

By: Paxton
(Holland)

S.B. No. 1778

A BILL TO BE ENTITLED

AN ACT

relating to excess wear and use waivers in connection with the lease of motor vehicles; providing a civil penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle B, Title 5, Business & Commerce Code, is amended by adding Chapter 94 to read as follows:

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

Sec. 94.001. DEFINITIONS. In this chapter:

(1) "Excess wear and use waiver" means a provision of or addendum to a lease agreement under which the lessor agrees to not hold a lessee liable for all or part of the excess wear and use to a motor vehicle.

(2) "Lease agreement" means an agreement, including any addendum to the agreement, entered into in this state under which a lessee pays a fee or other consideration to a lessor for the right to possession and use of a motor vehicle for a term of more than 180 days, regardless of whether the agreement provides the lessee an option to purchase or otherwise become the owner of the motor vehicle upon the expiration of the term of the agreement.

(3) "Lessee" means an individual who acquires the right to possession and use of a motor vehicle under a lease agreement primarily for personal, family, or household purposes.

(4) "Lessor" means a person who, in the ordinary

1 course of business, regularly leases, offers to lease, or arranges
2 for the lease of a motor vehicle under a lease agreement. Unless
3 the context clearly indicates otherwise, the term includes an
4 assignee of the lessor.

5 (5) "Motor vehicle" has the meaning assigned by
6 Section 541.201, Transportation Code.

7 Sec. 94.002. CONTRACT FOR EXCESS WEAR AND USE WAIVER. A
8 lessee may contract with a lessor for an excess wear and use waiver
9 in connection with a lease agreement.

10 Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING EXCESS WEAR
11 AND USE WAIVER. A lessor may not:

12 (1) sell an excess wear and use waiver, unless:

13 (A) the lease agreement containing the excess
14 wear and use waiver complies with this chapter; and

15 (B) the lessee agrees to the excess wear and use
16 waiver in writing; or

17 (2) impose or require the purchase of an excess wear
18 and use waiver as a condition of entering into a lease agreement.

19 Sec. 94.004. REQUIRED NOTICE. An excess wear and use waiver
20 must be in writing and include a notice substantially similar to the
21 following:

22 "This excess wear and use waiver is optional, is not a
23 condition of leasing the vehicle, and is being provided for an
24 additional charge to cover your responsibility for any excess wear
25 and use to the leased vehicle."

26 Sec. 94.005. REQUIRED DISCLOSURES. A lease agreement that
27 includes an excess wear and use waiver must disclose:

1 (1) the total charge for the excess wear and use
2 waiver; and

3 (2) any exclusions or limitations on the amount of
4 excess wear and use that may be waived under the excess wear and use
5 waiver.

6 Sec. 94.006. RELATIONSHIP TO INSURANCE. An excess wear and
7 use waiver is not insurance.

8 Sec. 94.007. CIVIL PENALTY. A lessor that violates this
9 chapter is liable for a civil penalty in an amount of not less than
10 \$500 or more than \$1,000 for each violation.

11 Sec. 94.008. INJUNCTIVE RELIEF. A person injured or
12 threatened with injury by a violation of this chapter may seek
13 injunctive relief against the person committing or threatening to
14 commit the violation.

15 Sec. 94.009. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF.
16 The attorney general or a county or district attorney may bring an
17 action in the name of the state for a civil penalty under Section
18 94.007, injunctive relief under Section 94.008, or both.

19 SECTION 2. The change in law made by this Act applies only
20 to a lease agreement entered into on or after the effective date of
21 this Act. A lease agreement entered into before the effective date
22 of this Act is governed by the law in effect on the date the lease
23 agreement was entered into, and the former law is continued in
24 effect for that purpose.

25 SECTION 3. This Act takes effect September 1, 2019.