

SESSION OF 2006

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2159**

As Amended by House Committee on  
Insurance

**Brief\***

HB 2159 would amend provisions of the Kansas Collision Damage Waiver Act, part of the Kansas Consumer Protection law. Specifically, the bill would create a new definition: authorized driver. "Authorized driver" would mean:

- The lessee;
- The lessee's spouse, if the spouse is a licensed driver and meets the lessor's minimum age requirement;
- Any person who operates a motor vehicle during an emergency situation; and
- Any person listed by the lessor on the lessee's contract as an authorized driver.

The bill also would create the following additional exclusions under the collision damage waiver when:

- The rental transaction is based on fraudulent information supplied by the renter;
- The damage arises out of the use of the vehicle while committing or otherwise engaged in a criminal act that would be a felony in which the use of the automobile is substantially related to the nature of the criminal activity;
- The damage arises out of the use of the vehicle to carry persons or property for hire;
- The damage occurs while the vehicle is operated by someone other than the authorized driver;

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- The damage occurs during the use of the vehicle outside of the United States unless such use is authorized by the rental agreement;
- Towing or pushing anything, or operating the vehicle off road; and
- Loss is due to the theft of the rental vehicle.

The bill also would amend the current exclusions by replacing the term “lessee” with “authorized driver” and by specifying that damages caused by the authorized driver of the rental motor vehicle while driving intoxicated or under the influence of an illegal or unauthorized drug, or combination of alcohol and any drug, are excluded.

The lessee would be presumed to have no liability from any loss due to theft if: An authorized driver has possession of the ignition key furnished by the lessor, has proof that keys to the rental motor vehicle were taken by duress, or an authorized driver establishes that the key was not in the vehicle at the time of the theft and; an authorized driver files an official report of theft with the police or another law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the police or agency in providing information about the theft. Finally, the bill also would allow that the presumption regarding loss due to theft is a presumption affecting the burden of proof which the lessor may rebut by establishing that an authorized driver committed, aided, or abetted the commission of the theft.

## **Background**

HB 2159 was introduced by the House Insurance Committee at the request of Enterprise Leasing Company whose representative indicated that the bill would ensure that the collision damage waiver gives protection to the renter and also would enact additional reasonable, common-sense restrictions on the waiver to ensure further social responsibility upon the renter. There were no opponents to the bill at the House Committee hearing.

The House Committee on Insurance amended the bill to replace some of the references to “lessee” with the new term defined in the bill, “authorized driver.” Current waiver exclusions were amended to define drugs as those that are illegal or unauthorized. Another amendment

specified that a criminal act would be a felony in the exclusion provision for damages arising out of use of the vehicle when committing the act. Additional amendments were adopted to clarify off road activities and to allow for the authorized driver to provide proof that the keys to the rental motor vehicle were taken while under duress.

The fiscal note prepared by the Division of the Budget on the introduced version of the bill indicates that passage of the bill would have no fiscal effect on the Kansas Insurance Department. Because the number of instances where damage to a rental vehicle would be excluded from a collision damage waiver is not known, the Department could not estimate the possible fiscal effect on consumers and motor vehicle rental companies.