

1-1 By: Paxton S.B. No. 1778
1-2 (In the Senate - Filed March 6, 2019; March 18, 2019, read
1-3 first time and referred to Committee on Business & Commerce;
1-4 April 24, 2019, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 24, 2019,
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1778 By: Paxton

1-19 A BILL TO BE ENTITLED
1-20 AN ACT

1-21 relating to excess wear and use waivers in connection with the lease
1-22 of motor vehicles; providing a civil penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle B, Title 5, Business & Commerce Code, is
1-25 amended by adding Chapter 94 to read as follows:

1-26 CHAPTER 94. EXCESS WEAR AND USE WAIVERS FOR LEASES OF MOTOR
1-27 VEHICLES

1-28 Sec. 94.001. DEFINITIONS. In this chapter:

1-29 (1) "Excess wear and use waiver" means a provision of
1-30 or addendum to a lease agreement under which the lessor agrees to
1-31 not hold a lessee liable for all or part of the excess wear and use
1-32 to a motor vehicle.

1-33 (2) "Lease agreement" means an agreement, including
1-34 any addendum to the agreement, entered into in this state under
1-35 which a lessee pays a fee or other consideration to a lessor for the
1-36 right to possession and use of a motor vehicle for a term of more
1-37 than 180 days, regardless of whether the agreement provides the
1-38 lessee an option to purchase or otherwise become the owner of the
1-39 motor vehicle upon the expiration of the term of the agreement.

1-40 (3) "Lessee" means an individual who acquires the
1-41 right to possession and use of a motor vehicle under a lease
1-42 agreement primarily for personal, family, or household purposes.

1-43 (4) "Lessor" means a person who, in the ordinary
1-44 course of business, regularly leases, offers to lease, or arranges
1-45 for the lease of a motor vehicle under a lease agreement. Unless
1-46 the context clearly indicates otherwise, the term includes an
1-47 assignee of the lessor.

1-48 (5) "Motor vehicle" has the meaning assigned by
1-49 Section 541.201, Transportation Code.

1-50 Sec. 94.002. CONTRACT FOR EXCESS WEAR AND USE WAIVER. A
1-51 lessee may contract with a lessor for an excess wear and use waiver
1-52 in connection with a lease agreement.

1-53 Sec. 94.003. RESTRICTIONS ON LESSOR CONCERNING EXCESS WEAR
1-54 AND USE WAIVER. A lessor may not:

1-55 (1) sell an excess wear and use waiver, unless:

1-56 (A) the lease agreement containing the excess
1-57 wear and use waiver complies with this chapter; and

1-58 (B) the lessee agrees to the excess wear and use
1-59 waiver in writing; or

1-60 (2) impose or require the purchase of an excess wear

2-1 and use waiver as a condition of entering into a lease agreement.
2-2 Sec. 94.004. REQUIRED NOTICE. An excess wear and use waiver
2-3 must be in writing and include a notice substantially similar to the
2-4 following:

2-5 "This excess wear and use waiver is optional, is not a
2-6 condition of leasing the vehicle, and is being provided for an
2-7 additional charge to cover your responsibility for any excess wear
2-8 and use to the leased vehicle."

2-9 Sec. 94.005. REQUIRED DISCLOSURES. A lease agreement that
2-10 includes an excess wear and use waiver must disclose:

2-11 (1) the total charge for the excess wear and use
2-12 waiver; and

2-13 (2) any exclusions or limitations on the amount of
2-14 excess wear and use that may be waived under the excess wear and use
2-15 waiver.

2-16 Sec. 94.006. RELATIONSHIP TO INSURANCE. An excess wear and
2-17 use waiver is not insurance.

2-18 Sec. 94.007. CIVIL PENALTY. A lessor that violates this
2-19 chapter is liable for a civil penalty in an amount of not less than
2-20 \$500 or more than \$1,000 for each violation.

2-21 Sec. 94.008. INJUNCTIVE RELIEF. A person injured or
2-22 threatened with injury by a violation of this chapter may seek
2-23 injunctive relief against the person committing or threatening to
2-24 commit the violation.

2-25 Sec. 94.009. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF.
2-26 The attorney general or a county or district attorney may bring an
2-27 action in the name of the state for a civil penalty under Section
2-28 94.007, injunctive relief under Section 94.008, or both.

2-29 SECTION 2. The change in law made by this Act applies only
2-30 to a lease agreement entered into on or after the effective date of
2-31 this Act. A lease agreement entered into before the effective date
2-32 of this Act is governed by the law in effect on the date the lease
2-33 agreement was entered into, and the former law is continued in
2-34 effect for that purpose.

2-35 SECTION 3. This Act takes effect September 1, 2019.

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