

ASSEMBLY BILL NO. 177—ASSEMBLYMAN OCEGUERA

FEBRUARY 16, 2009

Referred to Committee on Transportation

SUMMARY—Revises provisions concerning short-term leases of passenger cars. (BDR 43-194)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to motor vehicles; authorizing a short-term lessor and short-term lessee of a passenger car to agree that the lessee will be responsible for certain damages to the car under certain circumstances; authorizing a short-term lessor to exclude from a waiver of damages losses resulting from the theft of a leased car if the theft is committed by an authorized driver or by a person aided or abetted by an authorized driver; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law governing the business of short-term leases of passenger
2 cars, the lessor and lessee may agree on the extent of the lessee’s financial
3 responsibility if the leased car is damaged during the term of the lease. (NRS
4 482.3154, 482.31545) **Section 3** of this bill authorizes the lessee and lessor to agree
5 that the lessee will be responsible for: (1) damages to a leased car from theft and
6 vandalism even if the lessee is not at fault; and (2) the diminished value of a leased
7 car resulting from physical or mechanical damage to the car for which the lessee is
8 liable. “Diminished value,” as defined in **section 1** of this bill, is the decrease in the
9 fair market value of a car that has been damaged from what the car would have
10 been worth if it had not been damaged and what it is likely to be worth if the
11 damage is repaired properly.

12 A short-term lessor may offer the lessee of a passenger car the opportunity to
13 purchase a “waiver of damages” that relieves the lessee from financial
14 responsibility for certain kinds of damage to the car. (NRS 482.3153, 482.3155-
15 482.31565) **Section 5** of this bill authorizes a lessor to exclude from such a waiver
16 any damages or loss attributable to the theft of the leased car if the theft is
17 committed by the lessee or other authorized driver or by a person aided or abetted
18 by such a driver.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 482 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 *“Diminished value” means the difference between:*

4 1. *The fair market value of a passenger car that has been*
5 *damaged but repaired properly; and*

6 2. *What the fair market value of the same passenger car*
7 *would have been had the car not been damaged at all.*

8 **Sec. 2.** NRS 482.3151 is hereby amended to read as follows:

9 482.3151 As used in NRS 482.3151 to 482.3159, inclusive,
10 *and section 1 of this act*, unless the context otherwise requires, the
11 words and terms defined in NRS 482.31515 to 482.3153, inclusive,
12 *and section 1 of this act* have the meanings ascribed to them in
13 those sections.

14 **Sec. 3.** NRS 482.31535 is hereby amended to read as follows:

15 482.31535 1. Except as otherwise provided in NRS
16 482.3154, a short-term lessor and a short-term lessee of a passenger
17 car may agree that the lessee will be responsible for:

18 (a) Physical damage to the car, up to and including its fair
19 market value, regardless of the cause of the damage.

20 (b) Mechanical damage to the car, up to and including its fair
21 market value, resulting from:

22 (1) A collision;

23 (2) An impact; or

24 (3) Any other type of incident,

25 ↳ that is caused by a deliberate or negligent act or omission on the
26 part of the lessee.

27 (c) Loss resulting from theft of the car, up to and including its
28 fair market value . ~~[, except that the lessee is presumed to have no~~
29 ~~liability for any loss resulting from theft if an authorized driver:~~

30 ~~—— (1) Has possession of the ignition key furnished by the lessor~~
31 ~~or establishes that the ignition key furnished by the lessor was not in~~
32 ~~the car at the time of the theft; and~~

33 ~~—— (2) Files an official report of the theft with an appropriate~~
34 ~~law enforcement agency within 24 hours after learning of the theft~~
35 ~~and cooperates with the lessor and the law enforcement agency in~~
36 ~~providing information concerning the theft.~~

37 ~~↳ The lessor may rebut the presumption set forth in this paragraph~~
38 ~~by establishing that an authorized driver committed or aided and~~
39 ~~abetted the commission of the theft.]~~

40 (d) Physical damage to the car, up to and including its fair
41 market value, resulting from vandalism . ~~[occurring after or in~~
42 ~~connection with the theft of the car, except that the lessee has no~~



1 ~~liability for any damage resulting from vandalism if the lessee has~~
2 ~~no liability for theft pursuant to paragraph (e).~~

3 ~~—(e) Physical damage to the car and loss of use of the car, up to~~
4 ~~\$500, resulting from vandalism not related to the theft of the car and~~
5 ~~not caused by the lessee.]~~

6 *(e) The diminished value of the car resulting from any*
7 *physical or mechanical damage for which the lessee is liable.*

8 (f) Loss of use of the car if the lessee is liable for damage or
9 loss.

10 (g) Actual charges for towing and storage and impound fees
11 paid by the lessor if the lessee is liable for damage or loss.

12 (h) An administrative charge that includes the cost of appraisal
13 and other costs incident to the damage, loss, loss of use, repair or
14 replacement of the car.

15 2. For the purposes of this section, the fair market value must
16 be determined in the customary market for the sale of the leased
17 passenger car.

18 **Sec. 4.** NRS 482.3154 is hereby amended to read as follows:

19 482.3154 1. The total amount of the short-term lessee's
20 liability to the short-term lessor resulting from damage to a leased
21 passenger car must not exceed the sum of the following:

22 (a) The estimated cost for parts that the short-term lessor would
23 have to pay to replace damaged parts. Any discount, price reduction
24 or adjustment received by the lessor must be subtracted from the
25 estimate to the extent not already incorporated in the estimate or
26 promptly credited or refunded to the short-term lessee.

27 (b) The estimated cost of labor to replace damaged parts of the
28 passenger car, which must not exceed the product of:

29 (1) The rate of labor usually paid by the lessor to replace
30 parts of the type that were damaged; and

31 (2) The estimated time for replacement.

32 ↪ Any discount, price reduction or adjustment received by the
33 short-term lessor must be subtracted from the estimate to the extent
34 not already incorporated in the estimate or promptly credited or
35 refunded to the lessee.

36 (c) The estimated cost of labor to repair damaged parts of the
37 passenger car, which must not exceed the lesser of:

38 (1) The product of the rate for labor usually paid by the
39 short-term lessor to repair parts of the type that were damaged and
40 the estimated time for repair; or

41 (2) The sum of the costs for estimated labor and parts
42 determined pursuant to paragraphs (a) and (b) to replace the same
43 parts.

44 ↪ Any discount, price reduction or adjustment received by the
45 short-term lessor must be subtracted from the estimate to the extent



1 not already incorporated in the estimate or promptly credited or
2 refunded to the lessee.

3 (d) *The diminished value of the passenger car.*

4 (e) Except as otherwise provided in subsection 2, the loss of use
5 of the leased passenger car, which must not exceed the product of:

6 (1) The rate for the car stated in the short-term lessee's lease,
7 excluding all optional charges; and

8 (2) The total of the estimated time for replacement and the
9 estimated time for repair. For the purpose of converting the
10 estimated time for repair into the same unit of time in which the rate
11 of the lease is expressed, a day shall be deemed to consist of 8
12 hours.

13 ~~(e)~~ (f) Actual charges for towing and storage and impound fees
14 paid by the short-term lessor.

15 2. Under any of the circumstances described in NRS
16 482.31555, the short-term lessor's loss of use of the passenger car
17 must not exceed the product of:

18 (a) The rate for the car stated in the short-term lessee's lease,
19 excluding all optional charges; and

20 (b) The period from the date of an accident to the date the car is
21 ready to be returned to service if the lessor uses his best efforts to
22 repair and return the car to service as soon as practicable.

23 3. An administrative charge pursuant to paragraph (h) of
24 subsection 1 of NRS 482.31535 must not exceed:

25 (a) Fifty dollars if the total estimated cost for parts and labor is
26 more than \$100 and less than or equal to \$500.

27 (b) One hundred dollars if the total estimated cost for parts and
28 labor is more than \$500 and less than or equal to \$1,500.

29 (c) One hundred and fifty dollars if the total estimated cost for
30 parts and labor is more than \$1,500.

31 ↪ No administrative charge may be imposed if the total estimated
32 cost of parts and labor is \$100 or less.

33 **Sec. 5.** NRS 482.31555 is hereby amended to read as follows:

34 482.31555 A short-term lessor may provide in a lease of a
35 passenger car that a waiver of damages does not apply in the
36 following circumstances:

37 1. Damage or loss resulting from an authorized driver's:

38 (a) Intentional, willful, wanton or reckless conduct.

39 (b) Operation of the car in violation of NRS 484.379.

40 (c) Towing or pushing with the car.

41 (d) Operation of the car on an unpaved road if the damage or
42 loss is a direct result of the road or driving conditions.

43 2. Damage or loss occurring when the passenger car is:

44 (a) Used for hire.

45 (b) Used in connection with conduct that constitutes a felony.



1 (c) Involved in a speed test or contest or in driver training
2 activity.

3 (d) Operated by a person other than an authorized driver.

4 (e) Operated in a foreign country or outside of the States of
5 Nevada, Arizona, California, Idaho, Oregon and Utah, unless the
6 lease expressly provides that the passenger car may be operated in
7 other locations.

8 3. An authorized driver providing:

9 (a) Fraudulent information to the short-term lessor.

10 (b) False information to the lessor and the lessor would not have
11 leased the passenger car if he had received true information.

12 ***4. Damage or loss resulting from the theft of the passenger
13 car if committed by an authorized driver or a person aided or
14 abetted by an authorized driver. A theft is presumed to have been
15 committed by a person other than an authorized driver or a person
16 aided or abetted by an authorized driver if the short-term lessee of
17 the car:***

18 ***(a) Has possession of the ignition key furnished by the lessor
19 or establishes that the ignition key furnished by the lessor was not
20 in the car at the time of the theft; and***

21 ***(b) Files an official report of the theft with an appropriate law
22 enforcement agency within 24 hours after learning of the theft
23 and cooperates with the lessor and the law enforcement agency in
24 providing information concerning the theft.***

25 ***↳ The lessor may rebut the presumption set forth in this
26 subsection by establishing that an authorized driver committed or
27 aided and abetted another person in the commission of the theft.***

