

BUSINESS AND COMMERCE CODE  
TITLE 5. REGULATION OF BUSINESSES AND SERVICES  
SUBTITLE B. RENTAL PRACTICES  
CHAPTER 93. LOSS DAMAGE WAIVERS FOR RENTAL OF CERTAIN HEAVY  
EQUIPMENT

Sec. 93.001. DEFINITIONS. In this chapter:

(1) "Customer" means a person who rents heavy equipment under a rental agreement.

(2) "Heavy equipment" has the meaning assigned by Section [23.1241](#), Tax Code.

(3) "Heavy equipment loss damage waiver" means a merchant's agreement to not hold a customer liable for loss from all or part of any damage to heavy equipment.

(4) "Merchant" means a person who, in the ordinary course of business, regularly rents, offers to rent, or arranges for the rental of heavy equipment under a rental agreement.

(5) "Rental agreement" means an agreement under which a customer pays a fee or other consideration to rent heavy equipment.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. [2052](#)), Sec. 1, eff. September 1, 2015.

Sec. 93.002. CONTRACT FOR LOSS DAMAGE WAIVER. A customer may contract with a merchant for a heavy equipment loss damage waiver in connection with a rental agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. [2052](#)), Sec. 1, eff. September 1, 2015.

Sec. 93.003. RESTRICTIONS ON MERCHANT CONCERNING WAIVER. A merchant may not:

(1) sell a heavy equipment loss damage waiver unless:

(A) the contract containing the waiver complies with this chapter; and

(B) the customer agrees to the waiver in writing;

or

(2) impose or require the purchase of a heavy

equipment loss damage waiver as a condition of entering into a rental agreement.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.004. REQUIRED NOTICE. A contract that offers a heavy equipment loss damage waiver must include the following notice:

"This contract offers an optional loss damage waiver for an additional charge to cover your responsibility for loss of or damage to the heavy equipment. You do not have to purchase this coverage. Before deciding whether to purchase this loss damage waiver, you may consider whether your insurance policies afford you coverage for loss of or damage to the heavy equipment rented and the amount of the deductible you would pay under your policies."

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.005. STATEMENT OF TOTAL CHARGE. A heavy equipment loss damage waiver agreement must include a statement of the total charge for the waiver.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.006. AUTHORIZED EXCLUSIONS. A heavy equipment loss damage waiver may exclude:

(1) loss of or damage to the heavy equipment that is caused by an unexplained disappearance or abandonment of the heavy equipment;

(2) damage that is intentionally caused by the customer; or

(3) damage that results from the customer's wilful or wanton misconduct.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.007. RELATIONSHIP TO INSURANCE. A heavy equipment

loss damage waiver is not insurance.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.008. CIVIL PENALTY. A merchant that violates this chapter is liable for a civil penalty in an amount of not less than \$500 or more than \$1,000 for each act of violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.009. INJUNCTIVE RELIEF. A person injured or threatened with injury by a violation of this chapter may seek injunctive relief against the person committing or threatening to commit the violation.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.

Sec. 93.010. SUIT FOR CIVIL PENALTY OR INJUNCTIVE RELIEF. The attorney general or a county or district attorney may bring an action in the name of the state for a civil penalty under Section 93.008, injunctive relief under Section 93.009, or both.

Added by Acts 2015, 84th Leg., R.S., Ch. 403 (H.B. 2052), Sec. 1, eff. September 1, 2015.