

106TH CONGRESS
1ST SESSION

H. R. 1954

To regulate motor vehicle insurance activities to protect against retroactive regulatory and legal action and to create fairness in ultimate insurer laws and vicarious liability standards.

IN THE HOUSE OF REPRESENTATIVES

MAY 26, 1999

Mr. BRYANT (for himself, Mr. OXLEY, Mr. BURR of North Carolina, Mr. LARGENT, Mr. SHADEGG, Mr. PICKERING, and Mr. COBURN) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To regulate motor vehicle insurance activities to protect against retroactive regulatory and legal action and to create fairness in ultimate insurer laws and vicarious liability standards.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Rental Fairness Act of 1999”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. No additional insurance commissioner authority created.

Sec. 3. Definitions.

TITLE I—REGULATION OF MOTOR VEHICLE RENTAL INSURANCE
AGENCY ACTIVITIES

Sec. 101. Findings and purposes.

Sec. 102. Standard of regulation for motor vehicle rentals.

Sec. 103. Sunset.

TITLE II—ULTIMATE INSURER AND VICARIOUS LIABILITY
FAIRNESS

Sec. 201. Findings and purposes.

Sec. 202. General fairness and responsibility rule.

Sec. 203. State minimum financial responsibility laws for motor vehicles.

Sec. 204. Applicability and effective date.

1 **SEC. 2. NO ADDITIONAL INSURANCE COMMISSIONER AU-**
2 **THORITY CREATED.**

3 This Act shall not create any new authority for a
4 State insurance commissioner or other appropriate insur-
5 ance regulator of such State to issue a regulation, order,
6 or other statutorily authorized interpretation or action
7 governing the provisions of this Act except in accordance
8 with the relevant State insurance law.

9 **SEC. 3. DEFINITIONS.**

10 For purposes of this Act:

11 (1) CLAIMANT.—The term “claimant” means
12 any person who brings a civil action for any theory
13 of harm caused by a motor vehicle or the use of a
14 motor vehicle and any person on whose behalf such
15 an action is brought.

16 (2) HARM.—The term “harm” means any phys-
17 ical injury, illness, disease, or death or damage to
18 property caused by a motor vehicle.

1 (3) MOTOR VEHICLE.—The term “motor vehi-
2 cle” shall have the meaning given to this term under
3 section 13102(14) of title 49, United States Code.

4 (4) OWNER.—The term “owner” means—

5 (A) a person who is a record or beneficial
6 owner or long-term lessee of a motor vehicle;

7 (B) a person entitled to the use and pos-
8 session of a motor vehicle subject to a security
9 interest in another person; or

10 (C) a lessee or bailee of a motor vehicle, in
11 the trade or business of renting or leasing
12 motor vehicles, having the use or possession
13 thereof under a lease, bailment, or otherwise.

14 (5) PERSON.—The term “person” means any
15 individual, corporation, company, limited liability
16 company, trust, association, firm, partnership, soci-
17 ety, joint stock company, or any other entity (includ-
18 ing any governmental entity).

19 **TITLE I—REGULATION OF**
20 **MOTOR VEHICLE RENTAL IN-**
21 **SURANCE AGENCY ACTIVI-**
22 **TIES**

23 **SEC. 101. FINDINGS AND PURPOSES.**

24 The Congress finds that—

1 (1) State regulation of insurance continues to
2 be in the public interest, as affirmed by the
3 McCarran-Ferguson Act;

4 (2) where States have laws which regulate the
5 business of insurance, those State laws should not be
6 invalidated, impaired, or superseded by any con-
7 struction of a Federal Act of Congress unless such
8 Act specifically relates to the business of insurance;

9 (3) for those States which have not yet imple-
10 mented regulations explicitly governing the sale of
11 short term insurance offered with the rental of a
12 motor vehicle, it may be appropriate to prohibit
13 third-parties from enforcing on a retroactive basis
14 general licensure requirements against those who so-
15 licit the purchase of or sell such insurance; and

16 (4) many States are now considering such legis-
17 lation and the relief against such actions offered by
18 this title should thus expire once the States have
19 had a reasonable opportunity to consider appropriate
20 legislation.

21 **SEC. 102. STANDARD OF REGULATION FOR MOTOR VEHI-**
22 **CLE RENTALS.**

23 (a) PROTECTION AGAINST THE RETROACTIVE APPLI-
24 CATION OF REGULATORY AND LEGAL ACTION.—Except
25 as required by subsection (b), it shall be presumed that

1 no State law imposes any licensing, appointment, or edu-
2 cation requirements on any person who solicits the pur-
3 chase of or sells insurance connected with and incidental
4 to a rental transaction of a motor vehicle.

5 (b) PREEMINENCE OF STATE INSURANCE LAW.—

6 Nothing in this section shall alter the validity, interpreta-
7 tion, construction, or effect of—

8 (1) any State statute,

9 (2) the prospective application of any court
10 judgment interpreting or apply any State statute, or

11 (3) the prospective application of any final
12 State regulation, order, bulletin, or other statutorily
13 authorized interpretation, or action,

14 which, by its specific terms, expressly regulates or exempts
15 from regulation any person or entity which solicits the
16 purchase of or sells insurance connected with and inci-
17 dental to a short term lease or rental transaction of a
18 motor vehicle.

19 (c) DEFINITION.—For purposes of this section, a per-
20 son shall be considered to be soliciting the purchase of
21 or selling insurance connected with and incidental to a
22 rental transaction of a motor vehicle if the rental trans-
23 action is for a total period of 90 consecutive days or less,
24 and the insurance is provided for a period of consecutive
25 days not exceeding the length of the rental.

1 **SEC. 103. SUNSET.**

2 This title shall expire 3 years after the date of its
3 enactment.

4 **TITLE II—ULTIMATE INSURER**
5 **AND VICARIOUS LIABILITY**
6 **FAIRNESS**

7 **SEC. 201. FINDINGS AND PURPOSES.**

8 The Congress finds that—

9 (1) the vast majority of State statutes and com-
10 mon law follow the generally accepted principle of
11 law that a party should be held liable only for harm
12 that the party could guard against;

13 (2) a small number of State common laws and
14 statutes still do not recognize this accepted principle
15 of law, and continue to subject companies that rent
16 or lease motor vehicles to vicarious liability for the
17 negligence of their rental customers in operating the
18 motor vehicle simply because of the company's own-
19 ership, even where the rental company has not been
20 negligent in any way and the motor vehicle operated
21 perfectly;

22 (3) an even smaller minority of State laws con-
23 tinue to force companies that rent or lease motor ve-
24 hicles into the role of an ultimate insurer, imposing
25 unlimited potential liability on the companies for the

1 tortious acts of their customers, without regard to
2 fault; and

3 (4) these small number of vicarious liability and
4 ultimate insurer laws impose a disproportionate and
5 undue burden on interstate commerce by increasing
6 rental rates for all customers across the Nation, and
7 furthermore, pose a significant competitive barrier to
8 entry for smaller companies attempting to compete
9 in these markets, in contravention of the funda-
10 mental legal principle of fairness prohibiting liability
11 without fault.

12 **SEC. 202. GENERAL FAIRNESS AND RESPONSIBILITY RULE.**

13 No person engaged in the business of renting or leas-
14 ing a motor vehicle shall be placed in the position of an
15 ultimate insurer of its rental customers, or the occupants
16 of its rental vehicles, or be liable to a claimant for the
17 tortious act of another solely by reason of being an owner
18 of such motor vehicle.

19 **SEC. 203. STATE MINIMUM FINANCIAL RESPONSIBILITY**
20 **LAWS FOR MOTOR VEHICLES.**

21 Nothing in this title shall relieve any person engaged
22 in the business of renting or leasing a motor vehicle from
23 the obligation to comply with a State's minimum financial
24 responsibility or insurance statute or regulations imposed

1 by that State for the privilege of registering and operating
2 a motor vehicle within that State.

3 **SEC. 204. APPLICABILITY AND EFFECTIVE DATE.**

4 Notwithstanding any other provision of law, this title
5 shall apply with respect to any action commenced on or
6 after the date of enactment of this title without regard
7 to whether the harm that is the subject of the action or
8 the conduct that caused the harm occurred before such
9 date of enactment.

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