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AB-901 Rental passenger vehicle transactions. (2021-2022)

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Assembly Bill No. 901

CHAPTER 415

An act to amend Sections 1939.09, 1939.19, and 1939.31 of the Civil Code, relating to rental passenger vehicle transactions.

[Approved by Governor September 30, 2021. Filed with Secretary of State September 30, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 901, Calderon. Rental passenger vehicle transactions.

Existing law generally governs the transactions between a rental car company, also referred to as a rental company, and its customers, including, among other provisions, required disclosures by a rental company, mandatory and prohibited contract provisions for a vehicle rental agreement, and authorization for a rental company to collect specific types of fees and charges from its customers. Existing law authorizes a rental company to sell a damage waiver for each rental day and imposes rate limitations on damage waivers based on the category of vehicle.

This bill would set the damage waiver rate limitation for specified categories of vehicle to \$25, and would, commencing January 1, 2023, authorize the rate cap to be adjusted according to the Consumer Price Index for All Urban Consumers (CPI-U), as specified.

Existing law prohibits a rental company from charging a fee for authorized drivers in addition to the rental charge for an individual renter.

This bill would authorize a rental company to charge a fee for an authorized driver, in addition to the rental charge for an individual renter, unless the authorized driver is the renter's spouse, child or person for whom the renter is a legal guardian, sibling, parent, grandparent, employer, or coworker, as specified. The bill would permit a rental company to charge up to twice the authorized driver fee if the rental company learns that an additional driver who was not previously authorized in the rental agreement has driven the rental car.

Under existing law, a rental company's disclosure requirements are satisfied for renters who are enrolled in the rental company's membership program if certain conditions are met, including that the rental company provides a printed rearview mirror hanger to notify the renter of certain information and allow the renter to make prescribed elections. Existing law requires for the operation of the disclosure satisfaction provisions that an employee be present where the renter takes possession of the vehicle, to receive any change in the rental agreement from the renter.

This bill would delete the mirror hanger requirement. The bill would also delete the requirement that an employee be present.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1939.09 of the Civil Code is amended to read:

1939.09. (a) (1) Except as provided in subdivision (b), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (b), every limitation, exception, or exclusion to a damage waiver is void and unenforceable.

(b) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside the United States.

(3) An authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(c) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the location where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental vehicles are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved vehicle: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the vehicle rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with their insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (b), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under their own policy of motor vehicle insurance. The renter shall acknowledge receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, their acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under their own policy of motor vehicle insurance.

(3) (A) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

"NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the vehicle rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions)."

(B) When the notice in subparagraph (A) is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

"The cost of an optional damage waiver is \$_____ for every (day or week)."

(C) When the notice in subparagraph (A) appears on a sign, the following shall appear immediately adjacent to the notice:

"The cost of an optional damage waiver is \$_____ to \$_____ for every (day or week), depending upon the vehicle rented."

(d) Notwithstanding any other law, a rental company may sell a damage waiver for each full or partial 24-hour rental day for the damage waiver, subject to the following rate limitations:

(1) For rental vehicles that the rental company designates as an "economy car," "compact car," "intermediate car," "standard car," "full-size car," or another term having similar meaning to the five smallest body-size categories of vehicles established by the Association of Car Rental Industry Systems Standards for North America when offered for rental, the rate shall not exceed twenty-five dollars (\$25).

(2) Starting January 1, 2023, and each January thereafter, the rate cap shall be increased based on the increase in the Consumer Price Index for All Urban Consumers (CPI-U) over the previous year as reported by the United States Bureau of Labor Statistics.

SEC. 2. Section 1939.19 of the Civil Code is amended to read:

1939.19. (a) When providing a quote, or imposing charges for a rental, the rental company may separately state the rental rate, additional mandatory charges, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, additional mandatory charges, or a mileage charge, as those may be applicable, any other fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle.

(b) If additional mandatory charges are imposed, the rental company shall do each of the following:

(1) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate and all additional mandatory charges, as well as the total charges for the entire rental. The total charges, if provided on an internet website page, shall be displayed in a typeface at least as large as any rental rate disclosed on that page and shall be provided on a page that the person receiving the quote may reach by following a link directly from the page on which the rental rate is first provided. The good faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing the reservation based upon the information provided by the person.

(2) At the time and place the rental commences, clearly and conspicuously disclose in the rental contract, or that portion of the contract that is provided to the renter, the total of the rental rate and additional mandatory charges, for the entire rental, exclusive of charges that cannot be determined at the time the rental commences. Charges imposed pursuant to this paragraph shall be no more than the amount of the quote provided in a confirmed reservation, unless the person changes the terms of the rental contract subsequent to making the reservation.

(3) Provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about additional mandatory charges, as well as access to information about when those charges apply. Any person providing quotes to actual or prospective customers for the hire or lease of a vehicle from a rental company shall provide the quotes in the manner described in paragraph (1).

(c) In addition to the rental rate, taxes, additional mandatory charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(d) A rental company may charge a fee for an authorized driver, in addition to the rental charge for an individual renter, unless the authorized driver is either of the following:

(1) The renter's spouse, as described in paragraph (2) of subdivision (e) of Section 1939.01, the renter's child or person for whom the renter is a legal guardian, the renter's sibling, or the renter's parent or grandparent.

(2) The renter's employer or coworker, as described in paragraph (3) of subdivision (e) of Section 1939.01.

(e) In the event that a rental company learns that an additional driver who was not previously authorized in the rental agreement has driven the rental car, the rental company may charge up to twice the authorized driver fee.

(f) If a rental company states a rental rate in print advertisement or in a quotation, the rental company shall disclose clearly in that advertisement or quotation the terms of mileage conditions relating to the advertised or quoted rental rate, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(g) All rate advertisements shall include a disclaimer, which shall be prominently displayed, providing that additional mandatory charges may be imposed, including, but not limited to, airport fees, tourism fees, vehicle license recovery fees, or other government imposed taxes or fees, and indicating that this information, including an estimate of the total rental cost, is displayed on the rental company's internet website. All rate advertisements shall also include a statement that additional charges may apply if an optional good or service, such as a damage waiver, is purchased.

(h) If any person or entity other than a rental company, including a passenger carrier or a seller of travel services, advertises a rental rate for a vehicle rental that includes additional mandatory charges, that person or entity shall clearly disclose the existence and amount of the charges. If a rental company provides the person or entity with rental rate and additional mandatory charges information, the rental car company is not responsible for the failure of that person or entity to comply with this subdivision.

(i) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(j) Except as otherwise permitted pursuant to the customer facility charge, a rental company shall not separately charge, in addition to the rental rate, a fee for transporting the renter to a location where the rented vehicle will be delivered to the renter.

SEC. 3. Section 1939.31 of the Civil Code is amended to read:

1939.31. (a) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(1) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(A) All of the disclosures required by paragraph (1) of subdivision (c) of Section 1939.09, including the terms and conditions of the rental agreement then in effect.

(B) An internet website address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(2) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that the renter had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(b) This section does not relieve the rental company from the disclosures required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.