

## Union Calendar No. 510

106<sup>TH</sup> CONGRESS  
2D SESSION

# H. R. 1954

**[Report No. 106-774, Part I]**

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.

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### 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

JULY 20, 2000

Reported with an amendment and referred to the Committee on the Judiciary for a period ending not later than September 15, 2000, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(k), rule X

[Strike out all after the enacting clause and insert the part printed in italic]

SEPTEMBER 15, 2000

Additional sponsors: Mrs. CUBIN, Mr. BARTON of Texas, Mr. BLUNT, Mr. MORAN of Virginia, Mr. STEARNS, Mr. ROGAN, and Mr. WICKER

SEPTEMBER 15, 2000

The Committee on the Judiciary discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on May 26, 1999]

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## 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 AND TABLE OF CONTENTS.**

4       (a) *SHORT TITLE.*—*This Act may be cited as the*  
 5       *“Rental Fairness Act of 2000”.*

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

*Sec. 1. Short title and table of contents.*  
*Sec. 2. Findings and purposes.*  
*Sec. 3. Definitions.*  
*Sec. 4. General fairness and responsibility rule.*  
*Sec. 5. Preservation of State law.*  
*Sec. 6. Preservation of liability based on negligence.*  
*Sec. 7. Applicability and effective date.*

8       **SEC. 2. FINDINGS AND PURPOSES.**

9       *The Congress finds that—*

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

14           (2) *A small number of State common laws and*  
 15           *statutes still do not recognize this accepted principle*  
 16           *of law, and continue to subject companies that rent*  
 17           *or lease motor vehicles to vicarious liability for the*  
 18           *negligence of their rental customers in operating the*  
 19           *motor vehicle simply because of the company’s owner-*

1        *ship, even where the rental company has not been*  
2        *negligent in any way and the motor vehicle operated*  
3        *properly.*

4            *(3) An even smaller minority of State laws im-*  
5        *pose unlimited liability on the companies for the*  
6        *tortious acts of their customers, without regard to*  
7        *fault.*

8            *(4) These small number of vicarious liability*  
9        *laws pose a significant competitive barrier to entry*  
10       *for smaller companies attempting to compete in these*  
11       *markets, in contravention of the fundamental legal*  
12       *principle of fairness prohibiting liability without*  
13       *fault.*

14           *(5) Furthermore, because rented or leased motor*  
15       *vehicles are frequently driven across State lines, these*  
16       *small number of vicarious liability laws impose a dis-*  
17       *proportionate and undue burden on interstate com-*  
18       *merce by increasing rental rates for all customers*  
19       *across the nation.*

20           *(6) Due to high liability costs and unwarranted*  
21       *litigation costs, consumers face higher vehicle rental*  
22       *costs in all States because of the increased insurance*  
23       *expenses required to provide coverage in the interstate*  
24       *insurance and rental markets.*

1           (7) *Rental fairness will lessen burdens on inter-*  
 2           *state commerce and decrease litigiousness.*

3           (8) *Legislation to address these concerns is an*  
 4           *appropriate exercise of the powers of Congress under*  
 5           *clauses 3, 9, and 18 of section 8 of article I of the*  
 6           *Constitution of the United States, and the 14th*  
 7           *amendment to the Constitution of the United States.*

8   **SEC. 3. DEFINITIONS.**

9           *For the purpose of this Act—*

10          (1) *HARM.—The term “harm” means—*

11                (A) *any injury to or damage suffered by a*  
 12                *person;*

13                (B) *any illness, disease, or death of that*  
 14                *person resulting from that injury or damage;*  
 15                *and*

16                (C) *any loss to that person or any other*  
 17                *person resulting from that injury or damage.*

18          (2) *MOTOR VEHICLE.—The term “motor vehicle”*  
 19                *shall have the meaning given to this term under sec-*  
 20                *tion 13102(14) of title 49, United States Code.*

21          (3) *OWNER.—The term “owner” means a person*  
 22                *who is—*

23                (A) *a record or beneficial owner or lessee of*  
 24                *a motor vehicle;*

1           (B) entitled to the use and possession of a  
2           motor vehicle subject to a security interest in an-  
3           other person; or

4           (C) a lessee or bailee of a motor vehicle, in  
5           the trade or business of renting or leasing motor  
6           vehicles, having the use or possession thereof,  
7           under a lease, bailment, or otherwise.

8           (4) *PERSON*.—The term “person” means any in-  
9           dividual, corporation, company, limited liability  
10          company, trust, association, firm, partnership, soci-  
11          ety, joint stock company, or any other entity (includ-  
12          ing any governmental entity).

13          (5) *STATE*.—The term “State” means each of the  
14          several States, the District of Columbia, the Common-  
15          wealth of Puerto Rico, the Virgin Islands, Guam,  
16          American Samoa, the Northern Mariana Islands, any  
17          other territory or possession of the United States, or  
18          any political subdivision of any such State, common-  
19          wealth, territory, or possession.

20   **SEC. 4. GENERAL FAIRNESS AND RESPONSIBILITY RULE.**

21          (a) *IN GENERAL*.—No owner engaged in the trade or  
22          business of renting or leasing motor vehicles may be held  
23          liable for harm caused by a person to himself or herself,  
24          to another person, or to property, which results or arises  
25          from that person’s use, operation, or possession of a rented

1 *or leased motor vehicle, by reason of being the owner of such*  
 2 *motor vehicle, except to the extent of any required financial*  
 3 *responsibility statute.*

4 (b) *CONSTRUCTION.*—*Subsection (a) shall not apply if*  
 5 *such owner does not maintain the required limits of finan-*  
 6 *cial responsibility for such vehicle, as required by State law.*

7 **SEC. 5. PRESERVATION OF STATE LAW.**

8 (a) *STATE FINANCIAL RESPONSIBILITY REQUIRE-*  
 9 *MENTS.*—*Nothing in this Act shall relieve any owner en-*  
 10 *gaged in the trade or business of renting or leasing motor*  
 11 *vehicles from the obligation to comply with a State’s min-*  
 12 *imum financial responsibility, motor vehicle, or insurance*  
 13 *statutes or regulations imposed by that State for the privi-*  
 14 *lege of registering and operating a motor vehicle within that*  
 15 *State.*

16 (b) *PRIORITY OF PAYMENTS.*—*Nothing in this Act*  
 17 *shall preempt any State law regarding priority of payment*  
 18 *requirements or whether coverages provided under such stat-*  
 19 *utes or regulations are primary or secondary.*

20 **SEC. 6. PRESERVATION OF LIABILITY BASED ON NEG-**  
 21 **LIGENCE.**

22 *Nothing in this Act shall preempt the ability of the*  
 23 *States to impose liability based on acts of negligence or*  
 24 *criminal wrongdoing.*

1 **SEC. 7. APPLICABILITY AND EFFECTIVE DATE.**

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

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