The policy must also provide that all or any
14 part of the obligation of the named insured for
15 property damage to a rental motor vehicle is covered
16 by the collision or comprehensive portion of the
17 policy."

18 2. Title page, line 1, by inserting after the
19 word "to" the following: "motor vehicle rental
20 insurance and".

H-6092 FILED MARCH 30, 1988 RECEIVED FROM THE SENATE

*Adopted as amended by 6207 & 6425
4/14 (p. 1893)*

HOUSE FILE 653

H-6207

1 Amend the Senate Amendment H-6092 to House File 653
2 as passed by the House as follows:

3 1. Page 2, line 46, by striking the word "notice"
4 and inserting the word "noticed".

By GRONINGA of Cerro Gordo

H-6207 FILED APRIL 5, 1988

Adopted 4/14/88 (p. 1893)

HOUSE FILE 653

H-6425

- 1 Amend the Senate amendment, H-6092, to House File
2 653, as passed by the House, as follows:
3 1. Page 1, line 13, by inserting after the word
4 "to" the following: ", or loss due to theft of,".
5 2. Page 1, line 23, by inserting after the words
6 "damages to" the following: ", or loss due to theft
7 of,".
8 3. Page 1, line 36, by striking the words "or
9 commercial type vehicle".
10 4. Page 2, lines 12 and 13, by striking the words
11 "on the face of the agreement".
12 5. Page 2, line 25, by striking the words
13 "However, prior to July 1, 1989, the" and inserting
14 the following: "The".
15 6. Page 2, line 27, by striking the word "may"
16 and inserting the following: "shall".
17 7. Page 3, by striking lines 7 through 20.

By GRONINGA of Cerro Gordo

H-6425 FILED APRIL 13, 1988

6 deposited 4/14 (p. 1843)



HOUSE AMENDMENT TO
SENATE AMENDMENT TO
HOUSE FILE 653

S-6011

- 1 Amend the Senate amendment, H-6092, to House File
- 2 653, as passed by the House, as follows:
- 3 1. Page 1, line 13, by inserting after the word
- 4 "to" the following: ", or loss due to theft of,".
- 5 2. Page 1, line 23, by inserting after the words
- 6 "damages to" the following: ", or loss due to theft
- 7 of,".
- 8 3. Page 1, line 36, by striking the words "or
- 9 commercial type vehicle".
- 10 4. Page 2, lines 12 and 13, by striking the words
- 11 "on the face of the agreement".
- 12 5. Page 2, line 25, by striking the words
- 13 "However, prior to July 1, 1989, the" and inserting
- 14 the following: "The".
- 15 6. Page 2, line 27, by striking the word "may"
- 16 and inserting the following: "shall".
- 17 7. Page 2, line 46, by striking the word "notice"
- 18 and inserting the word "noticed".
- 19 8. Page 3, by striking lines 7 through 20.
- 20 9. By renumbering, relettering, or redesignating
- 21 and correcting internal references as necessary.

S-6011

Filed April 14, 1988 ADOPTED

RECEIVED FROM THE HOUSE

Senate amendment 4/14 (p. 1605)

HOUSE FILE 653

AN ACT

RELATING TO ISSUANCE OF COLLISION DAMAGE WAIVERS IN MOTOR VEHICLE RENTAL AGREEMENTS, MAKING PENALTIES APPLICABLE, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. NEW SECTION. 516C.1 TITLE.

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

Sec. 2. NEW SECTION. 516C.2 SCOPE.

This chapter applies to a person in the business of renting a motor vehicle for a period of sixty days or less from a location in this state under an agreement which imposes upon the customer an obligation to pay for any damages caused to, or loss due to theft of, the rented vehicle. This chapter applies solely to the collision damage waiver portion of the rental agreement.

Sec. 3. NEW SECTION. 516C.3 DEFINITIONS.

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

1. "Collision damage waiver" means a contract or contractual provision, whether separate from or a part of a

motor vehicle rental agreement, whereby the rental company agrees, for a charge, to waive any and all claims against the customer for any damages to, or loss due to theft of, the rental vehicle during the term of the rental agreement.

2. "Rental company" means a person in the business of providing rental motor vehicles to customers.

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

4. "Rental agreement" means a written agreement containing the terms and conditions for the use of the rental motor vehicle by the customer for a term of sixty days or less.

5. "Rental motor vehicle" means a private passenger type vehicle which, upon execution of a rental agreement, is made available to a customer for its use.

Sec. 4. NEW SECTION. 516C.4 PROHIBITIONS.

A rental company shall not deliver or issue for delivery in this state a rental agreement containing a collision damage waiver unless:

1. The rental agreement contains the terms of the collision damage waiver in simple and readable words with common meanings and the collision damage waiver is understandable.

2. All restrictions, conditions, and exclusions are printed in the rental agreement in eight-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 therefore. The collision damage waiver may exclude the following:

a. Damages caused intentionally by the customer or as a result of the customer's willful or wanton misconduct.

b. Damages caused by driving while intoxicated or under the influence of a controlled substance.

The collision damage waiver may not exclude simple negligence.

3. The collision damage waiver includes a statement of the total charge for the waiver period.

4. The rental agreement displays in boldface capitals in eight-point type, or larger, the following notice:

NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A COLLISION DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE 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 disclosures required to be made as part of a rental agreement pursuant to this chapter shall be made on a separate sheet or handout given to the customer prior to entering into the rental agreement. The separate sheet or handout must be acknowledged by the customer as being received prior to entering into the rental agreement.

Sec. 5. NEW SECTION. 516C.5 UNFAIR OR DECEPTIVE ACTS OR PRACTICES.

Unfair or deceptive acts or practices in the advertisement or sale of collision damage waivers are prohibited. Unfair and deceptive practices include, but are not limited to, the following:

1. The representation in connection with the sale or advertisement of a rental agreement or collision damage waiver that the purchase of a collision damage waiver is mandatory.

2. The failure to provide disclosures as required in this chapter.

3. The failure to disclose in a manner likely to be noticed and comprehended in any advertisement, as defined in section 714.16, subsection 1, paragraph "a", if a collision damage waiver is available, and the cost of the waiver.

Sec. 6. NEW SECTION. 516C.6 ENFORCEMENT.

A violation of 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.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 653, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House
Approved May 3, 1988

TERRY E. BRANSTAD
Governor