

STATE OF NEW YORK

8389

IN SENATE

May 4, 2018

Introduced by Sen. JACOBS -- 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; 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; 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:

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

3 § 396-z. Rental vehicle protections. 1. For the purposes of this
4 section: (a) "Authorized driver" [~~shall mean~~] means: (i) the person to
5 whom the vehicle is rented if a licensed driver; (ii) such person's
6 spouse if licensed and at least eighteen years of age; (iii) any person
7 who operates the vehicle during an emergency situation to a medical
8 facility; or (iv) any licensed driver expressly listed on the rental
9 agreement as an authorized driver.

10 (b) "Rental agreement" means any written agreement setting forth terms
11 and conditions governing the renter's or any authorized driver's use of
12 a rental vehicle[, ~~as defined in section one hundred thirty seven a of~~
13 ~~the vehicle and traffic law,~~] for a period not to exceed thirty contin-
14 uous days.

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

18 (d) "Optional vehicle protection" means a rental vehicle company's
19 agreement not to hold an authorized driver liable for all or part of any
20 damage or loss to the rented vehicle, any loss of use of the rented
21 vehicle, or any storage, impound, towing or administrative charges for
22 which [~~the~~] an authorized driver may be liable. The term "optional vehi-
23 cle protection" shall encompass within its meaning other similar terms
24 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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1 "Collision Damage Waiver", "CDW", "Damage Waiver", "Loss Damage Waiver",
2 "LDW", and "Physical Damage Waiver".

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

6 (f) "Consolidated facilities charge" means the allowable recovery by a
7 rental vehicle company from its renters of those fees, including any
8 taxes or fees paid on such fees, for the finance, design, construction
9 and operation of consolidated airport facilities and or the finance,
10 design, construction and operation of common use transportation systems
11 that move passengers between airport terminals and ~~[those]~~ consolidated
12 airport car rental facilities. The aggregate amount to be collected
13 shall not exceed the reasonable costs, as determined annually by an
14 independent audit paid for by the airport operator or its governing
15 entity, to finance, design, construct and operate those facilities and
16 common use transportation systems. The consolidated ~~[facility]~~ facili-
17 ties charge shall apply only to vehicle rentals occurring at vehicle
18 rental locations subject to the imposition of such charge by an airport
19 operator or its governing entity. The term "consolidated facilities
20 charge" shall encompass within its meaning other similar terms that may
21 be used by airport authorities or rental vehicle companies, such as, but
22 not limited to "customer facility charge" and "transportation facility
23 charge".

24 (g) "Concession recovery fee" means the allowable recovery by a rental
25 vehicle company from its renters of those fees, including any taxes or
26 fees paid on such fees, which an airport operator or its governing enti-
27 ty imposes on a rental vehicle company's applicable revenues or rental
28 transactions, as defined and stated in a concession agreement that
29 authorizes a rental vehicle company to operate at an airport located in
30 this state. The concession recovery fee shall apply only to vehicle
31 rentals occurring at vehicle rental locations subject to the imposition
32 of such fee by an airport operator or its governing entity. The term
33 "concession recovery fee" shall encompass within its meaning other simi-
34 lar terms that may be used by airport authorities or rental vehicle
35 companies, such as, but not limited to, "concession fee", "concession
36 recovery fee surcharge", "privilege fee" and "airport access fee".

37 (h) "Airport fees" means ~~[the]~~ consolidated ~~[facility charge]~~ facili-
38 ties charges and/or ~~[the]~~ concession recovery ~~[fee as those terms are~~
39 ~~defined herein]~~ fees.

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

45 (j) "Consolidated airport facilities" means those buildings or phys-
46 ical structures, including, but not limited to, parking garages, parking
47 areas and fueling systems, constructed by or on behalf of the airport
48 operator or its governing entity to be jointly used by all rental vehi-
49 cle companies operating at such airport pursuant to a concession agree-
50 ment.

51 (k) "Rental vehicle" means a rental vehicle as defined in section one
52 hundred thirty-seven-a of the vehicle and traffic law, but excluding
53 motor vehicles designed, used or maintained primarily for the transpor-
54 tation of property.

55 2. (a) A rental vehicle company shall not charge more than ~~[nine~~
56 ~~dollars]~~ the following amounts per full or partial twenty-four hour

1 rental day for optional vehicle protection [~~if the manufacturer's~~
2 ~~suggested retail price of the rental vehicle is not greater than thirty~~
3 ~~thousand dollars. A rental vehicle company shall not charge more than~~
4 ~~twelve dollars per full or partial twenty-four hour rental day for~~
5 ~~optional vehicle protection~~];

6 (i) nine dollars if the manufacturer's suggested retail price of the
7 rental vehicle is not greater than [~~thirty~~] twenty thousand dollars;

8 (ii) twelve dollars if the manufacturer's suggested retail price of
9 the rental vehicle is greater than twenty thousand dollars but not
10 greater than thirty-five thousand dollars;

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

14 (iv) the amount that may be charged for a vehicle with a manufactur-
15 er's suggested value of more than fifty thousand dollars shall not be
16 subject to a maximum dollar amount but shall be subject to the fair
17 market value as determined by the rental vehicle company.

18 (b) A rental vehicle company shall not sell optional vehicle
19 protection unless the [~~authorized driver~~] renter agrees to the purchase
20 of such protection in writing at or prior to the time the rental agree-
21 ment is executed.

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

24 (i) The damage or loss is caused intentionally or as a result of will-
25 ful, wanton, or reckless conduct of the driver[~~-~~];

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

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

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

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

36 (vi) The damage or loss arises out of the use of the vehicle by a
37 person other than: (1) an authorized driver; [~~a duly licensed parent or~~
38 ~~child over the age of eighteen thereof who permanently resides in the~~
39 ~~same household];~~ (2) the renter's child over the age of eighteen or a
40 parent or parent-in-law of the renter, provided such child, parent or
41 parent-in-law is properly licensed to operate a motor vehicle and
42 resides in the same household as the renter; or (3) a parking valet or
43 parking garage attendant for compensation and in the normal course of
44 employment[~~-~~];

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

48 (viii) The renter, or authorized driver [~~has~~], if different, or the
49 renter's child over the age of eighteen or a parent or parent-in-law of
50 the renter, if applicable, have failed to comply with the requirements
51 for reporting damage or loss as set forth in subdivision five of this
52 section.

53 (d) A customer may void optional vehicle protection at no charge with-
54 in twenty-four hours of purchase provided that the customer: (i) has
55 rented the vehicle for two or more days, (ii) appears in person at any
56 branch of the vehicle rental company together with the vehicle that

1 shall be subject to inspection, and (iii) signs a cancellation form
2 provided by the rental vehicle company. After twenty-four hours of
3 purchase, a customer may terminate optional vehicle protection at any
4 time, provided the customer: (i) appears in person at any branch of the
5 vehicle rental company together with the vehicle that shall be subject
6 to inspection; (ii) voids the optional vehicle protection in writing;
7 and (iii) pays the optional vehicle protection charge for any full or
8 partial rental day or portion of a day during which the optional vehicle
9 protection was in effect.

10 3. Subject to the provisions of subdivisions six, seven, and nine of
11 this section, a rental vehicle company may hold an authorized driver
12 liable for actual damage to, or loss of, a rental vehicle, provided
13 that: (a) any claim for such damage shall be based on a physical survey
14 and shall be made upon the return of the rental vehicle, unless such
15 survey is precluded when the vehicle is returned by automation [~~or~~],
16 returned after-hours [~~which precludes such survey~~], or recovered by the
17 rental company, in which event, any claim must be made within ten days
18 after return or recovery; and (b) any charge for repair of such damage
19 shall be limited to actual and reasonable costs and shall be assessed
20 and billed separately and apart from the rental agreement. For purposes
21 of this subdivision, "returned by automation" means a return [~~acknowl-~~
22 ~~edged by machine receipt and~~] where there is no interaction with rental
23 vehicle company personnel; and "after-hours" return means a return after
24 normal business hours and in which the keys [~~and rental agreement~~] are
25 [~~deposited in~~] returned to the rental vehicle company [~~office~~] via a
26 drop box or other process offered by the rental vehicle company.

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

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

38 (c) When the video presentation of a television or internet advertise-
39 ment by the rental vehicle company contains the written statement of the
40 rental cost of a vehicle, the depiction of the cost of the optional
41 vehicle protection shall be clear and conspicuous.

42 (d) When a radio advertisement or the audio presentation of a tele-
43 vision advertisement contains the statement of the rental cost of the
44 motor vehicle, the oral statement of the rental cost shall immediately
45 be accompanied by an oral statement of the cost of the optional vehicle
46 protection.

47 (e) When a telephone inquiry for the rental cost of a vehicle is made
48 to a rental vehicle company, the representative of the rental vehicle
49 company shall, in response to an inquiry by the caller, state that addi-
50 tional optional products that may be offered by the rental vehicle
51 company are not included in the daily rental rate. If an inquiry is
52 made regarding optional vehicle protection, the agent shall provide the
53 cost of the optional vehicle protection and state that the purchase of
54 such protection is optional and that the renter's personal automobile
55 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 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) 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 the rental agreement.

OVP - DAMAGE REPORTING REQUIREMENTS: If the rental vehicle sustains damage or loss, the renter and other authorized driver, if applicable, are required to complete and return an incident report notice to the rental vehicle company.

OVP - RIGHT TO INSPECT VEHICLE DAMAGES: The renter 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 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 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 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]~~ 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, the renter 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 ~~[authorized driver]~~ renter or his or her insurer does not request this inspection within the seventy-two hour period, the ~~[authorized driver]~~ renter or his or her 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

1 such paragraph (a), mail another copy of the incident report together
2 with a letter stating that the renter or other authorized driver has
3 declined or otherwise failed to complete and return the incident report.
4 Such mailing shall be by overnight delivery service or certified mail,
5 return receipt requested, and another copy of such notification by regu-
6 lar mail, with proof of mailing by production of a certificate of mail-
7 ing from the post office. ~~[Within seventy-two hours of return of the~~
8 ~~vehicle, the authorized driver or his or her insurer must notify the~~
9 ~~rental vehicle company that he or she wishes to inspect the damaged~~
10 ~~vehicle. The inspection must be completed within seven days of the~~
11 ~~return date of the vehicle. If the authorized driver or his or her~~
12 ~~insurer does not request this inspection within the seventy-two hour~~
13 ~~period, the authorized driver or his or her insurer will be deemed to~~
14 ~~have waived this right.]~~ When a request to inspect the vehicle has been
15 timely made by the renter or his or her insurer, the inspection must be
16 completed within seven days of such request. If the rental vehicle
17 company determines the damaged vehicle to be a total loss and subject to
18 salvage, such seventy-two hour period for notification or waiver of the
19 wish to inspect the damaged vehicle shall not apply, and the ~~[authorized~~
20 ~~driver]~~ renter or his or her insurer shall have ten business days from
21 the ~~[authorized driver's]~~ renter's receipt of notification from the
22 rental vehicle company pursuant to paragraph (a) of this subdivision to
23 inspect the damaged vehicle, unless the rental vehicle company agrees to
24 provide access to such damaged vehicle beyond the ten business days
25 provided herein. Within the limits provided in this paragraph, the
26 rental vehicle company shall identify the repairer of, and provide
27 access to, the damaged vehicle, in order to verify the nature and extent
28 of damages, repairs and repair costs, and/or repair estimates.

29 (d) All notices shall be mailed to the ~~[authorized driver's]~~ address
30 of the renter and other authorized driver, if applicable, as stated on
31 his or her license, or other address as designated by him or her on the
32 rental agreement.

33 (e) The renter and other authorized driver, if applicable, shall
34 complete and return the incident report within ten days of the receipt
35 of the notice.

36 (f) The notice required by this subdivision shall be in at least
37 twelve point bold face type and shall contain the statement: "Failure to
38 completely and accurately fill out and return an incident report within
39 ten days of receipt of this notice may make the renter or other author-
40 ized driver liable for damages sustained to the rental vehicle. Except
41 where the damaged vehicle is determined to be a total loss and subject
42 to salvage, the ~~[authorized driver]~~ renter or his or her insurer has
43 seventy-two hours from the return or recovery of the vehicle to notify
44 the rental vehicle company that he or she wishes to inspect the damaged
45 vehicle. The inspection must be completed within seven business days of
46 the ~~[return date of the vehicle]~~ request to inspect the vehicle. If the
47 ~~[authorized driver or his or her insurer does not request this]~~ rental
48 vehicle company does not receive notification from the renter or his or
49 her insurer requesting such inspection within the seventy-two hour peri-
50 od, the ~~[authorized driver or]~~ renter and his or her insurer will be
51 deemed to have waived this right. If the rental vehicle company deter-
52 mines the damaged vehicle to be a total loss and subject to salvage,
53 such seventy-two hour period for notification or waiver of the wish to
54 inspect the damaged vehicle shall not apply, and such right to inspect
55 the damaged vehicle shall expire ten business days from the ~~[authorized~~
56 ~~driver's]~~ renter's receipt of this notice from the rental vehicle compa-

ny ~~[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 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 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, 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 or other authorized driver, if applicable, 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, 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 arising 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 ~~[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]~~ 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.

(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

1 to the vehicle and liability therefor is agreed to between the rental
2 vehicle company and ~~[the]~~ an authorized driver or his or her insurer, or
3 is determined pursuant to law or rental agreement provisions consistent
4 with the rights and obligations set forth in this section; provided,
5 however, that a rental vehicle company is not precluded from presenting
6 a claim to ~~[the]~~ an authorized driver and his or her insurer pursuant to
7 other provisions of this section.

8 (d) Causes of action concerning the existence of, liability for, and
9 extent and cost of damage to the vehicle shall, where appropriate, be
10 commenced by a rental vehicle company in a ~~[commercial claims part]~~
11 court of competent jurisdiction, in accordance with the limitations and
12 jurisdiction of the appropriate court act provided the claimant has
13 first mailed a demand letter. Where the court rules specify the form and
14 substance of the demand letter, it shall be in compliance with the rules
15 of any such court. Notwithstanding the foregoing, nothing contained
16 herein shall prohibit a rental vehicle company and an authorized driver
17 or his or her insurer from agreeing to submit the matter to arbitration
18 to the extent permitted under the rental agreement, if applicable.

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

28 8-a. It shall be unlawful for any rental vehicle company to engage in
29 any of the following practices solely on the basis of the geographical
30 location of the residence of a New York state resident attempting to
31 enter into a rental agreement:

32 (a) refusing to rent a vehicle;

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

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

37 9. No rental vehicle company shall hold any authorized driver liable
38 for any damage to, or loss of, a rental vehicle, as provided by this
39 section, unless the rental vehicle company prominently discloses, on the
40 rental agreement, in at least ten point bold face display, the nature
41 and extent of such liability and such driver's rights and responsibil-
42 ities ~~[under]~~ pursuant to paragraph (c) of subdivision two of this
43 section and paragraph (g) of subdivision four of this section.

44 10. (a) A rental vehicle company shall not charge in addition to the
45 rental rate, taxes, and mileage charge, if any, any fee which must be
46 paid as a condition of renting the vehicle, such as, but not limited to,
47 required fuel surcharges, each of which shall be separately stated on
48 the rental agreement. In addition, a rental vehicle company may also
49 state separately and charge, where applicable, airport fees as such term
50 is defined herein.

51 (b) In addition to the rental rate, taxes, applicable airport fees,
52 and mileage charge, if any, a rental vehicle company may charge for an
53 item or service provided in connection with a particular rental trans-
54 action if the renter could have avoided incurring the charge by not
55 choosing to obtain or utilize the optional item or service, such as, but
56 not limited to, optional accessories or services requested by the

1 renter, service charges incident to the renter's optional return of the
2 vehicle to a location other than the location where the vehicle was
3 rented, and charges for refueling the vehicle with as much fuel as was
4 in the fuel tank at the beginning of the rental.

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

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

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

15 (i) Headlights;

16 (ii) Brakes and emergency brake;

17 (iii) Turn signal indicators;

18 (iv) Hazard lights;

19 (v) Windshield wipers and washers;

20 (vi) Horn;

21 (vii) Cruise control;

22 (viii) Heat control system including defrost systems;

23 (ix) Car locking systems; and

24 (x) [~~Spare~~] If applicable, spare tire and car jack, tire wrench, and
25 jacking locations. In the event the rental vehicle company elects to
26 include the owner's manual pursuant to this section, if the owner's
27 manual is not returned with the vehicle, the renter shall be liable to
28 the rental vehicle company for the actual replacement cost of the
29 owner's manual plus an administrative fee.

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

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

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

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

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

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

54 13-a. A rental vehicle company shall not use information from any
55 global positioning system technology to determine or impose any costs,
56 fees, charges, or penalties on an authorized driver for such driver's

1 use of a rental vehicle. The use of global positioning technology shall
2 not limit the right of a rental vehicle company to impose costs, fees,
3 charges, or penalties to recover a vehicle that is lost, misplaced, or
4 stolen. The provisions of this subdivision shall not be construed to
5 modify or supersede any other provision of law.

6 14. An authorized driver shall provide notice to the rental vehicle
7 company ~~[or]~~ and law enforcement agency within twelve hours of learning
8 of the theft of the rental vehicle.

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

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

20 16. Notwithstanding any other provision of this section, any notice or
21 disclosure required to be provided, delivered, posted, or otherwise made
22 available by a rental vehicle company pursuant to this section shall
23 also be deemed timely and effectively made where such notice or disclo-
24 sure is (i) provided or delivered electronically to the renter at or
25 before the time required provided that the renter has given his or her
26 express consent to receive such notice or disclosure in such a manner,
27 or (ii) included in a member or master agreement in effect at the time
28 of rental. For the purposes of this section, "member or master agree-
29 ment" shall mean an agreement between a rental vehicle company and the
30 renter, or an agreement between a rental vehicle company and another
31 company, which (a) permits renters to bypass a retail service location
32 and obtain a product or service directly; (b) does not require the
33 renter to execute a rental agreement at the time of rental; or (c) does
34 not require the rental vehicle company to provide the renter with the
35 rental terms and conditions at the time of rental due to the prior
36 execution of the agreement. Electronic or written acceptance shall here-
37 by be deemed a valid form of acceptance of any such notice or disclo-
38 sure, and acceptance shall remain effective until such time as accept-
39 ance is affirmatively withdrawn by the renter. Notices and disclosures
40 made electronically pursuant to this subdivision shall be exempt from
41 any placement or stylistic display requirements, including but not
42 limited to location, font size, typeset, or other specifically stated
43 description; provided such disclosure is made in a clear and conspicuous
44 manner.

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

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

51 § 3. This act shall take effect immediately; provided, however,
52 section one of this act shall take effect on the ninetieth day after it
53 shall have become a law; provided, further, that section one of this act
54 shall expire and be deemed repealed June 30, 2023.