

BUSINESS AND COMMERCE CODE
TITLE 5. REGULATION OF BUSINESSES AND SERVICES
SUBTITLE B. RENTAL PRACTICES
CHAPTER 91. PRIVATE PASSENGER VEHICLE RENTAL COMPANIES

SUBCHAPTER A. GENERAL PROVISIONS

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. [72](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 91.001. DEFINITIONS. In this chapter:

(1) "Authorized driver" means:

- (A) the renter;
- (B) a person whom the rental company expressly designates on the rental agreement as an authorized driver;
- (C) the renter's spouse if the spouse:
 - (i) holds a driver's license; and
 - (ii) satisfies any minimum age requirement established by the rental company;
- (D) an employer, employee, or coworker of the renter if the person:
 - (i) holds a driver's license;
 - (ii) satisfies any minimum age requirement established by the rental company; and
 - (iii) is engaged in a business activity with the renter at the time of the rental; or
- (E) a person who:
 - (i) holds a driver's license; and
 - (ii) is driving directly to a medical or police facility under circumstances reasonably believed to constitute an emergency.

(2) "Damage" means damage to or loss of a rented vehicle, regardless of fault involved in the damage or loss. The term includes:

- (A) theft and loss of use; and
- (B) any cost incident to the damage or loss, including storage, impound, towing, and administrative charges.

(3) "Damage waiver" means a rental company's agreement not to hold an authorized driver liable for all or part of any damage to a rented vehicle.

(4) "Mandatory charge" means a charge for an item or service provided in connection with a rental transaction, other than a charge imposed by law:

(A) that is in addition to the base rental rate; and

(B) that the renter may not avoid or decline.

(5) "Private passenger vehicle" means a motor vehicle of the private passenger type, including a passenger van, primarily intended for private use.

(6) "Rental agreement" means an agreement for 30 days or less that states the terms governing the use of a private passenger vehicle rented by a rental company.

(7) "Rental company" means a person in the business of renting private passenger vehicles to the public for 30 days or less. The term does not include a person who holds a license under Chapter [2301](#), Occupations Code, and whose primary business activity is not renting private passenger vehicles.

(8) "Renter" means a person who obtains use of a private passenger vehicle from a rental company under a rental agreement.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER B. DAMAGE WAIVERS AND MANDATORY CHARGES

Sec. 91.051. WRITTEN AGREEMENT REQUIRED FOR DAMAGE WAIVER. A rental company may not sell a damage waiver unless the renter agrees to the damage waiver in writing at or before the time the rental agreement is executed.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.052. NOTICE TO RENTER. (a) A rental company shall provide each renter who purchases a damage waiver, the charge for

which is not included in the base rental rate, the following notice:

NOTICE: Your rental agreement offers, for an additional charge, an optional waiver to cover all or a part of your responsibility for damage to or loss of the vehicle. Before deciding whether to purchase the waiver, you may wish to determine whether your own automobile insurance or credit card agreement provides you coverage for rental vehicle damage or loss and determine the amount of the deductible under your own insurance coverage. The purchase of the waiver is not mandatory. The waiver is not insurance.

(b) The notice under Subsection (a) must be in at least 10-point type.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.053. POSTED NOTICE. In addition to providing the notice required by Section [91.052](#), a rental company shall post in a conspicuous location where the damage waiver is offered the following notice:

Notice to Texas Residents Regarding Damage Waivers
Your personal automobile insurance policy may or may not provide coverage for your responsibility for the loss of or damage to a rented vehicle during the rental term. Before deciding whether to purchase a damage waiver, you may wish to determine whether your automobile insurance policy provides you coverage for rental vehicle damage or loss. If you file a claim under your personal automobile insurance policy, your insurance company may choose to nonrenew your policy at your renewal date, but may do so only if you are at fault for the claim.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.054. PROHIBITED REPRESENTATIONS AND COERCION. (a)
An employee or agent of a rental company may not:

(1) make an oral or written representation that contradicts this chapter; or

(2) use coercive language or a coercive act in an attempt to persuade a renter to purchase a damage waiver.

(b) For purposes of this section, if the renter has declined the damage waiver, a further statement or question by the employee or agent that refers to the damage waiver, other than a statement made in conjunction with review of the rental agreement that the waiver has been declined, is considered coercive.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.055. MANDATORY CHARGE. (a) A rental company that includes a mandatory charge in a rental agreement shall prominently display and fully disclose the charge:

(1) separately on the face of the agreement; and

(2) in all of the rental company's price advertising, price quotes, price offers, and price displays, including displays in computerized reservation systems.

(b) A rental company may not impose or require the purchase of a damage waiver as a mandatory charge.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. [3016](#), 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 91.056. VOIDING OF DAMAGE WAIVER. A rental company may not void a damage waiver unless:

(1) an authorized driver causes the damage intentionally or by wilful and wanton misconduct;

(2) the damage arises out of use of the vehicle:

(A) by a person:

(i) who is not an authorized driver;

(ii) while under the influence of an intoxicant that impairs driving ability, including alcohol, an

illegal drug, or a controlled substance; or

(iii) while engaged in commission of a crime other than a traffic infraction;

(B) to carry persons or property for hire;

(C) to push or tow anything;

(D) for driver's training;

(E) to engage in a speed contest; or

(F) outside the continental United States, unless the rental agreement specifically authorizes the use; or

(3) the rental company entered into the rental transaction based on fraudulent information supplied by the renter. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

SUBCHAPTER C. ENFORCEMENT PROVISIONS

Sec. 91.101. CIVIL PENALTY. A rental company 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 act of violation. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.102. INJUNCTION. A person injured or threatened with injury by a violation of this chapter may seek injunctive relief against the person committing or threatening to commit the violation. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.

Sec. 91.103. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF. The attorney general or a county or district attorney may bring an action in the name of the state for a civil penalty under Section [91.101](#), injunctive relief under Section [91.102](#), or both. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. [2278](#)), Sec. 2.01, eff. April 1, 2009.