

2005 Senate Bill 623

Date of enactment: **March 21, 2006**

Date of publication*: **April 4, 2006**

2005 WISCONSIN ACT 173

AN ACT *to renumber* 100.53 (1) (a); *to amend* 100.53 (2) (a), 100.53 (2) (b), 344.57 (1), 344.574 (2) (a) 2., 344.574 (4) (b), 344.576 (3) (a) (intro.), 344.576 (3) (b), 344.576 (3) (c), 344.578 (1) and 344.579 (3); and *to create* 100.53 (1) (ag), 344.574 (1) (a) 3. and 344.576 (2) (k) of the statutes; **relating to:** damages to rental vehicles, and granting rule-making authority.

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

SECTION 1d. 100.53 (1) (a) of the statutes, as created by 2005 Wisconsin Act 25, is renumbered 100.53 (1) (am).

SECTION 1L. 100.53 (1) (ag) of the statutes is created to read:

100.53 (1) (ag) "Government fee" means any fee charged by a rental company to recover the cost of any fee or charge that is imposed by a government, airport or other transportation authority, or any other government agent that is deemed applicable to the rental of private vehicles in this state.

SECTION 1p. 100.53 (2) (a) of the statutes, as created by 2005 Wisconsin Act 25, is amended to read:

100.53 (2) (a) The statement of the rental rate includes the amount of any title or registration fee or government fee charged by the rental company.

SECTION 1s. 100.53 (2) (b) of the statutes, as created by 2005 Wisconsin Act 25, is amended to read:

100.53 (2) (b) The advertisement or representation includes a statement that the customer must pay a title or registration fee or government fee, and the rental company notifies a customer of the amount of the title or reg-

istration fee or government fee before the customer enters into an agreement with the rental company.

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

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

SECTION 2m. 344.574 (1) (a) 3. of the statutes is created to read:

344.574 (1) (a) 3. Theft of the private passenger vehicle intentionally caused by the renter. A renter is presumed not to have caused the theft intentionally if all of the following apply:

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.

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

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

344.574 (2) (a) 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 during the period before the renter notifies the rental company of the damage to the vehicle or for 14 days after the damage occurs, whichever period is shorter.

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

344.574 (4) (b) Obtains ~~at least 2 estimates from competing repair shops~~ an estimate 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). If requested within 2 working days of giving to the renter or authorized driver the notice required under par. (a), the rental company shall obtain a 2nd estimate from a competing repair shop and make a copy available to the requester.

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

344.576 (2) (k) The damage occurs while the private passenger vehicle is operated by someone other than an authorized driver as defined in s. 344.57 (2). 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. 344.574 (1) (a) 3.

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

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

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

344.576 (3) (b) A rental company that offers or sells a damage waiver shall provide the notice described in par. (a) to each renter before the renter enters into a rental

agreement. ~~The~~ If a separate form is used to give notice under par. (a), the rental company shall give ~~the~~ each renter one copy of the notice signed by ~~the renter~~ him or her and shall retain one copy in its files.

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

344.576 (3) (c) The department of agriculture, trade, and consumer protection shall promulgate rules specifying the form of the notice required under par. (a), including the ~~size of the paper and the type size and any highlighting of the information described in par. (a)~~ and, in the case of a separate form, the size of the paper. The rule may specify additional information that must be included in the notice and the precise language that must be used.

SECTION 9m. 344.578 (1) of the statutes is amended to read:

344.578 (1) PROHIBITED DEPOSITS; COLLECTION OF DAMAGES. ~~A~~ Except as provided in this subsection or in sub. (2), 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 the rental agreement or 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 or if the renter owes any other charges provided for in the rental agreement, 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) or for any other charges provided for in the rental agreement 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 or other charges is determined and before the rental company processes the credit card charge.

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

344.579 (3) DEFENSE. Proof by a rental company that the rental company began an action to impose liability upon a renter or authorized driver, 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)~~ (k) applied is a defense to a prosecution for a violation of the terms of the damage waiver under s. 344.576 (2).