

# MAINE STATE LEGISLATURE

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# 115th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1991

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Legislative Document

No. 1022

H.P. 717

House of Representatives, March 11, 1991

Received by the Clerk of the House on March 7, 1991. Referred to the Committee on Banking and Insurance and 1400 ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative KETOVER of Portland.

Cosponsored by Representative RYDELL of Brunswick, Representative CARLETON of Wells and Senator KANY of Kennebec.

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STATE OF MAINE

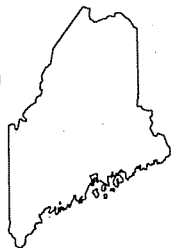
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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND NINETY-ONE

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**An Act Concerning Collision Damage Waiver on Automobile Rental Agreements.**

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2 Be it enacted by the People of the State of Maine as follows:

4 Sec. 1. 10 MRSA c. 204-B is enacted to read:

6 CHAPTER 204-B

8 MAINE COLLISION DAMAGE WAIVER ACT

10 §1195. Title

12 This chapter may be known and cited as the "Maine Collision  
Damage Waiver Act."

14 §1196. Scope

16 This Act applies to all persons and organizations renting  
private passenger vehicles from locations in this State for no  
more than 30 days.

20 §1197. Definitions

22 As used in this chapter, unless the context otherwise  
indicates, the following terms have the following meanings.

24 1. Authorized driver. "Authorized driver" means:

26 A. The renter;

28 B. The renter's spouse, if that person is a licensed driver  
meeting the rental company's minimum age requirement;

32 C. The renter's employer or coworker, if that person is  
engaged in business activity with the renter and is a  
licensed driver meeting the rental company's minimum age  
requirement;

36 D. A person who operates the vehicle during an emergency or  
while parking the vehicle in the course of that person's  
employment at a commercial establishment; or

40 E. A person listed by the rental company on the rental  
agreement as an authorized driver.

42 2. Damage. "Damage" means any damage or loss to the rented  
vehicle, including loss of use and any expenses incident to the  
damage or loss.

44 3. Private passenger vehicle. "Private passenger vehicle"  
means a motor vehicle, including, but not limited to, an  
automobile, passenger van or minivan primarily intended for  
transport of persons or a truck rented by a private,  
noncommercial authorized driver primarily for transporting  
furniture or other personal belongings.

2           4. Rental agreement. "Rental agreement" means a written  
4           agreement setting forth the terms and conditions governing the  
          use of a private passenger vehicle provided by a rental company.

6           5. Rental company. "Rental company" means any person or  
8           organization in the business of providing private passenger  
          vehicles to the public.

10          6. Renter. "Renter" means any person or organization  
12          obtaining the use of a private passenger vehicle from a rental  
          company under the terms of a rental agreement.

14          §1198. Practices prohibited

16          1. Authorized driver liability; exceptions. In rental  
18          agreements of no more than 30 continuous days, a rental company  
          may not hold an authorized driver liable for any damage, except  
20          when:

22           A. The damage is caused intentionally by an authorized  
24           driver or as a result of the driver's willful and wanton  
          misconduct;

26           B. The damage arises out of an authorized driver's  
28           operation of the vehicle while operating under the influence  
          of intoxicating liquor as defined in Title 29, chapter 11,  
          subchapter V or under the influence of any drug that impairs  
30           the ability to drive a motor vehicle;

32           C. The damage is caused while the authorized driver is  
34           engaged in any speed contest regardless of whether the  
          lawful speed limit is exceeded. Exceeding the lawful speed  
          limit does not, by itself, constitute a speed contest;

36           D. The rental transaction is based on information supplied  
38           by the renter with the intent to defraud the rental company;

40           E. The damage arises out of the use of the vehicle by an  
42           authorized driver while committing or otherwise engaged in a  
          criminal act in which the automobile usage is substantially  
          related to the criminal activity excluding minor traffic  
44           violations;

46           F. The damage arises out of the use of the vehicle by an  
          authorized driver to carry persons or property for hire; or

48           G. The damage arises out of the use of the vehicle by an  
50           authorized driver outside of the United States or Canada  
          unless this use is specifically authorized by the rental  
          agreement.

2     2. Jurisdiction. An action for damage may not be brought by a  
3     rental company against a renter who is a resident of the United  
4     States except in the county of the renter's primary residence.

6     3. Deposit prohibited. A deposit in any form for damages may  
7     not be required or requested by the rental company during the rental  
8     period or pending resolution of any dispute.

10    4. Waiver. A waiver may not be offered to provide coverage for  
11    any of the exceptions in subsection 1 or, if applicable, a deductible.

12    §1199. Civil forfeiture; unfair trade practice violation

14  
15    A person who engages in any act prohibited by this chapter  
16    commits a civil violation for which a forfeiture of at least \$200,  
17    but not more than \$500, for the first offense and at least \$500, but  
18    no more than \$1,000, for each subsequent offense must be adjudged.  
19    In addition to the civil penalty provided in this section, a  
20    violation of this chapter constitutes a violation of Title 5, chapter  
21    10.

22    §1200. Contract provisions

24  
25    If the definition of authorized driver in a contract is different  
26    from the definition in section 1197, subsection 1, the definition in  
27    the contract prevails.

28    Sec. 2. Effective date. This Act takes effect January 1, 1992.  
30

32                                    STATEMENT OF FACT

34  
35    This bill prevents car rental companies from taking advantage of  
36    consumers who rent vehicles for no more than 30 days by creating a  
37    contractual liability for collision damage and then selling a waiver  
38    of liability for damages that in most cases the consumer's personal  
39    automobile insurance already provides. This bill prohibits the  
40    rental company from holding the renter liable for damages to a rented  
41    vehicle except under certain conditions.  
42