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# A BILL FOR AN ACT

RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 437D-3, Hawaii Revised Statutes, is  
2 amended by amending the definition of "collision damage waiver"  
3 to read as follows:

4           " [~~"Collision damage]~~ "Damage waiver" means any contract or  
5 contractual provision, whether separate from or a part of a  
6 rental agreement, whereby the lessor agrees, for a charge, to  
7 waive any or all claims against the lessee for any damages to  
8 the rental motor vehicle during the term of the rental  
9 agreement."

10          SECTION 2. Section 437D-4, Hawaii Revised Statutes, is  
11 amended to read as follows:

12          " [~~§~~437D-4 [~~§~~] Rental agreements; delivery to director.  
13 No lessor shall offer a rental agreement or [~~collision]~~ damage  
14 waiver unless a specimen of the rental agreement or [~~collision]~~  
15 damage waiver is delivered to the director prior to its use."

16          SECTION 3. Section 437D-5, Hawaii Revised Statutes, is  
17 amended to read as follows:



1 " [+]§437D-5[+] Rental agreements; [~~collision~~] damage  
2 waivers. (a) Each rental agreement [~~which~~] that contains a  
3 [~~collision~~] damage waiver shall disclose, at a minimum, in plain  
4 language and in at least ten-point boldface type, the following  
5 information:

- 6 (1) That the [~~collision~~] damage waiver is optional;
- 7 (2) That the [~~collision~~] damage waiver entails an  
8 additional charge;
- 9 (3) The actual charge per day for the [~~collision~~] damage  
10 waiver;
- 11 (4) All restrictions, conditions, and provisions in or  
12 endorsed on the [~~collision~~] damage waiver;
- 13 (5) That the lessee may already be sufficiently covered  
14 and should examine the lessee's personal automobile  
15 insurance policy to determine whether it provides  
16 coverage for [~~collision~~] damage and the amount of the  
17 deductible;
- 18 (6) That by entering into the rental agreement, the lessee  
19 may be liable for damage to the rental motor vehicle  
20 resulting from a collision; and
- 21 (7) The acknowledgment described in section 437D-11.



1 (b) The rental agreement shall not contain an unreasonable  
2 restriction, condition, or provision in or endorsed on a  
3 [~~collision~~] damage waiver. The [~~collision~~] damage waiver shall  
4 not exclude damages caused by ordinary negligence on the part of  
5 the lessee."

6 SECTION 4. Section 437D-5.5, Hawaii Revised Statutes, is  
7 amended to read as follows:

8 " [+]§437D-5.5[+] Offers or sales of collision insurance by  
9 lessors or limited line motor vehicle rental company producers.

10 (a) The provisions in this chapter relating to or otherwise  
11 regulating the offer or sale [~~or collision~~] of damage waivers  
12 shall apply to the offer or sale [+]of[+] collision insurance by  
13 lessors or limited line motor vehicle rental company producers.

14 (b) For purposes of this chapter, collision insurance  
15 means coverage to pay a specified amount to or on behalf of the  
16 lessee for claims by the lessor relating to loss of or damage to  
17 the rented vehicle. The definitions of collision insurance and  
18 [~~collision~~] damage waiver stated in this chapter shall apply  
19 only to this chapter. No definition of insurance in this  
20 chapter or in any other statute shall be deemed to include  
21 [~~collision~~] damage waiver as defined in this chapter."



1 SECTION 5. Section 437D-7, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[+]§437D-7[+] Rate disclosure requirements: advertising.

4 Each lessor, and each officer, employee, agency, or other  
5 representative of the lessor, who states or permits to be stated  
6 the rental cost of a rental motor vehicle in any advertisement,  
7 shall state conspicuously, in plain language and in conjunction  
8 with the advertised rental cost of the vehicle, the daily rate  
9 of the applicable [~~collision~~] damage waiver, and that the rate  
10 constitutes an additional daily charge to the lessee. When a  
11 written advertisement, including all print media, contains the  
12 statement of the rental cost of a vehicle, the disclosure  
13 required by this section shall be printed in type no less than  
14 one-third the size of the type used to print the rental cost, or  
15 twelve-point type, whichever is larger. When the video  
16 presentation of a television advertisement contains the  
17 statement of the rental cost of a vehicle, the depiction of the  
18 disclosure required by this section shall be no less than one-  
19 third the size of the depiction of the rental cost. When a  
20 radio advertisement or the audio presentation of a television  
21 advertisement contains the statement of the rental cost of the  
22 vehicle, the oral statement of the rental cost shall be



1 immediately accompanied by an oral statement of the disclosure  
2 required by this section. Except as set forth in this section,  
3 the statement of the rental cost and the disclosure shall be  
4 equally prominent in all respects."

5 SECTION 6. Section 437D-8, Hawaii Revised Statutes, is  
6 amended to read as follows:

7 "[+]§437D-8[+] **Rate disclosure requirements; oral or**  
8 **written statements.** Each lessor, and each officer, employee,  
9 agent, or other representative of the lessor, who makes any oral  
10 statement, excluding telephonic communications, or written  
11 statement of the rental cost of a vehicle, shall disclose, in  
12 plain language and in conjunction with that statement, the daily  
13 rate of the applicable [~~collision~~] damage waiver and that the  
14 rate constitutes an additional daily charge to the lessee."

15 SECTION 7. Section 437D-9, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "[+]§437D-9[+] **Posting requirements.** Except as provided  
18 in section 437D-17, each lessor who offers [~~the collision~~] a  
19 damage waiver shall conspicuously display at the rental area of  
20 each rental location a notice, in plain language and printing,  
21 which includes all of the information in section 437D-5(a)(1),



1 (2), (5), and (6), and a statement that restrictions or  
2 conditions apply."

3 SECTION 8. Section 437D-10, Hawaii Revised Statutes, is  
4 amended to read as follows:

5 "[~~§~~437D-10] Pamphleting requirements. Before the  
6 execution of a rental agreement, each lessor who offers [~~the~~  
7 ~~eollision~~] a damage waiver option to a lessee shall provide to  
8 the lessee a pamphlet, written in plain language, which includes  
9 all of the information described in section 437D-5(a)(1) through  
10 (6). The requirements of this section shall be deemed to be  
11 satisfied if the lessor places the pamphlets prominently and  
12 conspicuously on the rental desk or countertop, or in a wall  
13 holder, where the pamphlets may be easily seen and reached by  
14 lessees and potential lessees."

15 SECTION 9. Section 437D-13, Hawaii Revised Statutes, is  
16 amended to read as follows:

17 "~~§~~437D-13 Notice and posting required concerning motor  
18 vehicle laws. (a) Every lessor shall at all times display [~~at~~  
19 ~~all times~~] a sign or signs in a conspicuous place in [~~each~~] the  
20 main rental [~~motor vehicle offered to the public, a deal,~~] area  
21 of each rental location, written in plain language and in no  
22 less than ten-point type, that informs the lessee of:



1 (1) Hawaii's seat belt and child passenger restraint laws  
2 [and], the prohibition against operating a vehicle  
3 under the influence of an intoxicant, and the  
4 prohibition against leaving a child unattended in a  
5 motor vehicle; and

6 (2) The existence and location of additional information  
7 concerning the laws relating to seat belts, child  
8 passenger restraints, operating a vehicle under the  
9 influence of an intoxicant, and leaving a child  
10 unattended in a motor vehicle.

11 ~~[The requirements and penalties of Hawaii's seat belt laws and~~  
12 ~~child passenger restraint laws, as provided in sections 291-11.5~~  
13 ~~and 291-11.6, and the prohibition against and penalties for~~  
14 ~~operating a vehicle under the influence of an intoxicant, as~~  
15 ~~provided in section 291E-61, and leaving a child unattended in a~~  
16 ~~motor vehicle, as provided in section 291C-121.5, shall be~~  
17 ~~printed on a card which shall be placed in the glove compartment~~  
18 ~~of every rental motor vehicle offered to the public.~~

19 ~~(b) Except as provided in section [437D-17], a sign or~~  
20 ~~signs written in plain language calling attention to the laws~~  
21 ~~referred to in subsection (a) shall be prominently posted in the~~



1 ~~main rental area of all rental locations in a place and manner~~  
2 ~~conspicuous to the public.~~

3 ~~(c) The notices and signs required by this section shall~~  
4 ~~include symbolic representations that are of common~~  
5 ~~understanding and clearly recognizable to the public as~~  
6 ~~conveying the required use of seat belts and child passenger~~  
7 ~~restraint systems in the operation of a motor vehicle and the~~  
8 ~~prohibition against operating a vehicle under the influence of~~  
9 ~~an intoxicant.~~

10 ~~(d) The director shall prescribe the form of the notices~~  
11 ~~and signs required by this section.] "~~

12 SECTION 10. Section 437D-15, Hawaii Revised Statutes, is  
13 amended to read as follows:

14 "§437D-15 **Unfair trade practices.** Each lessor, and each  
15 officer, employee, agent, and other representative thereof, is  
16 prohibited from engaging in any practice constituting a  
17 violation of chapter 480. The following shall be per se  
18 violations of section 480-2:

19 (1) The making of any material statement, either orally or  
20 in writing, that has the tendency or capacity to  
21 mislead or deceive [~~, either orally or in writing,~~] in





- 1 connection with the rental of, offer to rent, or  
2 advertisement to rent a vehicle;
- 3 (2) The omission of any material statement that has the  
4 tendency or capacity to mislead or deceive[7] in  
5 connection with the rental of, offer to rent, or  
6 advertisement to rent a vehicle;
- 7 (3) The making of any statement to the effect that the  
8 purchase of a [~~collision~~] damage waiver is mandatory;
- 9 (4) Any violation of sections 437D-5 through 437D-14, and  
10 section 437D-17.5;
- 11 (5) The charging by the lessor to a lessee of:
- 12 (A) More than the cost of the parts and labor  
13 necessary to repair a damaged vehicle in  
14 accordance with standard practice in the  
15 automobile repair industry in the community, if  
16 the vehicle is repaired;
- 17 (B) More than the actual cash value of a vehicle if  
18 it is declared a total loss; or
- 19 (C) More than the [~~diminution in value of a vehicle~~]  
20 cost of the parts and labor necessary to repair a  
21 damaged vehicle in accordance with standard  
22 practice in the automobile repair industry in the



1                    community if [~~it~~] the vehicle is not repaired and  
2                    not declared a total loss;

3            (6) The making of any statement by the lessor to the  
4            effect that the lessee is or will be confined to  
5            remain within boundaries specified by the lessor  
6            unless payment or an agreement relating to the payment  
7            of damages has been made by the lessee;

8            (7) The charging of a lessee more than a reasonable  
9            estimate of the actual income lost for loss of use of  
10           a vehicle; and

11           (8) The charging of a lessee more than actual towing  
12           charges."

13           SECTION 11. Section 437D-8.6, Hawaii Revised Statutes, is  
14 repealed.

15           [~~"§437D-8.6 Collision damage waiver statistics. Lessors~~  
16 ~~shall submit data or information to the director regarding their~~  
17 ~~sale of collision damage waivers in a given year and amounts~~  
18 ~~expended to repair damage to rental vehicles caused while the~~  
19 ~~vehicles are subject to the collision damage waiver. Lessors~~  
20 ~~shall maintain all records reflecting these statistics. Neither~~  
21 ~~the director, nor any other employee of the department of~~  
22 ~~commerce and consumer affairs, nor any other person appointed by~~



1 ~~the director as provided by law, shall release or divulge any of~~  
2 ~~the information or data required by this section, except as may~~  
3 ~~be required or allowed by rules adopted pursuant to section~~  
4 ~~437D-18." ]~~

5 SECTION 12. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

7 SECTION 13. This Act shall take effect on July 1, 2009.

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INTRODUCED BY:

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**Report Title:**

Motor Vehicle Rental Industry

**Description:**

Changes "collision damage waiver" to "damage waiver". Amends notice and posting requirements for motor vehicle lessors. Amends per se violations of unfair trade practices. Repeals requirement that lessors submit statistics on damage waiver sales to the director of commerce and consumer affairs.

