

2005 DRAFTING REQUEST

Assembly Amendment (AA-AB839)

Received: **01/10/2006**

Received By: **agary**

Wanted: **Soon**

Identical to LRB:

For: **Samantha Kerkman (608) 266-2530**

By/Representing: **Jenny (aide)**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Beverages**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kerkman@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

interest restrictions for wineries holding manufacturers and winery permits

Instructions:

Wants amendment clarifying that winery holding Class A license can also obtain manufacturers permit without giving up Class A license

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	agary 01/10/2006 agary 02/06/2006	kfollett 01/10/2006	chaugen 01/10/2006	_____	lemery 01/10/2006	lemery 01/10/2006	
/2		kfollett 02/08/2006	rschluet 02/08/2006	_____	sbasford 02/08/2006	sbasford 02/08/2006	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **01/25/2005**

Received By: **phurley**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Jonathon Klein**

This file may be shown to any legislator: **NO**

Drafter: **phurley**

May Contact:

Addl. Drafters:

Subject: **Transportation - motor vehicles**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Damages to rental vehicles

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	phurley 03/24/2005	wjackson 04/18/2005	pgreensl 04/18/2005	_____	lemery 04/18/2005		
	phurley 09/22/2005	wjackson 10/28/2005		_____			
		chanaman 12/15/2005		_____			
/P2		1 WLj 2/8	pgreensl 12/15/2005	_____	lemery 12/15/2005		

Handwritten signatures and initials:
A large signature over the 'Proofed' column for P2.
Initials '286' and 'P6' are written below the signature.

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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<END>

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See Attached

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/?							
/P1	phurley 03/24/2005	wjackson 04/18/2005	pgreensl 04/18/2005	<i>12/15</i>	lemery 04/18/2005		

FE Sent For:

12/15 ps
12/15
PS/PL
<END>

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Drafter: **phurley**

May Contact:

Adl. Drafters:

Subject: **Transportation - motor vehicles**

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Submit via email: **YES**

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Damages to rental vehicles

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<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	phurley	/pl WLj 4/16	4/18 P8	4/18 P8/ R			

FE Sent For:

<END>

Bill Request Form

Legislative Reference Bureau
100 N. Hamilton Street
Legal Section 266-3561

Use of this form is optional. It is often better to talk directly with the LRB attorney who will draft the bill.
Use this form only for bill draft requests. Attach more pages if necessary.

Date 1/10/04

Legislator, agency, or other person requesting this draft Senator Schultze

Person submitting request (name and phone number) Jonathan Klein 266-0703

Persons to contact for questions about this draft (names and phone numbers) Jonathan Klein 266 0703

Describe the problem, including any helpful examples. How do you want to solve the problem?

See Attached.

Please attach a copy of any correspondence or other material that may help us. If you know of any statute sections that might be affected, list them or provide a marked-up copy.

You may attach a marked-up copy of any LRB draft or provide its number (e.g., 1999 LRB-2345/1 or 1997 AB-67).

Requests are confidential unless stated otherwise. May we tell others that we are working on this for you? YES NO

If yes: Anyone who asks? YES NO
Any legislator? YES NO

Only the following persons Andy Franken 258 9506

Do you consider this request urgent? YES NO If yes, please indicate why _____

Should we give this request priority over any pending request of this legislator, agency, or person?

YES NO

Rental Car Technical Changes

- Expands definition of accident to include any damage to the rental vehicle regardless of the cause while under the rental agreement including “theft or loss” of vehicle. (Suggested language gives two options.) ✓
- Allows for recoupment of storage charges beyond two day current limit. ✓
- Removes 2 repair estimate requirement and allows for one. ✓
- Clarifies renter liability when damage occurs while vehicle is operated by someone other than an authorized driver. ✓
- Allows Damage Liability Notice to be part of the rental contract. ✓
- Requires notice to all renters who enters in agreement. ✓
- Requires DATCP approval of form (currently done by rule) ✓
- Clarifies costs to be covered by credit card deposit. ✓
- Allow the “good faith” defense whether or not damage waiver was purchased. ✓

(g) The damage occurs while the renter or authorized driver uses the private passenger vehicle outside of the United States or Canada, unless use outside the United States or Canada is permitted under the rental agreement.

344.576(2)(h)



(h) The damage occurs while the private passenger vehicle is operated on a surface not intended for use by private passenger vehicles.

344.576(2)(i)



(i) The renter provided misleading or false information to the rental company, causing the rental company to rent the private passenger vehicle when the rental company would not have otherwise done so, or on terms to which it would not have otherwise agreed.

344.576(2)(j)



(j) The renter or the authorized driver who was operating the private passenger vehicle when an accident occurred fails to promptly report to the police and rental company the accident resulting in damage to the private passenger vehicle.

344.576(2)(k) NEW SECTION

(k) The damage occurs while the private passenger vehicle is operated by someone other than an authorized driver as defined in 344.57(2).

344.576(3)



(3) Notice.

344.576(3)(a)



(a) A rental company that offers or sells a damage waiver shall provide to each renter either on the rental agreement or a written notice that is in the form required by rule under par. (c) and that includes all of the following:

344.576(3)(a)1.



1. An explanation of the total costs that the renter or authorized driver may be liable for under s. 344.574 (2) (a).

344.576(3)(a)2.




2. A statement that the liability of the renter or authorized driver under s. 344.574 (2) (a) may be covered by the renter's or authorized driver's personal motor vehicle insurance policy or by an agreement under which the renter or authorized driver has obtained a credit card.


344.576(3)(a)3.




3. A list of any exceptions to the damage waiver imposed in accordance with sub. (2) (a) to (j).

344.576(3)(a)4. 


4. An explanation of the right of inspection under s. 344.574 (4) (a).

344.576(3)(a)5. 


5. The address and telephone number of the department of agriculture, trade and consumer protection.

344.576(3)(a)6. 

6. Any other information required by rule under par. (c).


344.576(3)(a)7. 

7. A line for the renter's signature.

344.576(3)(b) 

(b) A rental company that offers or sells a damage waiver shall provide the notice described in par. (a) to each renter who enters into a rental agreement. The rental company shall give the renter one copy of the notice signed by the renter and shall retain one copy in its files.

Deleted: before the renter

344.576(3)(c) 

(c) The department of agriculture, trade and consumer protection shall approve the form of the notice required under par. (a). The rule may specify additional information that must be included in the notice and the precise language that must be used.

Deleted: promulgate rules specifying

Deleted: including the size of the paper and the type size and any highlighting of the information described in


Deleted: par. (a)

344.576 - ANNOT. 


History: 1989 a. 328; 1995 a. 27.

344.576 - ANNOT. 


Cross Reference: See also s. ATCP 118.01, Wis. adm. code.

344.577 

344.577 Advertisement or representation.


344.577(1) 

(1) Definition. In this section, "advertisement or representation" means any oral, written or graphic statement which is made in connection with the solicitation of the rental of a private passenger vehicle.

344.577(2) 

(2) Damage waiver charge. If a rental company or an employee or agent of a rental company disseminates or makes in this state an advertisement or representation that includes a statement of the rental rate for a private passenger vehicle available for rent from a location in this state, the advertisement or representation shall also include a statement of the charge for any damage waiver offered by the rental company in conjunction with the rental of that private passenger vehicle and a statement that purchase


of the damage waiver is optional.

344.577 - ANNOT. 


History: 1989 a. 328.

344.578 

344.578 Credit card for deposit or damages.

344.578(1) 

(1) Prohibited deposits; collection of damages. A rental company may not use credit available pursuant to a credit card belonging to a renter as a deposit for damages for which the renter may be held liable under s. 344.574 (2) (a) or for any other charges, except as provided in sub. (2). If a rented private passenger vehicle is damaged, the rental company may use credit available pursuant to a credit card belonging to the renter as payment for the damages for which the renter is liable under s. 344.574 (2) (a) only if the rental company obtains the renter's authorization to use that credit and the authorization is obtained after the total amount of the renter's liability is determined and before the rental company processes the credit card charge.


344.578(2) 

(2) Deposit for rental fees. If authorized by the renter, a rental company may use credit available pursuant to a credit card belonging to the renter as a deposit for the estimated cost of the rental, ~~as determined under this subsection. The estimated cost of the rental may not exceed an amount equal to the daily rental rate specified in the rental agreement, which may include the daily charge for a damage waiver if purchased by the renter, multiplied by the number of days specified in the agreement for which the private passenger vehicle is being rented.~~

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344.578 - ANNOT. 


History: 1989 a. 328.

344.579 


344.579 Violations.

344.579(1) 


(1) Penalties. Whoever violates s. 344.574, 344.576 (1), (2) or (3) (a) or (b), 344.577 or 344.578 may be required to forfeit not less than \$500 nor more than \$1,000 for each violation.

344.579(2) 


(2) Enforcement. The department of agriculture, trade and consumer protection shall investigate violations of ss. 344.574, 344.576 (1), (2) and (3) (a) and (b), 344.577 and 344.578. The department of agriculture, trade and consumer protection may on behalf of the state:

344.579(2)(a) 

(a) Bring an action for temporary or permanent injunctive or other relief in any court of competent jurisdiction for any violation of s. 344.574, 344.576 (1), (2) or (3) (a) or (b), 344.577 or 344.578. The court may, upon entry of final judgment, award restitution when appropriate to any person suffering loss because of a violation of s. 344.574, 344.576 (1), (2) or (3) (a) or (b), 344.577 or 344.578 if proof of such loss is submitted to the satisfaction of the court.

344.579(2)(b) 

(b) Bring an action in any court of competent jurisdiction for the recovery of forfeitures authorized under sub. (1).

344.579(3) 

(3) Defense. Proof by a rental company that the rental company began an action to impose liability upon a renter or authorized driver, whether or not ~~even though~~ the renter had purchased a damage waiver sold under s. 344.576, because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j) applied is a defense to a prosecution for a violation of the terms of the damage waiver under s. 344.576 (2).

344.57



344.57 Definitions applicable to ss. 344.57 to 344.579. In ss. 344.57 to 344.579:

344.57(1)



(1) "Accident" means collision, ~~with another object, theft or loss of,~~ or other upset of the private passenger vehicle while in operation or any other damage, ~~to, theft or loss of,~~ the rental vehicle not caused intentionally.

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344.57(2)



(2) "Authorized driver" means, in connection with a private passenger vehicle under a rental agreement, all of the following:

344.57(2)(a)



(a) The spouse of the renter, if the spouse is a licensed driver and meets any minimum age requirement in the rental agreement.

344.57(2)(b)



(b) A person listed in the rental agreement as an authorized driver.

344.57(2)(c)



(c) The renter's employer, employee or co-worker, if the employer, employee or co-worker engages in a business activity with the renter, is a licensed driver and meets the rental company's minimum age requirement.

344.57(2)(d)



(d) A person who operates the private passenger vehicle during an emergency or while parking the private passenger vehicle at a commercial or private establishment.

344.57(3)



(3) "Damage waiver" means a contractual provision under which a rental company agrees for a charge not to hold a renter or authorized driver liable for damage or loss related to a private passenger vehicle rented by the renter.

344.57(4)



(4) "Private passenger vehicle" means a type 1 automobile.

344.57(5)




(5) "Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a private passenger vehicle provided for rent by a rental company.

344.57(6)



(6) "Rental company" means a person in the business of providing private passenger vehicles for rent to the public.

Q- why del private passenger vehicle here but not thru-out statute?

344.57(7) 


(7) "Renter" means the person who rents a private passenger vehicle from a rental company under a rental agreement.

344.57 - ANNOT. 


History: 1989 a. 328.

344.572 


344.572 Applicability to rental agreements.

344.572(1) 

(1) Except as provided in sub. (2), ss. 344.574, 344.576 and 344.578 apply to all rental agreements concerning private passenger vehicles rented from locations in this state for a period of 30 consecutive days or less.

344.572(2) 


(2) Sections 344.574, 344.576 and 344.578 do not apply to a rental agreement under which a person rents from a motor vehicle dealer licensed under ss. 218.0101 to 218.0163 a private passenger vehicle owned by the dealer if the private passenger vehicle is rented only for use while a vehicle owned or leased by the person or which the person has agreed to purchase is being serviced, repaired, manufactured or delivered.

344.572(3) 


(3) If a rental agreement is subject to ss. 344.574, 344.576 and 344.578, any provision of the rental agreement that violates any requirement of ss. 344.574, 344.576 and 344.578 is void.

344.572 - ANNOT. 


History: 1989 a. 328; 1999 a. 31.

344.574 


344.574 Limited liability for damage.

344.574(1) 


(1) Damage to private passenger vehicle.

344.574(1)(a) 


(a) Unless a renter purchases a damage waiver offered in accordance with s. 344.576, a rental company may hold the renter liable to the extent permitted under subs. (2) to (4) for physical or mechanical damage to the rented private passenger vehicle that is caused by any of the following:

344.574(1)(a)1. 


1. An accident occurring while the private passenger vehicle is under the rental agreement.

344.574(1)(a)2. 


2: The renter or an authorized driver who is using the private passenger vehicle, intentionally or by his or her reckless or wanton misconduct.

344.574(1)(b) 


(b) Unless a renter purchases a damage waiver offered in accordance with s. 344.576, a rental company may hold an authorized driver liable to the extent permitted under subs. (2) to (4) for physical or mechanical damage to the rented private passenger vehicle that is caused by any of the following:

344.574(1)(b)1. 


1. An accident occurring while the private passenger vehicle is operated by the authorized driver and is under the rental agreement.

344.574(1)(b)2. 


2. The authorized driver who is using the private passenger vehicle, intentionally or by his or her reckless or wanton misconduct.

344.574(2) 


(2) Limits on liability.

344.574(2)(a) 


(a) The total liability of a renter or authorized driver under sub. (1) for damage to a rented private passenger vehicle may not exceed all of the following:

344.574(2)(a)1. 


1. The lesser of:

344.574(2)(a)1.a. 


a. The actual and reasonable costs that the rental company incurred to repair the private passenger vehicle or that the rental company would have incurred if the private passenger vehicle had been repaired, which shall reflect any discounts, price reductions or adjustments available to the rental company.

344.574(2)(a)1.b. 

b. The fair market value of that private passenger vehicle immediately before the damage occurred, as determined in the customary market for the sale of that private passenger vehicle.


344.574(2)(a)2. 

2. Actual and reasonable costs incurred by the rental company for towing the private passenger vehicle and for storage of the private passenger vehicle ~~for no more than 2 days.~~


344.574(2)(b) 

(b) A rental company may not hold the renter or authorized driver liable for any of the


following:

344.574(2)(b)1. 


1. Loss or damage to the private passenger vehicle resulting from a cause other than that described in sub. (1) (a) 1. or 2. with respect to the renter or sub. (1) (b) 1. or 2. with respect to the authorized driver.

344.574(2)(b)2. 


2. Loss of use of the private passenger vehicle.

344.574(2)(b)3. 


3. Any administrative charges, including the cost of appraisal, or other costs or expenses that are incidental to the damage to the private passenger vehicle.

344.574(2)(b)4. 


4. Any other charge unless expressly permitted under par. (a).

344.574(2)(c) 


(c) A rental company may not hold the renter liable for any amounts that the rental company has recovered from an authorized driver. A rental company may not hold an authorized driver liable for any amounts that the rental company has recovered from the renter.

344.574(4) 

(4) Inspection and estimates. A rental company may not collect or attempt to collect the amount described in sub. (2) (a) from the renter or authorized driver or the insurer of the renter or authorized driver unless the rental company satisfies all of the following:


344.574(4)(a) 

(a) Allows the renter or authorized driver who may be liable under sub. (1) (b) and the insurer of the renter or authorized driver to inspect the unrepaired rented private passenger vehicle within 2 working days after the rental company is notified of the damage. Upon receiving notice of the damage, the rental company shall promptly notify the renter or authorized driver who may be liable under sub. (1) (b) of his or her right and his or her insurer's right to inspect the private passenger vehicle.


344.574(4)(b) 

(b) Obtains an estimate ~~at least 2 estimates from competing repair shops~~ on the costs of repairing the private passenger vehicle, makes a copy of ~~each~~ the estimate available upon request to the renter or authorized driver who may be liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be liable under sub. (1) (b) and submits a copy of ~~each~~ the estimate with any claim to collect the amount described in sub. (2) (a).


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344.574 - ANNOT. 


History: 1989 a. 328.

344.576 


344.576 Damage waivers.

344.576(1) 


(1) Offer and sale restricted. A rental company may not offer or sell a damage waiver in conjunction with a rental agreement unless the terms of the damage waiver comply with sub. (2) and the renter is provided the notice required under sub. (3).

344.576(2) 


(2) Terms. Every damage waiver shall provide that the rental company may not hold the renter or authorized driver liable for any amount that the renter or authorized driver might otherwise be liable for under s. 344.574 (2) (a) for damage to the rented private passenger vehicle, unless any of the following applies:

344.576(2)(a) 


(a) The damage is caused by the renter or authorized driver intentionally or by his or her reckless or wanton misconduct.

344.576(2)(b) 


(b) The damage occurs while the renter or authorized driver operates the private passenger vehicle in this state while under the influence of an intoxicant or other drug, as described under s. 346.63 (1) (a) or (b) or (2m).

344.576(2)(c) 


(c) The damage occurs while the renter or authorized driver operates the private passenger vehicle in another state while under the influence of an intoxicant or other drug, as described in the laws of that state.

344.576(2)(d) 


(d) The damage occurs while the renter or authorized driver is engaged in a race or speed or endurance contest.

344.576(2)(e) 

(e) The damage occurs while the renter or authorized driver is using, or has directed another to use, the private passenger vehicle in the commission of a misdemeanor or felony, as those terms are defined in s. 939.60.

344.576(2)(f) 

(f) The damage occurs while the renter or authorized driver uses the private passenger vehicle to carry persons or property for hire.

344.576(2)(g) 

4/22

WLJ

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

3-27-05

Gen

1 AN ACT ...; relating to: damages to rental vehicles.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 344.57 (1) of the statutes is amended to read:

3 344.57 (1) "Accident" means collision of a private passenger vehicle with
4 another object, theft or loss of the private passenger vehicle, or other upset of the
5 private passenger vehicle while in operation not caused intentionally by the renter.

History: 1989 a. 328.

6 SECTION 2. 344.574 (2) (a) 2. of the statutes is amended to read:

7 344.574 (2) (a) 2. Actual and reasonable costs incurred by the rental company
8 for towing the private passenger vehicle and for storage of the private passenger
9 vehicle ~~for no more than 2 days.~~

History: 1989 a. 328.

1 SECTION 3. 344.574 (4) (b) of the statutes is amended to read:

2 344.574 (4) (b) Obtains ~~at least 2 estimates from competing repair shops~~ an
3 estimate on the costs of repairing the private passenger vehicle, makes a copy of each
4 the estimate available upon request to the renter or authorized driver who may be
5 liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be
6 liable under sub. (1) (b) and submits a copy of each the estimate with any claim to
7 collect the amount described in sub. (2) (a).

8 History: 1989 a. 328.

8 SECTION 4. 344.576 (2) (k) of the statutes is created to read:

9 344.576 (2) (k) The damage occurs while the private passenger vehicle is
10 operated by someone other than an authorized driver as defined in s. 344.57 (2).

11 SECTION 5. 344.576 (3) (a) (intro.) of the statutes is amended to read:

12 344.576 (3) (a) (intro.) A rental company that offers or sells a damage waiver
13 shall provide to each renter a written notice Plain ~~that is in the form required by that is~~
14 part of the rental agreement or on a separate form described in rule under par. (c)
15 and that includes all of the following:

16 History: 1989 a. 328; 1995 a. 27; 2003 a. 97.

16 SECTION 6. 344.576 (3) (b) of the statutes is amended to read:

17 344.576 (3) (b) A rental company that offers or sells a damage waiver shall
18 provide the notice described in par. (a) to each renter Plain space ~~before the renter enters into a~~
19 ~~rental agreement.~~ The rental company shall give the each renter one copy of the
20 notice signed by ~~the renter~~ him or her and shall retain one copy in its files.

21 History: 1989 a. 328; 1995 a. 27; 2003 a. 97.

21 SECTION 7. 344.576 (3) (c) of the statutes is amended to read:

22 344.576 (3) (c) The department of agriculture, trade and consumer protection
23 shall ~~promulgate rules specifying~~ approve the form of the notice required under par.
24 (a), including ~~the size of the paper and the type size and any highlighting of the~~

1 information described in par. (a). The rule may department may promulgate rules
 2 that specify additional information that must be included in the notice and the
 3 precise language that must be used.

History: 1989 a. 328; 1995 a. 27; 2003 a. 97.

4 **SECTION 8.** 344.578 (1) of the statutes is renumbered 344.578 and amended to
 5 read:

6 **344.578.** PROHIBITED DEPOSITS, COLLECTION OF DAMAGES. ~~A~~ If authorized by the
 7 renter, a rental company may not use credit available pursuant to a credit card
 8 belonging to a renter as a deposit for damages for which the renter may be held liable
 9 under s. 344.574 (2) (a) or for any other charges, ~~except as provided in sub. (2).~~ If a
 10 rented private passenger vehicle is damaged, the rental company may use credit
 11 available pursuant to a credit card belonging to the renter as payment for the
 12 damages for which the renter is liable under s. 344.574 (2) (a) only if the rental
 13 company obtains the renter's authorization to use that credit and the authorization
 14 is obtained after the total amount of the renter's liability is determined and before
 15 the rental company processes the credit card charge.

History: 1989 a. 328.

16 **SECTION 9.** 344.578 (2) of the statutes is repealed.

17 **SECTION 10.** 344.579 (3) of the statutes is amended to read:

18 344.579 (3) DEFENSE. Proof by a rental company that the rental company began
 19 an action to impose liability upon a renter or authorized driver, ~~even though~~ without
 20 regard to whether the renter had purchased a damage waiver sold under s. 344.576,
 21 because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j)
 22 applied is a defense to a prosecution for a violation of the terms of the damage waiver
 23 under s. 344.576 (2).

History: 1989 a. 328; 1995 a. 27.

24

(END)

Call Janet Jenkins at DTCAP if questions

IC 24-4-9-12

Rental company's action for damages

Sec. 12. A rental company may bring an action to recover for damage based on a rental agreement. If the action is against a renter who is a resident of Indiana, the action shall be filed in the county of the renter's primary residence.

As added by P.L.232-1989, SEC.1.

IC 24-4-9-13

Limitation of renter's liability generally

Sec. 13. A rental company and renter may agree that the renter will be responsible for no more than all of the following:

(1) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle resulting from collision regardless of the cause of damage.

(2) Loss due to theft of the rental vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle. However, the renter shall be presumed to have no liability for any loss due to theft if the renter or authorized driver:

(A) has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft; and

(B) files an official report of the theft with the police or other law enforcement agency within twenty-four (24) hours of learning of the theft and reasonably cooperates with the rental company, police, and other law enforcement agency in providing information concerning the theft.

The presumption set forth in this subdivision is a presumption affecting the burden of proof, which the rental company may rebut by establishing that a renter or other authorized driver committed or aided and abetted in the commission of the theft.

(3) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter is presumed to have no liability for any loss due to vandalism if the renter or authorized driver:

(A) has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the vandalism; and

(B) files an official report of the vandalism with the police or other law enforcement agency within twenty-four (24) hours of learning of the vandalism and reasonably cooperates with the rental company, police, and other law

enforcement agency in providing information concerning the vandalism.

The presumption set forth in this subdivision is a presumption affecting the burden of proof, which the rental company may rebut by establishing that a renter or other authorized driver committed or aided and abetted in the commission of the vandalism.

(4) Physical damage to the rented vehicle and loss of use of the rented vehicle up to its fair market value, determined in the customary market for the sale of that vehicle, resulting from vandalism unrelated to the theft of the rented vehicle.

(5) Physical damage resulting from collision to the rented vehicle and loss of use of the rented vehicle resulting from collision, up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from the use of the rental vehicle by an unauthorized driver.

(6) Loss of use of the rented vehicle, if the renter is liable for damage.

(7) Actual charges for towing, storage, and impoundment fees paid by the rental company, if the renter is liable for damage.

1 344.576 (3) (c) ~~The department of agriculture, trade and consumer protection~~
 2 ~~shall promulgate rules specifying approve the form of the notice required under par.~~
 3 (a), including the size of the paper and the type size and any highlighting of the
 4 information described in par. (a). ~~The rule may department~~ ^{shall} may promulgate rules
 5 that specify additional information that must be included in the notice and the
 6 precise language that must be used. ^{and that "clear & concise..."}

7 **SECTION 8.** 344.578 (1) of the statutes is renumbered 344.578 and amended to
 8 read:

9 **344.578 PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. A.** If authorized by the
 10 renter, a rental company may not use credit available pursuant to a credit card
 11 belonging to a renter as a deposit for damages for which the renter may be held liable
 12 under s. 344.574 (2) (a) or for any other charges, except as provided in sub. (2). If a
 13 rented private passenger vehicle is damaged, the rental company may use credit
 14 available pursuant to a credit card belonging to the renter as payment for the
 15 damages for which the renter is liable under s. 344.574 (2) (a) only if the rental
 16 company obtains the renter's authorization to use that credit and the authorization
 17 is obtained after the total amount of the renter's liability is determined and before
 18 the rental company processes the credit card charge.

19 **SECTION 9.** 344.578 (2) of the statutes is repealed.

20 **SECTION 10.** 344.579 (3) of the statutes is amended to read:

21 344.579 (3) **DEFENSE.** Proof by a rental company that the rental company began
 22 an action to impose liability upon a renter or authorized driver, even though without
 23 regard to whether the renter had purchased a damage waiver sold under s. 344.576,
 24 because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j) (k)

1 applied is a defense to a prosecution for a violation of the terms of the damage waiver
2 under s. 344.576 (2).

3 (END)



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-1882/P1
PJH:wlj:pg

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to repeal* 344.578 (2); *to renumber and amend* 344.578 (1); *to amend*
2 344.57 (1), 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576 (3)
3 (b), 344.576 (3) (c) and 344.579 (3); and *to create* 344.576 (2) (k) of the statutes;
4 **relating to:** damages to rental vehicles.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 **SECTION 1.** 344.57 (1) of the statutes is amended to read:
6 344.57 (1) "Accident" means collision of a private passenger vehicle with
7 another object, theft or loss of the private passenger vehicle, or other upset of the
8 private passenger vehicle while in operation not caused intentionally by the renter.

9 **SECTION 2.** 344.574 (2) (a) 2. of the statutes is amended to read:

add presumption of
no liability language

1 344.574 (2) (a) 2. Actual and reasonable costs incurred by the rental company
 2 for towing the private passenger vehicle and for storage of the private passenger
 3 vehicle for no more than 2 days. *don't strike after the renter notifies the company*

4 **SECTION 3.** 344.574 (4) (b) of the statutes is amended to read:

5 344.574 (4) (b) Obtains at least 2 estimates from competing repair shops an
 6 estimate on the costs of repairing the private passenger vehicle, makes a copy of each
 7 the estimate available upon request to the renter or authorized driver who may be
 8 liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be
 9 liable under sub. (1) (b) and submits a copy of each the estimate with any claim to
 10 collect the amount described in sub. (2) (a). *Add: if renter requests, obtains at least one more estimate.*

11 **SECTION 4.** 344.576 (2) (k) of the statutes is created to read:

12 344.576 (2) (k) The damage occurs while the private passenger vehicle is
 13 operated by someone other than an authorized driver as defined in s. 344.57 (2). *unless a theft has occurred and (D)(a)-(g) apply.*

14 **SECTION 5.** 344.576 (3) (a) (intro.) of the statutes is amended to read:

15 344.576 (3) (a) (intro.) A rental company that offers or sells a damage waiver
 16 shall provide to each renter a written notice that is in the form required by part of
 17 the rental agreement or on a separate form described in the rule under par. (c) and
 18 that includes all of the following:

19 **SECTION 6.** 344.576 (3) (b) of the statutes is amended to read:

20 *don't strike* 344.576 (3) (b) A rental company that offers or sells a damage waiver shall
 21 provide the notice described in par. (a) to each renter before the renter enters into a
 22 rental agreement. *AM* The rental company shall give the each renter one copy of the
 23 notice signed by the renter him or her and shall retain one copy in its files.

24 **SECTION 7.** 344.576 (3) (c) of the statutes is amended to read:

The in the event a separate form is used to give notice under par. (a), the

P2
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TODAY

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

9.22.05
SOON

Regen

1 AN ACT *to repeal* 344.578 (2); *to renumber and amend* 344.578 (1); *to amend*
2 344.57 (1), 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576 (3)
3 (b), 344.576 (3) (c) and 344.579 (3); and *to create* 344.576 (2) (k) of the statutes;
4 **relating to:** damages to rental vehicles. ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 Fix component

5 SECTION 1. 344.57 (1) of the statutes is amended to read:

renumbered 344.57(1)(intro.) and strike period

6 344.57 (1) ^(intro.) "Accident" means collision of a private passenger vehicle with
7 another object, theft or loss of the private passenger vehicle, or other upset of the
8 private passenger vehicle while in operation not caused intentionally by the renter.

score review

9 SECTION 2. 344.574 (2) (a) 2. of the statutes is amended to read:

✓
Insert 1

1 344.574 (2) (a) 2. Actual and reasonable costs incurred by the rental company
 2 for towing the private passenger vehicle and for storage of the private passenger
 3 vehicle for no more than 2 days. Don't strike period after the ✓ renter notifies the

4 SECTION 3. 344.574 (4) (b) of the statutes is amended to read:

5 344.574 (4) (b) Obtains at least 2 estimates from competing repair shops an to
 6 estimate on the costs of repairing the private passenger vehicle, makes a copy of each the damage
 7 the estimate available upon request to the renter or authorized driver who may be to
 8 liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be the
 9 liable under sub. (1) (b) and submits a copy of each the estimate with any claim to 2nd
 10 collect the amount described in sub. (2) (a). Upon request, the rental company
shall obtain a (second) estimate and
make a copy available to the

11 SECTION 4. 344.576 (2) (k) of the statutes is created to read: requester.

12 344.576 (2) (k) The damage occurs while the private passenger vehicle is Ins. 2
 13 operated by someone other than an authorized driver as defined in s. 344.57 (2).

14 SECTION 5. 344.576 (3) (a) (intro.) of the statutes is amended to read:

15 344.576 (3) (a) (intro.) A rental company that offers or sells a damage waiver
 16 shall provide to each renter a written notice that is in the form required by part of
 17 the rental agreement or on a separate form described in the rule under par. (c) and
 18 that includes all of the following:

19 SECTION 6. 344.576 (3) (b) of the statutes is amended to read:

20 Don't strike 344.576 (3) (b) A rental company that offers or sells a damage waiver shall
 21 provide the notice described in par. (a) to each renter before the renter enters into a
 22 rental agreement. The rental company shall give the each renter one copy of the
 23 notice signed by the renter him or her and shall retain one copy in its files.

24 SECTION 7. 344.576 (3) (c) of the statutes is amended to read:

✓ If a separate form is
used to give notice
under par. (a), the

1 344.576 (3) (c) ~~The department of agriculture, trade and consumer protection~~
 2 ~~shall promulgate rules specifying~~ approve ~~the form of the notice required under par.~~
 3 ~~(a), including the size of the paper and the type size and any highlighting of the~~
 4 ~~information described in par. (a).~~ The rule may ~~department~~ ^{shall} ~~may~~ promulgate rules
 5 that specify additional information that must be included in the notice and the
 6 precise language that must be used. in a clear and conspicuous

7 **SECTION 8.** 344.578 (1) of the statutes is renumbered 344.578 and amended to
 8 read: be noticed and readily understood
by
the consumer,

9 **344.578 PROHIBITED DEPOSITS; COLLECTION OF DAMAGES.** ~~A~~ If authorized by the
 10 renter, a rental company may not use credit available pursuant to a credit card
 11 belonging to a renter as a deposit for damages for which the renter may be held liable
 12 under s. 344.574 (2) (a) or for any other charges, ~~except as provided in sub. (2).~~ If a
 13 rented private passenger vehicle is damaged, the rental company may use credit
 14 available pursuant to a credit card belonging to the renter as payment for the
 15 damages for which the renter is liable under s. 344.574 (2) (a) only if the rental
 16 company obtains the renter's authorization to use that credit and the authorization
 17 is obtained after the total amount of the renter's liability is determined and before
 18 the rental company processes the credit card charge. provided for in
the rental
agreement

19 **SECTION 9.** 344.578 (2) of the statutes is repealed.

20 **SECTION 10.** 344.579 (3) of the statutes is amended to read:

21 344.579 (3) **DEFENSE.** Proof by a rental company that the rental company began
 22 an action to impose liability upon a renter or authorized driver, ~~even though~~ without
 23 regard to whether the renter had purchased a damage waiver sold under s. 344.576,
 24 because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j) (k)

1 applied is a defense to a prosecution for a violation of the terms of the damage waiver
2 under s. 344.576 (2).

3 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1882/P1ins
PJH:wlj:pg

INSERT 1:

NO § A renter is presumed to have not caused theft or loss to the vehicle intentionally if all of the following applies: apply

MOVE → (a) The ✓ renter or authorized driver has possession of the ignition key furnished by the rental company or establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft or loss.

344.57(1) NO § (b) The renter or authorized driver files an official report of the theft or loss with the police or other law enforcement agency within 24 hours of learning of the theft or loss and reasonably cooperates with the rental company, police, and other law enforcement agencies in providing information concerning the theft or loss.

PLAIN

INSERT 2:

NO § This paragraph ✓ does not apply if the vehicle has been lost or a theft has occurred and the renter is presumed to have not caused the theft or loss intentionally under s. 344.57 (1). ✓

SECTION # 344.57 (1) (a) and (b) letter of the statutes are created to read:

↑ ↑
Stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

~~2-1-06~~ 2-1-06

other

Regen

1 AN ACT *to repeal* 344.578 (2); *to renumber and amend* 344.57 (1) and 344.578
2 (1); *to amend* 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576
3 (3) (b), 344.576 (3) (c) and 344.579 (3); and *to create* 344.576 (2) (k) of the
4 statutes; **relating to:** damages to rental vehicles and granting rule-making authority

Insert

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

5 SECTION 1. 344.57 (1) of the statutes is renumbered 344.57 (1) (intro.) amended
6 to read:

7 344.57 (1) ^(intro.) "Accident" means collision of a private passenger vehicle with
8 another object, theft or loss of the private passenger vehicle, or other upset of the
9 private passenger vehicle while in operation. not caused intentionally by the renter.

10 A renter is presumed to have not caused theft or loss to the vehicle intentionally if
11 all of the following apply:

1 **SECTION 2.** 344.57 (1) (a) and (b) of the statutes are created to read:

2 344.57 (1) (a) The renter or authorized driver has possession of the ignition key
3 furnished by the rental company or establishes that the ignition key furnished by the
4 rental company was not in the vehicle at the time of the theft or loss.

5 (b) The renter or authorized driver files an official report of the theft or loss with
6 the police or other law enforcement agency within 24 hours of learning of the theft
7 or loss and reasonably cooperates with the rental company, police, and other law
8 enforcement agencies in providing information concerning the theft or loss.

9 **SECTION 3.** 344.574 (2) (a) 2. of the statutes is amended to read:

10 344.574 (2) (a) 2. Actual and reasonable costs incurred by the rental company
11 for towing the private passenger vehicle and for storage of the private passenger
12 vehicle ~~for no more than 2 days~~ after the renter notifies the rental company of the
13 damage to the vehicle.

14 **SECTION 4.** 344.574 (4) (b) of the statutes is amended to read:

15 344.574 (4) (b) Obtains ~~at least 2 estimates from competing repair shops~~ an
16 estimate on the costs of repairing the private passenger vehicle, makes a copy of ~~each~~
17 the estimate available upon request to the renter or authorized driver who may be
18 liable under sub. (1) (b) or the insurer of the renter or authorized driver who may be
19 liable under sub. (1) (b) and submits a copy of ~~each~~ the estimate with any claim to
20 collect the amount described in sub. (2) (a). Upon request the rental company shall
21 obtain a 2nd estimate and make a copy available to the requester.

22 **SECTION 5.** 344.576 (2) (k) of the statutes is created to read:

23 344.576 (2) (k) The damage occurs while the private passenger vehicle is
24 operated by someone other than an authorized driver as defined in s. 344.57 (2). This
25 paragraph does not apply if the vehicle has been lost or a theft has occurred and the

py line
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line 6
-65510
Nam

1 renter is presumed to have not caused the theft or loss intentionally under s. 344.57
2 (1).

3 **SECTION 6.** 344.576 (3) (a) (intro.) of the statutes is amended to read:

4 344.576 (3) (a) (intro.) A rental company that offers or sells a damage waiver
5 shall provide to each renter a written notice that is ~~in the form required by part of~~
6 the rental agreement or on a separate form described in the rule under par. (c) and
7 that includes all of the following:

8 **SECTION 7.** 344.576 (3) (b) of the statutes is amended to read:

9 344.576 (3) (b) A rental company that offers or sells a damage waiver shall
10 provide the notice described in par. (a) to each renter before the renter enters into a
11 rental agreement. ~~The~~ If a separate form is used to give notice under par. (a), the
12 rental company shall give ~~the~~ each renter one copy of the notice signed by ~~the renter~~
13 him or her and shall retain one copy in its files.

14 **SECTION 8.** 344.576 (3) (c) of the statutes is amended to read:

15 344.576 (3) (c) ~~The department of agriculture, trade and consumer protection~~
16 ~~shall promulgate rules specifying the form of the notice required under par. (a),~~
17 ~~including the size of the paper and the type size and any highlighting of the~~
18 ~~information described in par. (a).~~ The rule may department shall promulgate rules
19 that specify additional information that must be included in the notice in a clear and
20 conspicuous manner that is reasonably designed to be noticed and readily
21 understood by the consumer, and the precise language that must be used.

22 **SECTION 9.** 344.578 (1) of the statutes is renumbered 344.578 and amended to
23 read:

24 **344.578** ~~PROHIBITED DEPOSITS; COLLECTION OF DAMAGES.~~ A. If authorized by the
25 renter, a rental company may not use credit available pursuant to a credit card

1 belonging to a renter as a deposit for damages for which the renter may be held liable
2 under s. 344.574 (2) (a) or for any other charges, ~~except as provided in sub. (2)~~
3 provided for in the rental agreement. If a rented private passenger vehicle is
4 damaged, the rental company may use credit available pursuant to a credit card
5 belonging to the renter as payment for the damages for which the renter is liable
6 under s. 344.574 (2) (a) only if the rental company obtains the renter's authorization
7 to use that credit and the authorization is obtained after the total amount of the
8 renter's liability is determined and before the rental company processes the credit
9 card charge.

10 **SECTION 10.** 344.578 (2) of the statutes is repealed.

11 **SECTION 11.** 344.579 (3) of the statutes is amended to read:

12 344.579 (3) DEFENSE. Proof by a rental company that the rental company began
13 an action to impose liability upon a renter or authorized driver, ~~even though~~ without
14 regard to whether the renter had purchased a damage waiver sold under s. 344.576,
15 because of a good-faith mistake that an exception under s. 344.576 (2) (a) to (j) ~~(k)~~
16 applied is a defense to a prosecution for a violation of the terms of the damage waiver
17 under s. 344.576 (2).

18 (END)

2005-2006 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1882/P2ins
PJH:wlj&jld:pg

Lbs: Please
Check
Spacing.

ANALYSIS INSERT:

Under current law, a vehicle rental company may hold a renter liable for damages to a rented vehicle if an accident occurs during the rental period or if the renter of an authorized vehicle causes the damage by reckless or wanton misconduct. Current law defines an "accident" as a collision or other upset to the private passenger vehicle while the vehicle is in operation. The renter is liable, in addition to the actual and reasonable costs of repairing the vehicle or the fair market value of the vehicle, for actual and reasonable costs incurred by the rental company for towing and storing the vehicle for up to 2 days. However, in order to collect the amount of liability, the rental company must obtain and make available to the renter or his or her insurance company at least two estimates of the cost of repairs from competing repair shops.

Current law allows a rental company to offer or sell a damage waiver to a renter that would eliminate or limit the renter's liability for damages unless the damage is caused by certain reckless, intentional, prohibited, or illegal acts by the renter. A copy of the damage waiver must be provided to the renter and must explain the details of the waiver, including the limits of liability, exceptions to the waiver, and an explanation of the renter's rights and responsibilities under the damage waiver agreement.

Under current law, a rental company may not use credit available pursuant to a credit card belonging to a renter as a deposit for damages for which the renter may be held liable, but it may use credit available pursuant to a credit card belonging to a renter as a deposit for the cost of the vehicle rental.

This bill changes the definition of "accident" to include a collision, theft or loss of the vehicle, or other upset to the vehicle that is not caused intentionally by the renter. A renter is presumed to not have intentionally caused theft or loss to the vehicle if he or she has possession of the ignition key or establishes that the key was not left in the vehicle when the theft or loss occurred, and the renter files an official report of the theft or loss with law enforcement authorities, and cooperates in any investigation of the theft or loss.

The bill eliminates the 2-day limit on charging storage fees for a vehicle, and eliminates the requirement that a rental agency obtain and furnish a second estimate from competing repair shops before assessing damages against a renter. Rather, under the bill, the rental company must obtain and furnish a second estimate upon request. The bill allows a rental company to use credit available pursuant to a credit card belonging to the rental as a deposit for damages to the vehicle, the cost of the vehicle rental, and any other charges that are agreed to in a rental agreement.

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