

## Chapter ATCP 118

### CAR RENTALS; NOTICE OF RENTER LIABILITY

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**Note:** Chapter Jus 2 was created as an emergency rule effective March 1, 1991. Chapter ATCP 118 was renumbered from Jus 2, Register, June, 1999, No. 522, eff. 7-1-99.

#### ATCP 118.01 Scope and applicability of chapter.

(1) **PURPOSE.** This chapter is promulgated pursuant to s. 344.576 (3) (c), Stats., to specify the notice which rental companies that offer and sell damage waivers shall provide to renters.

#### (2) DEFINITIONS. In this chapter:

- (a) "Accident" has the meaning specified in s. 344.57 (1), Stats.
- (b) "Authorized driver" has the meaning specified in s. 344.57 (2), Stats.
- (c) "Damage waiver" has the meaning specified in s. 344.57 (3), Stats.
- (d) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.
- (e) "Private passenger vehicle" has the meaning specified in s. 344.57 (4), Stats.
- (f) "Rental agreement" has the meaning specified in s. 344.57 (5), Stats.
- (g) "Rental company" has the meaning specified in s. 344.57 (6), Stats.
- (h) "Renter" has the meaning specified in s. 344.57 (7), Stats.

(3) **APPLICABILITY.** This chapter applies to any rental company that offers a damage waiver relating to a rental agreement for private passenger vehicles rented from locations in this state for a period of 30 consecutive days or less. This chapter does not apply to a rental agreement under which a person rents from a motor vehicle dealer licensed under subch. I of ch. 218, Stats., if the vehicle is rented only for use while the vehicle owned or leased by the person or which the person has agreed to purchase is being serviced, repaired, manufactured, or delivered.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; am. (2) (d), Register, June, 1999, No. 522, eff. 7-1-99; correction in (3) made under s. 13.93 (2m) (b) 7., Stats.; correction in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 2001, No. 543.

#### ATCP 118.02 Notice requirements. Rental companies

that offer and sell damage waivers shall notify prospective renters about liability for damage to a private passenger vehicle as follows:

(1) Rental companies shall conspicuously display in the place where renters customarily sign rental agreements a notice which states in not less than 16-point type bold face and appears in the format as follows:

#### WHAT IF YOU DAMAGE A RENTAL CAR?

We Must Provide You With  
 An Important Notice About Your  
 Liability For Damage To A Rental Car

(2) Rental companies that offer or sell a damage waiver shall provide each renter a written notice having the following form and content. The notice shall be provided to the renter as a separate document, without other text or markings, before the renter 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 with its copy of the rental agreement for a period of six years. After

three years copies may be retained through photographic or electronic procedures. The notice shall:

- (a) Be printed on the face of a single page 8 1/2 by 11 inches in size, with text in 11-point type, except that title and headings shall be capitalized and in 13-point type bold face;
- (b) Contain the following information in the following format.

#### NOTICE ABOUT LIABILITY FOR DAMAGE TO THE RENTAL CAR

The State of Wisconsin requires us to provide the following information about your liability for damage to a rental car and the purchase of a damage waiver.

#### LIABILITY FOR DAMAGE TO THE RENTAL CAR

The rental agreement makes you and any authorized driver liable for any damage to the rental car caused by an accident or intentional, reckless or wanton misconduct. Total liability for any damage is limited to:

- 1) reasonable repair costs, less discounts available to us, or the fair market value of the car, whichever is less, and
- 2) actual and reasonable towing and up to two days storage costs.

#### INSURANCE OR CREDIT CARD COVERAGE

Liability for any damage may be covered by your personal insurance policy or credit card agreement. Check your insurance policy or credit card agreement about coverage.

#### DAMAGE WAIVER COVERAGE

A damage waiver is **not** insurance coverage. If you purchase a damage waiver for \_\_\_\_\_ per day, we will waive our right to hold you or any authorized driver liable for damage. Even if you buy a damage waiver, you and any authorized driver will remain liable for damage if any of the following apply:

- 1) The damage is caused by you, or any authorized driver, intentionally or by reckless or wanton misconduct;
- 2) The damage occurs while you, or any authorized driver, operates the car in this state while under the influence of an intoxicant or other drug, as described by the laws of this state.
- 3) The damage occurs while you, or any authorized driver, operates the car in another state while under the influence of an intoxicant or other drug, as described by the laws of that state.
- 4) The damage occurs while you, or any authorized driver, is engaged in a race, speed, or endurance contest.
- 5) The damage occurs while you or any authorized driver is using, or has directed another to use, the car in the commission of a misdemeanor, or a felony, as defined by s. 939.60, Stats.
- 6) The damage occurs while you, or any authorized driver, use the car to carry persons or property for hire.

- 7) The damage occurs while you or any authorized driver is using the car outside the United States and Canada, unless use outside of these countries is permitted under the rental agreement.
- 8) The damage occurs while the car is operated on a surface not intended for use by private passenger vehicles.
- 9) You provide us misleading or false information in order to rent the car, which causes us to rent you the car when we would not have otherwise done so, or on terms to which we would not have otherwise agreed.
- 10) You, or an authorized driver who was operating the car when an accident occurred, fail to promptly report, to us and the police, the accident resulting in damage to the car.

**NOTICE OF RIGHT TO INSPECT DAMAGE**

If the car is damaged, we may not collect any amount for the damage unless you, or an authorized driver against whom we claim liability, have been promptly notified of your and your insurers' right to inspect the unrepaired car within two working days after we were notified of the damage. If you request, we must also give you copies of two estimates we have obtained from repair shops regarding any damage claim.

**COMPLAINTS**

If you have any complaints about our attempt to hold you liable for damages or would like a copy of the state law that fully sets forth your rights and obligations, contact:

Wisconsin Consumer Protection Bureau  
P.O. Box 8911, Madison, WI 53718-8911  
608-224-4960 (Madison area) or toll-free 1-800-422-7128

Date: \_\_\_\_\_ Renter's Signature \_\_\_\_\_

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; am. (2) (b), Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 118.03 Modification of notice.** In the event a rental agreement is otherwise in full compliance with the provisions of ss. 344.57 to 344.579, Stats., and that agreement contractually limits or eliminates the liability of a renter or authorized driver for one or more of the acts or circumstances itemized in s. 344.576 (2) (a) to (j), Stats., a rental company may modify the required notice provided in connection with that agreement. The modification may be made only to items listed under the "Damage Waiver Coverage" portion of the notice and shall be at least as favorable to the renter as required under the notice specified in s. ATCP 118.02. Any modification made under this section shall differ from the required notice only to the extent necessary to delete items of liability not exempted from coverage under a damage waiver purchased in connection with the rental agreement or to explain a contractually granted limitation on any item.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91; am. Register, June, 1999, No. 522, eff. 7-1-99.

**ATCP 118.04 Violations.** Any person who violates a provision of this chapter is subject to the penalties provided in s. 344.579, Stats.

**History:** Cr. Register, September, 1991, No. 429, eff. 10-1-91.