

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 rental company shall provide the notice to the renter as part of the rental agreement, or as a separate document without other text or markings, before the renter enters into a rental agreement. If a separate document is used, the rental company shall

give each renter one complete copy of the notice signed by that renter and shall retain one complete signed copy with the company's copy of the rental agreement for a period of six years. The rental company may retain its copy in photographic or electronic form. A rental company that retains its copy in photographic or electronic form shall print that copy for the department upon request. The notice shall:

(a) Be printed with text in 11-point type, except that title and headings shall be capitalized and in 13-point type bold face. If a separate document is used, it shall be printed on paper 8 1/2 by 11 inches in size.

(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 by intentional, reckless or wanton misconduct, or by theft that you may have intentionally caused. 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 costs, and for storage costs during the period before you notify the rental company of the damage to the vehicle or for 14 days after the damage occurs, whichever period is shorter.

LIABILITY FOR DAMAGE AFTER THE RENTAL CAR HAS BEEN STOLEN

If a person who drives the rental car without your authorization causes damage to the car, you may be liable for the damage as though you or an authorized person was driving the car unless you do all of the following:

- 1) Refrain from leaving the ignition key in the car when you are not in the car.
- 2) Always keep the ignition key in your possession.
- 3) Immediately report to the local police if you learn the car has been stolen, or that an unauthorized person is driving the car.
- 4) Cooperate fully with the local police by providing any information you know that may be helpful.

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) You cause, or any authorized driver causes, the damage 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 are using, or any authorized driver is using, the car to carry persons or property for hire.
- 7) The damage occurs while you are using, or any authorized driver is using, the car outside the United States and Canada, except as 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.
- 11) The damage is caused by an unauthorized driver if you did not report a theft to the police within 24 hours after you learned the unauthorized driver took possession of the car, did not cooperate with the police in providing information about the theft, or left the ignition key in the car at the time of the theft.

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 a copy of any estimate we have obtained from a repair shop regarding any damage claim. Within 2 working days after receiving that estimate, you may request a second estimate from a competing repair shop and we must give you a copy of the second estimate.

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 53708-8911
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; CR 01-028: am. (2) (b) Register September 2001 No. 549, eff. 10-1-01; CR 04-005: am. (2) Register October 2004 No. 586, eff. 11-1-04; **CR 06-028: am. (2) Register November 2006 No. 611, eff. 12-1-06.**

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.