

BILL ANALYSIS

Senate Research Center

S.B. 1778
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Business & Commerce
4/7/2019
As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

A loss damage waiver is a clause contained in some consumer contracts that provides that a business will not hold a consumer liable for the damage of all or part of the item leased or rented. Consumers pay additional consideration for these waivers and are not required to purchase them.

While the Business and Commerce Code contains provisions for loss damage waivers for rental cars, heavy equipment, and other goods that are available for rent, it does not have a provision for excess loss damage waivers for leased motor vehicles.

Currently, when a person leases a motor vehicle, he or she is liable for excess loss, which can be large dents, scratches, or stains or tears in upholstery that are beyond those that normally are found in a car that has been used for a lease period. Consumers often face these charges when lease periods are completed, thereby exposing consumers to charges after the vehicle has been returned.

S.B. 1778 allows a consumer to purchase an excess loss damage waiver when the vehicle is leased to cover the excess wear and use of the lease vehicle and thereby avoid most charges when a lease period is completed. S.B. 1778 would also clarify that the purchase of an excess wear and use waiver would not be considered insurance.

As proposed, S.B. 1778 amends current law relating to excess loss damage waivers in connection with the lease of motor vehicles, and provides a civil penalty.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subtitle B, Title 5, Business & Commerce Code, by adding Chapter 94, as follows:

CHAPTER 94. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR VEHICLES

Sec. 94.001. DEFINITIONS. Defines "excess wear and use waiver," "lease agreement," "lessee," "lessor," and "motor vehicle."

Sec. 94.002. CONTRACT FOR EXCESS WEAR AND USE WAIVER. Authorizes a lessee to contract with a lessor for an excess wear and use waiver in connection with a lease agreement.

Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING WAIVER. Prohibits a lessor from:

- (1) selling an excess wear and use waiver, unless:

(A) the lease agreement containing the waiver complies with this chapter; and

(B) the lessee agrees to the waiver in writing; or

(2) imposing or requiring the purchase of an excess wear and use waiver as a condition of entering into a lease agreement.

Sec. 94.004. **REQUIRED NOTICE.** Requires a lease agreement that offers an excess wear and use waiver to be in writing and include a notice with specified language and sets forth the language of the notice.

Sec. 94.005. **STATEMENT OF TOTAL CHARGE.** Requires a lease agreement, or an addendum to a lease agreement, that includes an excess wear and use waiver to include a statement of the total charge for the waiver.

Sec. 94.006. **RELATIONSHIP TO INSURANCE.** Provides that an excess wear and use waiver is not insurance.

Sec. 94.007. **CIVIL PENALTY.** Provides that a lessor that violates this chapter is liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each violation.

Sec. 94.008. **INJUNCTIVE RELIEF.** Authorizes a person injured or threatened with injury by a violation of this chapter to seek injunctive relief against the person committing or threatening to commit the violation.

Sec. 94.009. **SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF.** Authorizes the Texas attorney general or a county or district attorney to bring an action in the name of the state for a civil penalty under Section 94.007, injunctive relief under Section 94.008, or both.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2019.