S T A T E O F N E W Y O R K

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2015-2016 Regular Sessions

I N S E N A T E

June 1, 2015

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to certain rental vehicle protections

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 396-z of the general business law, as amended by chapter 731 of the laws of 2006, is amended to read as follows:

S 396-z. Rental vehicle protections. 1. For the purposes of this section: (a) "Authorized driver" [shall mean] MEANS: (i) the person to whom the vehicle is rented if a licensed driver; (ii) such person's spouse if licensed and at least eighteen years of age; (iii) any person who operates the vehicle during an emergency situation to a medical facility; or (iv) any licensed driver expressly listed on the rental agreement as an authorized driver.

(b) "Rental agreement" means any written agreement setting forth terms and conditions governing the RENTER'S OR ANY authorized driver's use of a rental vehicle[, as defined in section one hundred thirty-seven-a of the vehicle and traffic law,] for a period not to exceed thirty continuous days.

(c) "Rental vehicle company" means any person or organization, or any subsidiary or affiliate, including a franchisee, in the business of providing rental vehicles to the public from locations in this state.

(d) "Optional vehicle protection" means a rental vehicle company's agreement not to hold an authorized driver liable for all or part of any damage or loss to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing or administrative charges for which [the] AN authorized driver may be liable. The term "optional vehicle protection" shall encompass within its meaning other similar terms that may be used by rental vehicle companies, such as but not limited to

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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"Collision Damage Waiver", "CDW", "Damage Waiver", "Loss Damage Waiver", "LDW", and "Physical Damage Waiver".

(e) "Renter" means a person or entity that obtains the use of a [private passenger] RENTAL vehicle from a rental vehicle company under terms of a rental agreement.

(f) "Consolidated facilities charge" means the allowable recovery by a rental vehicle company from its renters of those fees, including any taxes or fees paid on such fees, for the finance, design, construction and operation of consolidated airport facilities and or the finance, design, construction and operation of common use transportation systems that move passengers between airport terminals and [those consolidated] airport car rental facilities. The aggregate amount to be collected shall not exceed the reasonable costs, as determined annually by an independent audit paid for by the airport operator or its governing entity, to finance, design, construct and operate those facilities and common use transportation systems. The consolidated [facility] FACILITIES charge shall apply only to vehicle rentals occurring at vehicle rental locations subject to the imposition of such charge by an airport operator or its governing entity.

(g) "Concession recovery fee" means the allowable recovery by a rental vehicle company from its renters of those fees, including any taxes or fees paid on such fees, which an airport operator or its governing entity imposes on a rental vehicle company's applicable revenues OR RENTAL TRANSACTIONS, as defined and stated in a concession agreement that authorizes a rental vehicle company to operate at an airport located in this state. The concession recovery fee shall apply only to vehicle rentals occurring at vehicle rental locations subject to the imposition of such fee by an airport operator or its governing entity.

(h) "Airport fees" means [the] consolidated [facility charge] FACILITIES CHARGES and/or [the] concession recovery [fee as those terms are defined herein] FEES.

(i) "Concession agreement" means an agreement, permit or license entered into between an airport operator or its governing entity and rental vehicle company setting forth the terms and conditions under which the rental vehicle company may transact its rental business at such airport.

(j) "Consolidated airport facilities" means those buildings or physical structures, including, but not limited to, parking garages, parking areas and fueling systems, constructed by or on behalf of the airport operator or its governing entity to be jointly used by all rental vehicle companies operating at such airport pursuant to a concession agreement.

(K) "RENTAL VEHICLE" MEANS A RENTAL VEHICLE AS DEFINED IN SECTION ONE HUNDRED THIRTY-SEVEN-A OF THE VEHICLE AND TRAFFIC LAW, BUT EXCLUDING FREIGHT VANS, VEHICLES WITH A GROSS VEHICLE WEIGHT RATING EXCEEDING TEN THOUSAND POUNDS, AND ANY VEHICLE REGISTERED AS A COMMERCIAL MOTOR VEHICLE IN ANY STATE.

2. (a) A rental vehicle company shall not charge more than [nine dollars] THE FOLLOWING AMOUNTS per full or partial twenty-four hour rental day for optional vehicle protection [if the manufacturer's suggested retail price of the rental vehicle is not greater than thirty thousand dollars. A rental vehicle company shall not charge more than twelve dollars per full or partial twenty-four hour rental day for optional vehicle protection]:

(I) NINE DOLLARS if the manufacturer's suggested retail price of the rental vehicle is NOT greater than [thirty] TWENTY thousand dollars;

(II) TWELVE DOLLARS IF THE MANUFACTURER'S SUGGESTED RETAIL PRICE OF THE RENTAL VEHICLE IS GREATER THAN TWENTY THOUSAND DOLLARS BUT NOT GREATER THAN THIRTY-FIVE THOUSAND DOLLARS; AND

(III) FIFTEEN DOLLARS IF THE MANUFACTURER'S SUGGESTED RETAIL PRICE OF THE RENTAL VEHICLE IS GREATER THAN THIRTY-FIVE THOUSAND DOLLARS.

(b) A rental vehicle company shall not sell optional vehicle protection unless the [authorized driver] RENTER agrees to the purchase of such protection in writing at or prior to the time the rental agreement is executed.

(c) A rental vehicle company shall not void optional vehicle protection except for one or more of the following reasons:

(i) The damage or loss is caused intentionally or as a result of willful, wanton, or reckless conduct of the driver[.];

(ii) The damage or loss arises out of the driver's operation of the vehicle while intoxicated or impaired by the use of alcohol or drugs[.];

(iii) The rental vehicle company entered into the rental transaction based on fraudulent or materially false information supplied by the renter or authorized driver[.];

(iv) The damage or loss arises out of the use of the vehicle while engaged in the commission of a crime other than a traffic infraction[.];

(v) The damage or loss arises out of the use of the vehicle to carry persons or property for hire, to push or tow anything, while engaged in a speed contest, operating off road, or for driver's training[.];

(vi) The damage or loss arises out of the use of the vehicle by a person other than: an authorized driver; a duly licensed parent or child OF THE RENTER WHO IS over the age of eighteen thereof [who] AND permanently resides in the same household; or a parking valet or parking garage attendant for compensation and in the normal course of employment[.];

(vii) The damage or loss arises out of the use of the vehicle outside of the continental United States when that use is not specifically authorized by the rental agreement[.]; OR

(viii) The RENTER, AND authorized driver [has], IF DIFFERENT, HAVE failed to comply with the requirements for reporting damage or loss as set forth in subdivision five of this section.

(d) A customer may void optional vehicle protection at no charge within twenty-four hours of purchase provided that the customer: (i) has rented the vehicle for two or more days, (ii) appears in person at any branch of the vehicle rental company together with the vehicle that shall be subject to inspection, and (iii) signs a cancellation form provided by the rental vehicle company. AFTER TWENTY-FOUR HOURS OF PURCHASE, A CUSTOMER MAY TERMINATE OPTIONAL VEHICLE PROTECTION AT ANY TIME, PROVIDED THE CUSTOMER (I) APPEARS IN PERSON AT ANY BRANCH OF THE VEHICLE RENTAL COMPANY TOGETHER WITH THE VEHICLE THAT SHALL BE SUBJECT TO INSPECTION; (II) SIGNS A CANCELLATION FORM PROVIDED BY THE RENTAL VEHICLE COMPANY; AND (III) PAYS THE OPTIONAL VEHICLE PROTECTION CHARGE FOR ANY FULL OR PARTIAL RENTAL DAY OR PORTION OF A DAY DURING WHICH THE OPTIONAL VEHICLE PROTECTION WAS IN EFFECT.

3. Subject to the provisions of subdivisions six, seven, and nine of this section, a rental vehicle company may hold an authorized driver liable for actual damage to, or loss of, a rental vehicle, provided that: (a) any claim for such damage shall be based on a physical survey and shall be made upon the return of the rental vehicle, unless SUCH SURVEY IS PRECLUDED WHEN THE VEHICLE IS returned by automation [or], RETURNED after-hours [which precludes such survey], OR THE VEHICLE IS RECOVERED BY THE RENTAL COMPANY, in which event, any claim must be made

within ten days after return OR RECOVERY; and (b) any charge for repair of such damage shall be limited to actual and reasonable costs and shall be assessed and billed separately and apart from the rental agreement. For purposes of this subdivision, "returned by automation" means a return acknowledged by machine receipt and where there is no interaction with rental vehicle company personnel; and "after-hours" return means a return after normal business hours and in which the keys [and rental agreement] are [deposited in] RETURNED TO the rental vehicle company [office] VIA A DROP BOX OR OTHER PROCESS OFFERED BY THE RENTAL VEHICLE COMPANY.

4. (a) Any rental vehicle company which states or permits to be stated the rental costs of a rental vehicle in any advertisement shall state conspicuously, in plain language and in conjunction with the advertised rental cost of the vehicle, the daily rate of the applicable optional vehicle protection, that the rate constitutes an additional daily charge to the renter, that the purchase of such protection is optional, and that prospective renters should examine their credit card protections and automobile insurance policies for rental vehicle coverage.

(b) Where a written advertisement, including all print media, contains the statement of the rental cost of the vehicle, the disclosure required by this section shall be printed in type no less than ten point type.

(c) When the video presentation of a television or internet advertisement by the rental vehicle company contains the written statement of the rental cost of a vehicle, the depiction of the cost of the optional vehicle protection shall be clear and conspicuous.

(d) When a radio advertisement or the audio presentation of a television advertisement contains the statement of the rental cost of the motor vehicle, the oral statement of the rental cost shall immediately be accompanied by an oral statement of the cost of the optional vehicle protection.

(e) When a telephone inquiry for the rental cost of a vehicle is made to a rental vehicle company, the representative of the rental vehicle company shall, in response to an inquiry by the caller, STATE THAT ADDITIONAL OPTIONAL PRODUCTS THAT MAY BE OFFERED BY THE RENTAL VEHICLE COMPANY ARE NOT INCLUDED IN THE DAILY RENTAL RATE. OPTIONAL PRODUCTS INCLUDE, BUT ARE NOT LIMITED TO, OPTIONAL VEHICLE PROTECTION AND OPTIONAL LIABILITY PROTECTION. IF AN INQUIRY IS MADE REGARDING OPTIONAL VEHICLE PROTECTION, THE AGENT SHALL provide the cost of the optional vehicle protection and state that the purchase of such protection is optional and that the renter's personal automobile insurance or credit card may provide coverage.

(f) Any rental vehicle company that offers optional vehicle protection to [an authorized driver] A RENTER shall [inform] DISCLOSE TO the [authorized driver in posted signs or in pamphlets, written in plain language, of all of the information required to be disclosed by this section. The requirements of this paragraph shall be deemed to be satisfied if the rental vehicle company places] RENTER THE FOLLOWING INFORMATION ON the posted signs or pamphlets prominently and conspicuously DISPLAYED OR OFFERED where they may be easily seen or reached by customers:

"NOTICES

THE FOLLOWING IS A SUMMARY OF RENTER'S RIGHTS AND OBLIGATIONS. FOR COMPLETE DETAILS, REFER TO THE RENTAL AGREEMENT.

OPTIONAL VEHICLE PROTECTION (OVP): THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, OVP TO COVER YOUR FINANCIAL RESPONSIBILITY FOR DAMAGE OR

LOSS TO THE RENTAL VEHICLE. THE PURCHASE OF OVP IS OPTIONAL AND MAY BE DECLINED. BEFORE DECIDING WHETHER TO PURCHASE OVP, YOU MAY WISH TO DETERMINE WHETHER YOUR CREDIT CARD, OR YOUR VEHICLE INSURANCE, AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL VEHICLE, AND THE AMOUNT OF DEDUCTIBLE UNDER SUCH COVERAGE.

OVP - WHEN VOID: OVP IS VOID AND SHALL NOT APPLY TO THE FOLLOWING SITUATIONS:

1. IF THE DAMAGE OR LOSS IS CAUSED AS A RESULT OF OPERATOR'S INTENTIONAL ACTS; WILLFUL, WANTON, OR RECKLESS CONDUCT; OR OPERATION OF THE VEHICLE WHILE INTOXICATED OR IMPAIRED BY THE USE OF DRUGS;

2. THE RENTER, OR AUTHORIZED DRIVER, PROVIDES FRAUDULENT OR MATERIALLY FALSE INFORMATION TO THE RENTAL VEHICLE COMPANY;

3. THE DAMAGE OR LOSS ARISES OUT OF THE USE OF THE RENTAL VEHICLE:

(A) WHILE ENGAGED IN THE COMMISSION OF A CRIME, OTHER THAN A TRAFFIC INFRACTION;

(B) THE USE OF THE VEHICLE TO CARRY PERSONS OR PROPERTY FOR HIRE, TO PUSH OR TOW ANYTHING, WHILE ENGAGED IN A SPEEDING CONTEST, OPERATING OFF ROAD, OR FOR DRIVER'S TRAINING;

(C) BY A PERSON OTHER THAN AN AUTHORIZED DRIVER, A DULY LICENSED PARENT OR CHILD OVER THE AGE OF 18 WHO PERMANENTLY RESIDES IN THE SAME HOUSEHOLD, OR A PARKING VALET OR A PARKING GARAGE ATTENDANT FOR COMPENSATION AND IN THE NORMAL COURSE OF EMPLOYMENT;

(D) OUTSIDE OF THE CONTINENTAL UNITED STATES WHEN NOT SPECIFICALLY AUTHORIZED BY THE RENTAL AGREEMENT;

(E) EITHER THE RENTER OR AUTHORIZED DRIVER HAS FAILED TO COMPLY WITH THE REQUIREMENTS FOR REPORTING DAMAGE OR LOSS AS SET FORTH IN THE RENTAL AGREEMENT.

OVP - DAMAGE REPORTING REQUIREMENTS: IF THE RENTAL VEHICLE SUSTAINS DAMAGE OR LOSS, THE RENTER AND AUTHORIZED DRIVER ARE REQUIRED TO COMPLETE AND RETURN AN INCIDENT REPORT NOTICE TO THE RENTAL VEHICLE COMPANY.

OVP - RIGHT TO INSPECT VEHICLE DAMAGES: THE RENTER, AUTHORIZED DRIVER, OR HIS/HER INSURER, HAS THE RIGHT TO REQUEST AN INSPECTION OF THE VEHICLE DAMAGES WITHIN SEVENTY-TWO HOURS OF THE RETURN OF THE VEHICLE. FAILURE OF THE RENTER, AUTHORIZED DRIVER, OR HIS/HER INSURER TO REQUEST AN INSPECTION WITHIN SEVENTY-TWO HOURS OF RETURN SHALL BE DEEMED A WAIVER OF THE RIGHT TO INSPECT THE DAMAGED VEHICLE."

(g) The following disclosure notice shall be made on the face of the rental agreement either by stamp, label or as part of the written contract or on any other written document provided to the [authorized driver at the time such driver takes possession of the vehicle] RENTER UPON EXECUTION OF SUCH CONTRACT, AND shall be set apart in boldface type and in no smaller print than ten point type:

"NOTICE: This contract offers, for an additional charge, optional vehicle protection to cover your financial responsibility for damage or loss to the rental vehicle. The purchase of optional vehicle protection is optional and may be declined. You are advised to carefully consider whether to purchase this protection if you have rental vehicle collision coverage provided by your credit card or automobile insurance policy. Before deciding whether to purchase optional vehicle protection, you may wish to determine whether your credit card or your vehicle insurance affords you coverage for damage to the rental vehicle and the amount of deductible under such coverage."

(h) The contract shall also include in boldface type and in no smaller print than ten point type[, in plain language, any other conditions or exclusions applicable to the optional vehicle protection. The] THE

CONDITIONS AND EXCLUSIONS SET FORTH IN PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION. UPON THE IDENTIFICATION OF DAMAGE TO THE RENTAL VEHICLE BY THE rental vehicle company, SUCH RENTAL VEHICLE COMPANY shall [also] inform the [authorized driver] RENTER of his or her right to inspect the vehicle pursuant to paragraph (c) of subdivision five of this section.

5. (a) Upon IDENTIFICATION OF DAMAGE BY THE RENTAL VEHICLE COMPANY AT THE return of the vehicle, termination of the rental contract, or within ten days if returned by automation [or], RETURNED after-hours, OR RECOVERED BY THE RENTAL VEHICLE COMPANY, the rental vehicle company shall furnish an incident report form and a notice, pursuant to this paragraph, of the [authorized driver's] RENTER'S obligation to execute and return to the rental vehicle company a complete and accurate incident report describing any physical and/or mechanical damage. If the vehicle is returned by automation [or], RETURNED after-hours, OR RECOVERED BY THE RENTAL VEHICLE COMPANY, such incident report form and notice shall be mailed by overnight delivery service or certified mail, return receipt requested, and another copy of such notification shall be sent by regular mail. The rental vehicle company shall retain for six years a copy of such notice and the certified mail return receipt.

(b) Upon return of the vehicle, or within seventy-two hours if the return is by automation or after-hours, [the] AN authorized driver or his or her insurer must notify the rental vehicle company that they wish to inspect the damaged vehicle. The inspection must be completed within seven days of the return date of the vehicle. If [the] AN authorized driver or his or her insurer does not request this inspection within the seventy-two hour period, [the] AN authorized driver or his or her insurer will be deemed to have waived this right.

(c) If the [authorized driver] RENTER declines or fails to complete and return the incident report required pursuant to paragraph (a) of this subdivision, the rental vehicle company shall, no sooner than [twenty] TEN days after the mailing of notification pursuant to such paragraph (a), mail another copy of the incident report together with a letter stating that the [authorized driver] RENTER has declined or otherwise failed to complete and return the incident report. Such mailing shall be by overnight delivery service or certified mail, return receipt requested, and another copy of such notification by regular mail, with proof of mailing by production of a certificate of mailing from the post office. [Within seventy-two hours of return of the vehicle, the authorized driver or his or her insurer must notify the rental vehicle company that he or she wishes to inspect the damaged vehicle. The inspection must be completed within seven days of the return date of the vehicle. If the authorized driver or his or her insurer does not request this inspection within the seventy-two hour period, the authorized driver or his or her insurer will be deemed] SHOULD THE RENTER OR HIS OR HER INSURER WISH TO INSPECT THE DAMAGED VEHICLE, THE RENTAL COMPANY MUST RECEIVE A WRITTEN REQUEST FOR SUCH INSPECTION WITHIN SEVENTY-TWO HOURS OF THE RETURN OR RECOVERY OF THE VEHICLE. IF THE RENTAL COMPANY DOES NOT RECEIVE SUCH TIMELY WRITTEN NOTIFICATION OF THE RENTER OR HIS OR HER INSURER'S REQUEST TO INSPECT THE DAMAGED VEHICLE, THE RENTER AND HIS OR HER INSURER SHALL BE DEEMED to have waived this right. If the rental vehicle company determines the damaged vehicle to be a total loss and subject to salvage, such seventy-two hour period for notification or waiver of the wish to inspect the damaged vehicle shall not apply, and the [authorized driver] RENTER or his or her insurer shall have ten business days from the [authorized driver's] RENTER'S receipt of notification from the rental vehicle company pursuant to

paragraph (a) of this subdivision to inspect the damaged vehicle, unless the rental vehicle company agrees to provide access to such damaged vehicle beyond the ten business days provided herein. Within the limits provided in this paragraph, the rental vehicle company shall identify the repairer of, and provide access to, the damaged vehicle, in order to verify the nature and extent of damages, repairs and repair costs, and/or repair estimates.

(d) All notices shall be mailed to the [authorized driver's] RENTER'S address as stated on his or her license, or other address as designated by him or her ON THE RENTAL AGREEMENT.

(e) The [authorized driver] RENTER shall complete and return the incident report within ten days of the receipt of the notice.

(f) The notice required by this subdivision shall be in at least twelve point bold face type and shall contain the statement: "Failure to completely and accurately fill out and return an incident report within ten days of receipt of this notice may make the [authorized driver] RENTER liable for damages sustained to the rental vehicle. Except where the damaged vehicle is determined to be a total loss and subject to salvage, [the] AN authorized driver or his or her insurer has seventy-two hours from the return OR RECOVERY of the vehicle to notify the rental vehicle company that he or she wishes to inspect the damaged vehicle. The inspection must be completed within seven business days of the return OR RECOVERY date of the vehicle. If the [authorized driver or his or her insurer does not request this] RENTAL VEHICLE COMPANY DOES NOT RECEIVE NOTIFICATION FROM AN AUTHORIZED DRIVER OR HIS OR HER INSURER REQUESTING SUCH inspection within the seventy-two hour period, [the] SUCH authorized driver [or] AND his or her insurer will be deemed to have waived this right. If the rental vehicle company determines the damaged vehicle to be a total loss and subject to salvage, such seventy-two hour period for notification or waiver of the wish to inspect the damaged vehicle shall not apply, and such right to inspect the damaged vehicle shall expire ten business days from EITHER the [authorized driver's] RENTER'S receipt of this notice from the rental vehicle company at the return of the vehicle, or THE RENTER'S receipt of the first mailing of this notice in the event [of return of] the vehicle IS RETURNED by automation [or], RETURNED after hours OR RECOVERED BY THE RENTAL VEHICLE COMPANY. Upon request of [the] AN authorized driver or his or her insurer, we will provide a copy of our estimate of the costs of repairing the damaged motor vehicle."

(g) For purposes of this subdivision, an "incident report" shall be defined as a motor vehicle accident report pursuant to section six hundred five of the vehicle and traffic law or any similar appropriate form furnished by the rental vehicle company.

(h) Provided, however, if [the] AN authorized driver is physically incapable of completing the report, the requirements of this subdivision shall lapse until after he or she is able to complete the report and is notified that he or she must complete and return the report as required by paragraph (b) of this subdivision.

(i) Provided, further, THE RENTAL VEHICLE COMPANY MUST, AT LEAST twenty days prior to commencing an action against the [authorized driver, the rental vehicle company must prove] RENTER PROVIDE the [authorized driver had] RENTER an additional opportunity to [provide] COMPLETE AND SUBMIT the incident report by providing a second notice, along with another incident report, by certified mail, return receipt requested, and another copy of such notice and report by regular mail, with proof of mailing by production of a certificate of mailing[; and if]. IF the

[authorized driver] RENTER provides the rental vehicle company with a completed incident report within fifteen days of the receipt of the notice, the provisions of this subdivision shall be deemed satisfied.

6. (a) A rental vehicle company may hold an authorized driver liable to the extent permitted under this chapter for physical or mechanical damage to the rental vehicle that occurs during the time the rental vehicle is under the rental agreement; provided, however, that [a renter] AN AUTHORIZED DRIVER shall not be liable for [mechanical damage unrelated to an accident, nor for] any normal wear and tear or [other] mechanical damage that could reasonably be expected from normal use of the vehicle[, except in instances where abuse or neglect by the driver is shown]. For the purposes of this subdivision, "actual and reasonable costs" shall mean the repair price reduced by all discounts paid by the rental vehicle company to the repairer of the vehicle, including costs for towing, storage, and impound fees.

(b) The total liability of an authorized driver under paragraph (a) of this subdivision for damage to a motor vehicle shall not exceed the lesser of:

(i) the actual and reasonable costs that the rental vehicle company incurred to repair the motor vehicle or that the rental vehicle company would have incurred if the motor vehicle had been repaired, which shall reflect any discounts, price reductions, or adjustments available to the rental vehicle company; or

(ii) the fair market value of the motor vehicle immediately before the damage occurred, as determined in the applicable market for the retail sale of the motor vehicle, less any net disposal proceeds.

(c) The total liability of an authorized driver under paragraph (a) of this subdivision for loss of a motor vehicle shall not exceed reasonable costs incurred by the rental vehicle company for the loss due to theft of the rental vehicle up to its fair market value, as determined by the applicable market for the retail sale of that vehicle if it is established that an authorized driver failed to exercise reasonable care or that an authorized driver committed, or aided or abetted in the commission of, the theft of the rental motor vehicle.

(d) Damages incurred by rental vehicle companies for the loss of use of a rental vehicle and related administrative fees shall not be recovered [from authorized drivers] FROM THE RENTER, ANY AUTHORIZED DRIVER, OR HIS OR HER INSURER.

(e) A rental vehicle company shall not hold an authorized driver liable for any amounts that the rental vehicle company recovers from any other party.

(f) A rental vehicle company shall not collect or attempt to collect the amount described in paragraph (b) of this subdivision unless the rental vehicle company:

(i) obtains an estimate from a repair company or an appraiser in the business of providing such appraisals on the cost of repairing the motor vehicle;

(ii) provides a copy of the estimate and photographic evidence upon request to the [authorized driver] PARTY who may be liable under paragraph (a) of this subdivision, or the insurer of [the authorized driver] SUCH PARTY; and

(iii) submits a copy of the estimate with any claim to collect the amount described in paragraph (b) of this subdivision.

(g) [A claim against an authorized driver resulting from damage or loss to a rental vehicle shall be reasonable and rationally related to the actual loss incurred.] A rental vehicle company shall mitigate

damages where possible and shall not assert or collect any claim for physical damage which exceeds the amount authorized under paragraph (b) of this subdivision.

(h) If insurance coverage exists under the [authorized driver's applicable] insurance policy OF THE RENTER OR AUTHORIZED DRIVER, AS APPLICABLE, the RENTER OR authorized driver may require that the rental vehicle company submit any claims to the RENTER OR authorized driver's insurance carrier. Upon the request of [an] A RENTER OR authorized driver, the rental vehicle company shall submit any claims to [the authorized driver's] SUCH PERSON'S insurance carrier and shall not make any written or oral representations to the contrary, nor shall it make any written or oral representations that it will not negotiate with [the authorized driver's] SUCH insurance carrier.

7. (a) No rental vehicle company shall require any security, deposit, or charge for damage in any form, by credit card or otherwise, during the term of the rental agreement or pending resolution of any dispute.

(b) [No rental vehicle company shall require a deposit or an advance charge against the credit card of an authorized driver, in any form, for damages to a rental vehicle which is in the authorized driver's possession or control.

(c)] No rental vehicle company shall require any payment to the rental vehicle company, upon [the authorized driver's] return OR RECOVERY of the vehicle in a damaged condition, until after the cost of the damage to the vehicle and liability therefor is agreed to between the rental vehicle company and the [authorized driver] RENTER OR HIS OR HER INSURER, or is determined pursuant to law OR CONTRACT; provided, however, that a rental vehicle company is not precluded from presenting a claim to the RENTER OR AN authorized driver, AND APPLICABLE INSURANCE CARRIERS pursuant to other provisions of this section.

[(d)] (C) Causes of action concerning the existence of, liability for, and extent and cost of damage to the vehicle shall, where appropriate, be commenced by a rental vehicle company in a commercial claims part in accordance with the limitations and jurisdiction of the appropriate court act.

8. No rental vehicle company shall advertise or quote a rental rate that does not include all charges, except taxes or optional items and/or services or any mileage charge, which an authorized driver must pay to obtain a rental vehicle. Provided, however, a rental vehicle company shall be permitted to separately quote and charge airport fees as defined herein, which shall be in addition to the rental rate; and provided further that advertised rental rates that include locations at which airport fees apply shall clearly indicate that additional fees apply.

9. No rental vehicle company shall hold any [authorized driver] RENTER liable for any damage to, or loss of, a rental vehicle, as provided by this section, unless the rental vehicle company prominently discloses, on the rental agreement, in at least ten point bold face display, the nature and extent of such liability and such driver's rights and responsibilities [under] PURSUANT TO PARAGRAPH (C) OF SUBDIVISION TWO OF THIS SECTION AND PARAGRAPH (G) OF SUBDIVISION FOUR OF this section.

10. (a) A rental vehicle company shall not charge in addition to the rental rate, taxes, and mileage charge, if any, any fee which must be paid as a condition of renting the vehicle, such as, but not limited to, required fuel surcharges, each of which shall be separately stated on the rental agreement. In addition, a rental vehicle company may also

state separately and charge, where applicable, airport fees as such term is defined herein.

(b) In addition to the rental rate, taxes, applicable airport fees, and mileage charge, if any, a rental vehicle company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by not choosing to obtain or utilize the optional item or service, such as, but not limited to, optional accessories or services requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was rented, and charges for refueling the vehicle with as much fuel as was in the fuel tank at the beginning of the rental.

(c) A rental vehicle company shall make available detachable or removable seats which meet the requirements of subdivision one of section twelve hundred twenty-nine-c of the vehicle and traffic law.

(d) Fees for additional authorized drivers shall not exceed [three] TEN dollars per additional driver per rental day.

(e) A rental vehicle company shall furnish with each rental vehicle pursuant to an agreement either an owner's manual or a diagram which shall indicate the location and plain language description of the functions necessary for the safe and efficient operation of the vehicle which shall at a minimum include:

(i) Headlights;

(ii) Brakes and emergency brake;

(iii) Turn signal indicators;

(iv) Hazard lights;

(v) Windshield wipers and washers;

(vi) Horn;

(vii) Cruise control;

(viii) Heat control system including defrost systems;

(ix) Car locking systems; and

(x) Spare tire and car jack, tire wrench, and jacking locations, IF APPLICABLE. In the event the rental vehicle company elects to include the owner's manual pursuant to this section, if the owner's manual is not returned with the vehicle, the renter shall be liable to the rental vehicle company for the actual replacement cost of the owner's manual plus an administrative fee.

11. Any clause or provision of a rental agreement inconsistent with the provisions of this section shall be deemed void as against public policy.

12. Any rental vehicle company found by a court of competent jurisdiction to have violated a provision of this section shall be subject to a penalty of not less than five hundred dollars nor more than one thousand dollars for each violation.

13. (a) Whenever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court of competent jurisdiction by a special proceeding for the imposition of a fine or the issuance of an injunction against any violation of this section, upon notice to the rental vehicle company of not less than five days, to enjoin and restrain the continuance of such violations.

(b) If the court finds that the defendant has, in fact, violated this section, an injunction may be issued by such court, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby.

(c) In any proceeding pursuant to this subdivision, the court may direct restitution and make allowances to the attorney general as provided in section sixty-three of the executive law.

(d) In support of any application pursuant to this subdivision, the attorney general is authorized to take proof, determine relevant facts and issue subpoenae in accordance with the civil practice law and rules.

13-a. A rental vehicle company shall not use information from any global positioning system technology to determine or impose any costs, fees, charges, or penalties on an authorized driver for such driver's use of a rental vehicle. The use of global positioning technology shall not limit the right of a rental vehicle company to impose costs, fees, charges, or penalties to recover a vehicle that is lost, misplaced, or stolen. The provisions of this subdivision shall not be construed to modify or supersede any other provision of law.

14. An authorized driver shall provide notice to the rental vehicle company or law enforcement agency within twelve hours of learning of the theft of the rental vehicle.

15. In accordance with any applicable federal law or rule, every rental vehicle company shall display the following in a conspicuous location, with lettering that is legible and that shall be at least three-quarters of an inch boldface type:

"NOTICE: New York State Law prohibits the following practices by rental vehicle companies based upon race, color, ethnic origin, religion, disability, sex, marital status, or age: (1) refusal to rent; (2) the imposition of any additional charge (except in certain instances where the renter is under the age of 25). In addition, it is unlawful for any rental vehicle company to refuse to rent a vehicle to any person solely on the requirement of ownership of a credit card."

16. ANY NOTICE OR DISCLOSURE REQUIRED TO BE PROVIDED, DELIVERED, POSTED, OR OTHERWISE MADE AVAILABLE BY A RENTAL VEHICLE COMPANY PURSUANT TO THIS ARTICLE SHALL ALSO BE DEEMED TIMELY AND EFFECTIVELY MADE WHERE SUCH NOTICE OR DISCLOSURE IS (I) PROVIDED OR DELIVERED ELECTRONICALLY AT OR BEFORE THE TIME REQUIRED, OR (II) INCLUDED IN A MEMBER OR MASTER AGREEMENT AT OR BEFORE THE TIME REQUIRED. FOR THE PURPOSES OF THIS ARTICLE, A MASTER OR MEMBER AGREEMENT SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY SERVICE OFFERED BY A COMPANY THAT PERMITS CUSTOMERS TO BYPASS A RETAIL SERVICE LOCATION AND OBTAIN A PRODUCT OR SERVICE DIRECTLY. ELECTRONIC ACCEPTANCE SHALL HEREBY BE DEEMED A VALID FORM OF ACCEPTANCE OF ANY SUCH NOTICE OR DISCLOSURE, AND ACCEPTANCE SHALL REMAIN EFFECTIVE UNTIL SUCH TIME AS ACCEPTANCE IS AFFIRMATIVELY WITHDRAWN. NOTICES AND DISCLOSURES MADE PURSUANT TO THIS SUBDIVISION SHALL BE EXEMPT FROM ANY PLACEMENT OR STYLISTIC DISPLAY REQUIREMENTS, INCLUDING BUT NOT LIMITED TO LOCATION, FONT SIZE, TYPESET, OR OTHER SPECIFICALLY-STATED DESCRIPTION; PROVIDED SUCH DISCLOSURES ARE GENERALLY CONSISTENT IN APPEARANCE WITH THE ENTIRETY OF THE COMMUNICATION IN WHICH THEY ARE CONTAINED.

S 2. This act shall take effect immediately; provided, however, that the amendments to section 396-z of the general business law, made by section one of this act, shall not affect the expiration and reversion of certain provisions of such section pursuant to section 4 of chapter 656 of the laws of 2002, as amended, and shall be deemed repealed therewith.