

## CHAPTER 204

### CAR RENTALS

*S.F. 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 type-written 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.

Approved May 28, 1991

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## CHAPTER 205

### REGULATION OF BUSINESS OPPORTUNITY PROMOTIONS, RETIREMENT COMMUNITIES, AND LOAN BROKERS

*S.F. 519*

**AN ACT** relating to entities and subject matter subject to regulation under the regulated industries unit of the division of insurance, including business opportunity promotions, continuing care and senior adult congregate living retirement communities, and loan brokers, establishing certain fees, and making penalties applicable.

*Be It Enacted by the General Assembly of the State of Iowa:*

#### DIVISION I

Section 1. Section 523B.1, Code 1991, is amended by striking the section and inserting in lieu thereof the following:

523B.1 DEFINITIONS.

1. "Administrator" means the commissioner of insurance or the deputy appointed under section 502.601.

2. "Advertising" means a circular, prospectus, advertisement, or other material, or a communication by radio, television, pictures, or similar means used in connection with an offer or sale of a business opportunity.

3. a. "Business opportunity" means a contract or agreement, between a seller and purchaser, express or implied, orally or in writing, at an initial investment exceeding five hundred dollars, where the parties agree that the seller or a person recommended by the seller is to provide to the purchaser any products, equipment, supplies, materials, or services for the purpose of enabling the purchaser to start a business, and the seller represents, directly or indirectly, orally or in writing, any of the following: