

1-1 By: Bohac (Senate Sponsor - Seliger) H.B. No. 2052
1-2 (In the Senate - Received from the House April 20, 2015;
1-3 April 23, 2015, read first time and referred to Committee on
1-4 Business and Commerce; May 12, 2015, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; May 12, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15			X	
1-16	X			

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to loss damage waivers in connection with the rental of
1-20 certain heavy equipment; providing penalties.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subtitle B, Title 5, Business & Commerce Code, is
1-23 amended by adding Chapter 93 to read as follows:

1-24 CHAPTER 93. LOSS DAMAGE WAIVERS FOR RENTAL OF CERTAIN HEAVY
1-25 EQUIPMENT

1-26 Sec. 93.001. DEFINITIONS. In this chapter:

1-27 (1) "Customer" means a person who rents heavy
1-28 equipment under a rental agreement.

1-29 (2) "Heavy equipment" has the meaning assigned by
1-30 Section 23.1241, Tax Code.

1-31 (3) "Heavy equipment loss damage waiver" means a
1-32 merchant's agreement to not hold a customer liable for loss from all
1-33 or part of any damage to heavy equipment.

1-34 (4) "Merchant" means a person who, in the ordinary
1-35 course of business, regularly rents, offers to rent, or arranges
1-36 for the rental of heavy equipment under a rental agreement.

1-37 (5) "Rental agreement" means an agreement under which
1-38 a customer pays a fee or other consideration to rent heavy
1-39 equipment.

1-40 Sec. 93.002. CONTRACT FOR LOSS DAMAGE WAIVER. A customer
1-41 may contract with a merchant for a heavy equipment loss damage
1-42 waiver in connection with a rental agreement.

1-43 Sec. 93.003. RESTRICTIONS ON MERCHANT CONCERNING WAIVER. A
1-44 merchant may not:

1-45 (1) sell a heavy equipment loss damage waiver unless:

1-46 (A) the contract containing the waiver complies
1-47 with this chapter; and

1-48 (B) the customer agrees to the waiver in writing;
1-49 or

1-50 (2) impose or require the purchase of a heavy
1-51 equipment loss damage waiver as a condition of entering into a
1-52 rental agreement.

1-53 Sec. 93.004. REQUIRED NOTICE. A contract that offers a
1-54 heavy equipment loss damage waiver must include the following
1-55 notice:

1-56 "This contract offers an optional loss damage waiver for an
1-57 additional charge to cover your responsibility for loss of or
1-58 damage to the heavy equipment. You do not have to purchase this
1-59 coverage. Before deciding whether to purchase this loss damage
1-60 waiver, you may consider whether your insurance policies afford you
1-61 coverage for loss of or damage to the heavy equipment rented and the

amount of the deductible you would pay under your policies."

Sec. 93.005. STATEMENT OF TOTAL CHARGE. A heavy equipment loss damage waiver agreement must include a statement of the total charge for the waiver.

Sec. 93.006. AUTHORIZED EXCLUSIONS. A heavy equipment loss damage waiver may exclude:

(1) loss of or damage to the heavy equipment that is caused by an unexplained disappearance or abandonment of the heavy equipment;

(2) damage that is intentionally caused by the customer; or

(3) damage that results from the customer's wilful or wanton misconduct.

Sec. 93.007. RELATIONSHIP TO INSURANCE. A heavy equipment loss damage waiver is not insurance.

Sec. 93.008. CIVIL PENALTY. A merchant that violates this chapter is liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each act of violation.

Sec. 93.009. INJUNCTIVE RELIEF. A person injured or threatened with injury by a violation of this chapter may seek injunctive relief against the person committing or threatening to commit the violation.

Sec. 93.010. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF. The attorney general or a county or district attorney may bring an action in the name of the state for a civil penalty under Section 93.008, injunctive relief under Section 93.009, or both.

SECTION 2. The change in law made by this Act applies only to a rental agreement entered into on or after the effective date of this Act. A rental agreement entered into before the effective date of this Act is governed by the law in effect when the rental agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2015.

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