



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

SB3379

Introduced 5/13/2004, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-305.2

Amends the Illinois Vehicle Code. Deletes language setting a limit of \$2,000 on the liability of a renter for the theft of a rented motor vehicle. Provides that the renter's maximum liability is the fair market value of the vehicle, as determined by the customary market for the sale of the vehicle. Provides that, beginning June 1, 2005, the renter of a vehicle that is damaged shall be liable for the lesser of (i) the actual and reasonable costs that would have been incurred if the vehicle had been repaired or (ii) the fair market value of the vehicle before the damage occurred, as determined in the customary market for the retail sale of that motor vehicle. Effective immediately.

LRB093 22068 DRH 50573 b

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Section 6-305.2 as follows:

6 (625 ILCS 5/6-305.2)

7 Sec. 6-305.2. Limited liability for damage.

8 (a) Damage to private passenger vehicle. A person who rents
9 a motor vehicle to another may hold the renter liable to the
10 extent permitted under subsections (b) through (d) for physical
11 or mechanical damage to the rented motor vehicle that occurs
12 during the time the motor vehicle is under the rental
13 agreement.

14 (b) Limits on liability. The total liability of a renter
15 under subsection (a) for damage to a motor vehicle may not
16 exceed all of the following:

17 (1) The lesser of:

18 (A) Actual and reasonable costs that the person who
19 rents a motor vehicle to another incurred to repair the
20 motor vehicle or that the rental company would have
21 incurred if the motor vehicle had been repaired, which
22 shall reflect any discounts, price reductions, or
23 adjustments available to the rental company; or

24 (B) The fair market value of that motor vehicle
25 immediately before the damage occurred, as determined
26 in the customary market for the retail sale of that
27 motor vehicle; and

28 (2) Actual and reasonable costs incurred by the loss
29 due to theft of the rental motor vehicle ~~up to \$2,000;~~
30 ~~provided, however, that if it is established that the~~
31 ~~renter or an authorized driver failed to exercise ordinary~~
32 ~~care while in possession of the vehicle or that the renter~~

1 ~~or an authorized driver committed or aided and abetted the~~
2 ~~commission of the theft, then the damages shall be the~~
3 ~~actual and reasonable costs of the rental vehicle up to its~~
4 fair market value, as determined by the customary market
5 for the sale of that vehicle.

6 For purposes of this subsection (b), for the period prior
7 to June 1, 1998, the maximum amount that may be recovered from
8 an authorized driver shall not exceed \$6,000; for the period
9 beginning June 1, 1998 through May 31, 1999, the maximum
10 recovery shall not exceed \$7,500; and for the period beginning
11 June 1, 1999 through May 31, 2000, the maximum recovery shall
12 not exceed \$9,000. Beginning June 1, 2000, and annually each
13 June 1 through June 1, 2004 ~~thereafter~~, the maximum amount that
14 may be recovered from an authorized driver shall be increased
15 by \$500 above the maximum recovery allowed immediately prior to
16 June 1 of that year. Beginning June 1, 2005, the maximum amount
17 that may be recovered from an authorized driver is the amount
18 provided in paragraph (1) or (2) of this subsection (b).

19 (c) Multiple recoveries prohibited. Any person who rents a
20 motor vehicle to another may not hold the renter liable for any
21 amounts that the rental company recovers from any other party.

22 (d) Repair estimates. A person who rents a motor vehicle to
23 another may not collect or attempt to collect the amount
24 described in subsection (b) unless the rental company obtains
25 an estimate from a repair company or an appraiser in the
26 business of providing such appraisals on the costs of repairing
27 the motor vehicle, makes a copy of the estimate available upon
28 request to the renter who may be liable under subsection (a),
29 or the insurer of the renter, and submits a copy of the
30 estimate with any claim to collect the amount described in
31 subsection (b).

32 (e) Duty to mitigate. A claim against a renter resulting
33 from damage or loss to a rental vehicle must be reasonably and
34 rationally related to the actual loss incurred. A rental
35 company shall mitigate damages where possible and shall not
36 assert or collect any claim for physical damage which exceeds

1 the actual costs of the repair, including all discounts or
2 price reductions.

3 (f) No rental company shall require a deposit or an advance
4 charge against the credit card of a renter, in any form, for
5 damages to a vehicle which is in the renter's possession,
6 custody, or control. No rental company shall require any
7 payment for damage to the rental vehicle, upon the renter's
8 return of the vehicle in a damaged condition, until after the
9 cost of the damage to the vehicle and liability therefor is
10 agreed to between the rental company and renter or is
11 determined pursuant to law.

12 (g) If insurance coverage exists under the renter's
13 personal insurance policy and the coverage is confirmed during
14 regular business hours, the renter may require that the rental
15 company must submit any claims to the renter's personal
16 insurance carrier as the renter's agent. The rental company
17 shall not make any written or oral representations that it will
18 not present claims or negotiate with the renter's insurance
19 carrier. For purposes of this Section, confirmation of coverage
20 includes telephone confirmation from insurance company
21 representatives during regular business hours. After
22 confirmation of coverage, the amount of claim shall be resolved
23 between the insurance carrier and the rental company.

24 (Source: P.A. 90-113, eff. 7-14-97.)

25 Section 99. Effective date. This Act takes effect upon
26 becoming law.