STATE OF NEW YORK

5270--C

2017-2018 Regular Sessions

IN ASSEMBLY

February 7, 2017

Introduced by M. of A. MORELLE -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to certain rental vehicle protections; to amend chapter 656 of the laws of 2002 amending the general business law relating to rental vehicle protections, in relation to making such provisions permanent; to amend a chapter of the laws of 2018, amending chapter 656 of the laws of 2002 amending the general business law relating to rental vehicle protections, as proposed in legislative bills numbers S. 8317 and A. 11097, in relation to making such provisions permanent; and providing for the repeal of certain provisions upon expiration thereof

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:

§ 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.

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

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(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 "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. **The term "consolidated facilities charge" shall encompass within its meaning other similar terms that may be used by airport authorities or rental vehicle companies, such as, but not limited to "customer facility charge" and "transportation facility charge".**

(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. **The term "concession recovery fee" shall encompass within its meaning other similar terms that may be used by airport authorities or rental vehicle companies, such as, but not limited to, "concession fee", "concession recovery fee surcharge", "privilege fee" and "airport access fee".**

(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 motor vehicles designed primarily for the transportation of property.

(l) "Manufacturer's suggested retail price" means the retail price of the motor vehicle suggested by the manufacturer in accordance with the requirements of federal law.

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;

(iii) fifteen dollars if the manufacturer's suggested retail price of the rental vehicle is greater than thirty-five thousand dollars but not greater than fifty thousand dollars; and

(iv) the amount that may be charged for a vehicle with a manufacturer's suggested value of greater than fifty thousand dollars shall not be subject to a maximum dollar amount but shall be subject to the fair market value as determined by the rental vehicle company.

(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 **unlawfully** 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: **(1)** an authorized driver; [~~a duly licensed parent or child over the age of eighteen thereof who permanently resides in the~~

~~same household;~~] (2) the renter's child over the age of eighteen or a parent or parent-in-law of the renter, provided such child, parent or parent-in-law is properly licensed to operate a motor vehicle and resides in the same household as the renter; or (3) 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, or authorized driver [~~has~~], if different, or the renter's child over the age of eighteen or a parent or parent-in-law of the renter, if applicable, 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~~] entered into a rental agreement with a term of 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 prospectively 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) voids the optional vehicle protection in writing; 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 because the vehicle is returned by automation [~~or~~], returned after-hours [~~which precludes such survey~~], or 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 website of a rental vehicle company or** 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**, internet or other** inquiry for the rental cost of a vehicle is made to a rental vehicle company **which involves an interaction with a representative of a rental vehicle company**, the representative of the rental vehicle company shall, in response to [~~an~~] **the** inquiry [~~by the caller~~], **advise that additional optional products that may be offered by the rental vehicle company are not included in the daily rental rate. If an inquiry is made regarding optional vehicle protection, the representative 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 the~~] **renter the following information on** posted signs or pamphlets prominently and conspicuously **displayed** where they may be easily seen or reached by customers**:**

"NOTICES

THE FOLLOWING IS A GENERAL 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. OVP is also commonly referred to as a "collision damage waiver". 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 the vehicle insurance maintained by yourself or someone in your household, affords you any coverage for damage to the rental vehicle, and the amount of deductible under any 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 the driver's intentional acts; willful, wanton, or reckless conduct of the driver; or operation of the vehicle while intoxicated or unlawfully impaired by the use of alcohol or drugs;

2. The rental vehicle company entered into the rental transaction based on fraudulent or materially false information supplied by the renter or authorized driver;

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) 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;

(c) by a person other than: (1) an authorized driver; (2) the renter's child over the age of eighteen or a parent or parent-in-law of the renter, provided such child, parent or parent-in-law is properly licensed to operate a motor vehicle and resides in the same household as the renter; or (3) a parking valet or 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) where the renter or authorized driver, if different, or the renter's child over the age of eighteen or a parent or parent-in-law of the renter, if applicable, failed to comply with the requirements for reporting damage or loss as set forth in law.

OVP - DAMAGE REPORTING REQUIREMENTS: If the rental vehicle sustains damage or loss, the renter and other authorized driver, as applicable, are required to complete and return an incident report notice to the rental vehicle company. An authorized driver other than the renter is only required to complete and return an incident report notice to the rental vehicle company if such authorized driver was operating the vehicle when the incident occurred.

OVP - RIGHT TO INSPECT VEHICLE DAMAGES: The renter and his/her insurer have the right to request an inspection of the vehicle damages within seventy-two hours of the return of the vehicle. Failure of the renter or his/her insurer to request an inspection within seventy-two hours of return shall be deemed a waiver of such person or entity's right to inspect the damaged vehicle.

THEFT OF THE RENTAL VEHICLE: If the rental vehicle is stolen during the term of a rental agreement, an authorized driver must report the theft of the rental vehicle to the rental vehicle company and a law enforcement agency within twelve hours of learning of such theft."

(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 until six months after the effective date of the chapter of the laws of two thousand eighteen that amended this section, when upon such date such notice shall be in no smaller print than twelve 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 until six months after the effective date of the chapter of the laws of two thousand eighteen that amended this section, when upon such date such notice shall be in no smaller print than twelve point type and, in plain language, [~~any other conditions or~~

~~exclusions applicable to the optional vehicle protection. The rental vehicle company~~] the conditions and exclusions set forth in paragraph (c) of subdivision two of this section. Upon identification by the rental vehicle company of damage to the rental vehicle, such rental vehicle company shall [~~also~~] inform the [~~authorized driver~~] renter of his or her right to inspect the vehicle, and the procedures and time frames for doing so, pursuant to [~~paragraph~~] paragraphs (b) and (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 a survey for damage is precluded because the vehicle is 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~~] obligation of the renter and other authorized driver, if applicable, to execute and return to the rental vehicle company a complete and accurate incident report describing any physical and/or mechanical damage. An authorized driver other than the renter shall be required to execute and return such incident report form only if such authorized driver was operating the vehicle when the incident occurred. 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~~] Within seventy-two hours [~~if the return is by automation or after-hours, the authorized driver~~] of receipt of the incident report form and notice, either the renter or his or her insurer must notify or send notice to the rental vehicle company that [~~they wish~~] either he, she, or the insurer 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~~] renter or his or her insurer does not notify or send a request for this inspection within the seventy-two hour period, [~~the authorized driver or his or her~~] he, she, or the insurer will be deemed to have waived this right.

(c) If the renter or other authorized driver 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 renter or other authorized driver 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 to have waived this right.~~] When a request to inspect the vehicle has been

timely made by the renter or his or her insurer, the inspection must be completed within seven days of such request. 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~~] address of the renter and other authorized driver, if applicable, as stated on his or her license, or other address as designated by him or her on the rental agreement.

(e) The renter and other authorized driver, if applicable, 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 renter or other authorized driver 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 [~~authorized driver~~] renter 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 date of the vehicle~~] request to inspect the vehicle. If the [~~authorized driver or his or her insurer does not request this~~] rental vehicle company does not receive notification from the renter or his or her insurer requesting such inspection within the seventy-two hour period, the [~~authorized driver or~~] renter 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 the [~~authorized driver's~~] renter's receipt of this notice from the rental vehicle company [~~at the return of the vehicle or receipt of the first mailing of this notice in the event of return of the vehicle by automation or after hours~~]. Upon request of the [~~authorized driver~~] renter or his or her insurer, we will provide a copy of [~~our~~] the professional estimate of the costs of repairing the damaged motor vehicle." Information that is provided in response to a request by a rental vehicle company, but that is not provided on an incident report form, shall satisfy any reporting obligation of a renter or authorized driver if such response substantially complies with the applicable requirements of this section. If additional information is reasonably required by the rental vehicle company in order to adjust any claim of loss, same shall be requested of the renter or authorized driver as soon as reasonably practicable, who shall respond to same as soon as reasonably practicable.

(g) (i) For purposes of this subdivision, each of the following shall constitute an "incident report form" [~~shall be defined as~~]: (A) a motor vehicle accident report pursuant to section six hundred five of the vehicle and traffic law; or (B) any similar appropriate form furnished by the rental vehicle company.

(ii) An incident report form described in clause (B) of subparagraph (i) of this paragraph:

(A) may be sent or given to a renter and/or authorized driver, as applicable, with a request that the renter and/or authorized driver provide information pursuant to this section concerning damage to a vehicle rented to the renter or operated by an authorized driver, as the case may be; and

(B) such a form may also be made available as a fill-in form on the rental vehicle company's website, and the renter or authorized driver, as the case may be, shall be advised of the availability of such web-based fill-in form when a request for incident information is made under this subdivision.

(h) Provided, however, if the renter or other 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 or other authorized driver, if applicable, provide the [~~authorized driver had~~] renter or other authorized driver, if applicable, an additional opportunity to [~~provide~~] complete and submit the incident report by providing a second notice, along with another incident report form, by certified mail, return receipt requested, and another copy of such notice and report form by regular mail, with proof of mailing by production of a certificate of mailing[~~; and if~~]. If the [~~authorized driver provides~~] renter or other authorized driver, as applicable, sends 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, the term "normal wear and tear" shall mean the deterioration of the condition of the vehicle or its component parts due to repetitive use and does not include damage that materially diminishes the value of the vehicle and arises from a specific occurrence or accident during the time the rental vehicle is subject to the rental agreement; and the term "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~~] cost to repair the vehicle including all discounts and price adjustments available to the rental vehicle company and shall include costs for towing, storage, and impound fees where applicable.

(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 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 renter or authorized driver, as applicable who may be liable under paragraph (a) of this subdivision, [~~or~~] and the insurer of [~~the authorized driver~~] such renter or authorized driver, as applicable; 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~~] reflect the value of 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~~] an authorized driver's applicable insurance policy, [~~the~~] such authorized driver may require that the rental vehicle company submit any claims to [~~the~~] such authorized driver's insurance carrier. Upon the request of an authorized driver, the rental vehicle company shall submit any claims to [~~the~~] such authorized driver'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~~] such authorized driver's insurance carrier.

7. (a) No rental vehicle company shall [~~require~~] collect or charge any security, deposit, or [~~charge~~] payment for damage in any form, by credit

card, debit card or otherwise, or report the debt to any consumer reporting agency, as defined in subdivision (e) of section three hundred eighty-a of this chapter, during the term of the rental agreement [~~or~~], pending resolution of any dispute, or prior to obtaining judgment in a court of competent jurisdiction.

(b) No rental vehicle company shall require a deposit or an advance charge against the credit card or debit 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~~] collect or charge any payment [~~to the~~] from an authorized driver for damage 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~~] an authorized driver or his or her insurer, or is determined pursuant to law or rental agreement provisions consistent with law and the rights and obligations set forth in this section; provided, however, that a rental vehicle company is not precluded from presenting a claim to [~~the~~] an authorized driver and his or her insurer pursuant to other provisions of this section.

(d) 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~~] court of competent jurisdiction, in accordance with the limitations and jurisdiction of the appropriate court act provided the claimant has first mailed a demand letter. A demand letter sent by the rental vehicle company pursuant to this paragraph shall contain: (i) the name and post office address of the rental vehicle company, and of its attorney, if any; (ii) the nature of the claim; (iii) the time when, the place where and the manner in which the claim arose, if known, or if not known, the time when and place where the damage was discovered by the rental vehicle company; and (iv) the items of damage or injuries claimed to have been sustained, accompanied by supporting documentation, such as repair bills, invoices and estimates in the possession of or available to the rental vehicle company. Such demand letter shall be served upon the renter and the renter's insurer in a manner reasonably designed to give actual notice, via regular and certified mail, return receipt requested. Nothing contained herein shall prohibit a rental vehicle company and an authorized driver or his or her insurer from entering into an agreement after a claim of loss to submit the matter to arbitration or mediation.

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~~] the renter 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.

8-a. It shall be unlawful for any rental vehicle company to engage in any of the following practices solely on the basis of the geographical location of the residence of a New York state resident attempting to enter into a rental agreement:

(a) refusing to rent a vehicle;

(b) imposing any additional charge for the rental of a motor vehicle; or

(c) imposing any additional terms, conditions or privileges upon the rental of a vehicle.

9. No rental vehicle company shall hold any authorized driver 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~~] five 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 and to the extent that such items were either included with the initial sale of the vehicle when new, or such items were generally included in new vehicles of such year, make, model and style when initially sold at retail. 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~~] **and** 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. (a) Notwithstanding any other provision of this section, any notice or disclosure of general applicability required to be provided, delivered, posted, or otherwise made available by a rental vehicle company pursuant to this section shall also be deemed timely and effectively made where such notice or disclosure is (i) provided or delivered electronically to the renter at or before the time required provided that such renter has given his or her expressed consent to receive such notice or disclosure in such a manner, or (ii) included in a member or master agreement in effect at the time of rental.

(b) For the purposes of this subdivision, "member or master agreement" shall mean an agreement between a rental vehicle company and a renter, or an agreement between a rental vehicle company and another company, which by its express terms: (i) permits such renter or specified employees of such other company to bypass a retail service location and obtain a product or service directly; (ii) does not require the renter to execute a rental agreement at the time of rental; or (iii) does not require the rental vehicle company to provide the renter with the rental terms and conditions at the time of rental due to the prior execution of the agreement. Electronic or written 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 by the renter. Notices and disclosures made electronically 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 disclosure is made in a clear and conspicuous manner.

§ 2. Section 4 of chapter 656 of the laws of 2002 amending the general business law relating to rental vehicle protections, as amended by chapter 82 of the laws of 2013, is amended to read as follows:

§ 4. This act shall take effect on the ninetieth day after it shall have become a law[~~; provided that all of the amendments made by this act shall expire and be deemed repealed June 30, 2018~~].

§ 3. Section 4 of chapter 656 of the laws of 2002 amending the general business law relating to rental vehicle protections, as proposed in legislative bills numbers S. 8317 and A. 11097, is amended to read as follows:

§ 4. This act shall take effect on the ninetieth day after it shall have become a law[~~; provided that all of the amendments made by this act shall expire and be deemed repealed June 30, 2023~~].

§ 4. This act shall take effect immediately; provided, however that:

(a) section one of this act shall take effect on the ninetieth day after it shall have become a law and shall expire and be deemed repealed June 30, 2023;

(b) if section 1 of a chapter of the laws of 2018 amending chapter 656 of the laws of 2002 amending the general business law relating to rental vehicle protections, as proposed in legislative bills numbers S. 8317 and A. 11097, takes effect then section three of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2018, takes effect and section two of this act shall be deemed repealed.