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BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 384

Sponsor: Senator Michael O'Brien

Committee: Commerce and Technology

Date Completed: 5-2-89

SUMMARY OF SENATE BILL 384 as introduced 4-27-89:

The bill would create the "Collision Damage Waiver Act" to limit the liability of persons who rent motor vehicles and specify penalties for violation of the bill. The bill would take effect 90 days after it was enacted into law.

Under the bill, a rental company, in rental agreements of 30 continuous days or less, could not hold the authorized driver liable for any damage to, including loss of use of, the motor vehicle except for damage:

- Caused intentionally by the driver as a result of his or her willful and wanton misconduct.
- Arising out of an authorized driver's operation of the motor vehicle while intoxicated or under the influence of any controlled substance.
- Caused while the authorized driver was engaged in a speed contest.
- Arising out of the use of the vehicle while committing or otherwise engaged in a criminal act in which the automobile usage was substantially related to the nature of the criminal activity.
- Arising out of the use of the motor vehicle to carry persons or property for hire.
- Arising out of the use of the vehicle outside the United States or Canada unless the use was specifically authorized in the rental agreement.

In addition, the bill provides that a renter, i.e. the individual or organization who rented a private passenger vehicle from a rental company, could be held liable for damages to the vehicle if the rental transaction were based on information supplied by the renter with the intent to defraud the rental company. Moreover, the bill specifies that waivers could not be offered to provide coverage for any damages for which an authorized driver could be held liable by a rental company.

The bill specifies that an action for damages could not be brought by a rental company against a renter who was a United State resident except in the state and county of the renter's primary residence, and a rental company could not require or request security or deposit for damages during the rental period or pending

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resolution of any dispute.

Each violation of the bill would be punishable by a fine of at least \$500 but not more than \$1,000.

The term "authorized driver" would mean the person to whom the motor vehicle was rented; the person's spouse if he or she were a licensed driver and met the rental company's minimum age requirement; the person's coworker or employer if he or she were a licensed driver, met the rental company's minimum age requirement, and were engaged in business activity with the person who rented the vehicle; a person who operated the vehicle during an emergency situation or while parking the vehicle at a commercial establishment; or a person listed as an authorized driver on the rental agreement by the rental company.

Legislative Analyst: L. Burghardt

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State government and no fiscal impact on local government. The number of violations and the dollar amount of the fines that would be assessed cannot be determined.

Fiscal Analyst: J. Schultz

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