

By: Paxton

S.B. No. 1778

A BILL TO BE ENTITLED

AN ACT

relating to excess loss damage 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.

(2) "Lease agreement" means an 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 scheduled term, 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 course of business, regularly leases, offers to lease, or arranges for the lease of a motor vehicle under a lease agreement. Unless

1 the context clearly indicates otherwise, the term includes an
2 assignee.

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

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

8 Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING WAIVER. A
9 lessor may not:

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

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

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

14 or

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

17 Sec. 94.004. REQUIRED NOTICE. A lease agreement that
18 offers an excess wear and use waiver must be in writing and include
19 the following notice:

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

24 Sec. 94.005. STATEMENT OF TOTAL CHARGE. A lease agreement,
25 or an addendum to a lease agreement, that includes an excess wear
26 and use waiver must include a statement of the total charge for the
27 waiver.

1 Sec. 94.006. RELATIONSHIP TO INSURANCE. An excess wear and
2 use waiver is not insurance.

3 Sec. 94.007. CIVIL PENALTY. A lessor that violates this
4 chapter is liable for a civil penalty in an amount of not less than
5 \$500 or more than \$1,000 for each violation.

6 Sec. 94.008. INJUNCTIVE RELIEF. A person injured or
7 threatened with injury by a violation of this chapter may seek
8 injunctive relief against the person committing or threatening to
9 commit the violation.

10 Sec. 94.009. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF.
11 The attorney general or a county or district attorney may bring an
12 action in the name of the state for a civil penalty under Section
13 94.007, injunctive relief under Section 94.008, or both.

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

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