

# SB3557



## 97TH GENERAL ASSEMBLY

### State of Illinois

2011 and 2012

SB3557

Introduced 2/8/2012, by Sen. Antonio Muñoz

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-305.2

Amends the Illinois Vehicle Code. Provides that if it is established that the renter or an authorized driver is not able to return the original keys to the vehicle (instead of "failed to exercise ordinary care while in possession of the vehicle"), damages for the loss of a rental vehicle due to theft shall be the actual and reasonable costs of the rental vehicle up to its fair market value.

LRB097 17423 HEP 62625 b

A BILL FOR

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

1           (B) The fair market value of that motor vehicle  
2           immediately before the damage occurred, as determined  
3           in the customary market for the retail sale of that  
4           motor vehicle; and

5           (2) Actual and reasonable costs incurred by the loss  
6           due to theft of the rental motor vehicle up to \$2,000;  
7           provided, however, that if it is established that the  
8           renter or an authorized driver is not able to return the  
9           original keys of the vehicle ~~failed to exercise ordinary~~  
10           ~~care while in possession of the vehicle~~ or that the renter  
11           or an authorized driver committed or aided and abetted the  
12           commission of the theft, then the damages shall be the  
13           actual and reasonable costs of the rental vehicle up to its  
14           fair market value, as determined by the customary market  
15           for the sale of that vehicle.

16           For purposes of this subsection (b), for the period prior  
17           to June 1, 1998, the maximum amount that may be recovered from  
18           an authorized driver shall not exceed \$6,000; for the period  
19           beginning June 1, 1998 through May 31, 1999, the maximum  
20           recovery shall not exceed \$7,500; and for the period beginning  
21           June 1, 1999 through May 31, 2000, the maximum recovery shall  
22           not exceed \$9,000. Beginning June 1, 2000, and annually each  
23           June 1 thereafter, the maximum amount that may be recovered  
24           from an authorized driver shall be increased by \$500 above the  
25           maximum recovery allowed immediately prior to June 1 of that  
26           year.

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

4           (d) Repair estimates. A person who rents a motor vehicle to  
5 another may not collect or attempt to collect the amount  
6 described in subsection (b) unless the rental company obtains  
7 an estimate from a repair company or an appraiser in the  
8 business of providing such appraisals on the costs of repairing  
9 the motor vehicle, makes a copy of the estimate available upon  
10 request to the renter who may be liable under subsection (a),  
11 or the insurer of the renter, and submits a copy of the  
12 estimate with any claim to collect the amount described in  
13 subsection (b).

14           (e) Duty to mitigate. A claim against a renter resulting  
15 from damage or loss to a rental vehicle must be reasonably and  
16 rationally related to the actual loss incurred. A rental  
17 company shall mitigate damages where possible and shall not  
18 assert or collect any claim for physical damage which exceeds  
19 the actual costs of the repair, including all discounts or  
20 price reductions.

21           (f) No rental company shall require a deposit or an advance  
22 charge against the credit card of a renter, in any form, for  
23 damages to a vehicle which is in the renter's possession,  
24 custody, or control. No rental company shall require any  
25 payment for damage to the rental vehicle, upon the renter's  
26 return of the vehicle in a damaged condition, until after the

1 cost of the damage to the vehicle and liability therefor is  
2 agreed to between the rental company and renter or is  
3 determined pursuant to law.

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

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