

Senate Bill No. 348

Passed the Senate August 20, 2009

Secretary of the Senate

Passed the Assembly August 17, 2009

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1936.015 of the Civil Code, relating to passenger vehicle rentals, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 348, Cogdill. Passenger vehicle rentals: advertising.

Existing law, effective May 21, 2009, requires a passenger vehicle rental company to only advertise a rental rate that includes the entire amount, except taxes, the increased vehicle license fee, any customer facility charge, and any mileage charge, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. Existing law authorizes the rental company, when imposing charges for a rental, to separately state the rental rate, taxes, increased vehicle license fee, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any.

Existing law, effective May 21, 2009, also requires the rental company, if customer facility charges, airport concession fees, or tourism commission assessments are imposed, to provide the person receiving the quote with a good faith estimate of the rental rate and certain taxes and charges, including the increased vehicle license fee, when the quote is given, to clearly and conspicuously disclose in the rental contract the total rate and certain taxes and charges, including the increased vehicle license fee, when the rental commences, and to provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about certain taxes and charges, including the increased vehicle license fee.

Existing law, effective May 21, 2009, defines the increased vehicle license fee as the amount of the fee increase in the vehicle license fee above 0.65% of the value of the vehicle. Existing law requires that fee to be separately charged, clearly stated, and prorated at $\frac{1}{365}$ of the fee increase in the annual vehicle license fee actually paid on the particular vehicle being rented for each full or partial 24-hour rental day that the vehicle is rented. Existing law prohibits the total of all increased vehicle license fees charged

to renters from exceeding the fee increase in the annual vehicle license fee actually paid for the particular vehicle rented.

This bill would define “increased vehicle license recovery fee” as a charge that seeks to recover the amount of increased vehicle license fees actually paid by a rental company for the particular class of vehicle being rented. The bill would require a rental company to calculate every 3 months the daily increased vehicle license recovery fee by prorating at $\frac{1}{365}$ of the average increased vehicle license fee for vehicles in each particular class of vehicle being rented, based on the increase in the annual vehicle license fee actually paid during the preceding 12 months for each class of vehicle being rented. The bill would require the rental companies to reconcile the amount of increased vehicle license fees actually paid by the rental company for each class of vehicle and the amount of increased vehicle license recovery fees charged to customers for rental of vehicles in those classes, and to post that information on its Internet Web site, as specified. The bill would prohibit the total of all increased vehicle license fees charged to customers by the rental company for each class of vehicle from exceeding the total of increased vehicle license recovery fees actually paid for vehicles in those classes on an annual basis.

The bill would make other related, technical changes.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1936.015 of the Civil Code, as added by Chapter 8 of the Statutes of 2009, of the Second Extraordinary Session, is amended to read:

1936.015. (a) For the purposes of this section, the following definitions shall apply:

(1) “Vehicle license fee” has the same meaning as in Sections 10751 and 10752 of the Revenue and Taxation Code, as that fee existed on January 1, 2009.

(2) “Increased vehicle license fee” means the amount of the fee increase in the vehicle license fee above 0.65 percent of the value of the vehicle.

(3) “Increased vehicle license recovery fee” means a charge that seeks to recover the amount of increased vehicle license fees

actually paid by a rental company for the particular class of vehicle being rented. The increased vehicle license recovery fee shall be calculated as provided in paragraph (1) of subdivision (b).

(b) Notwithstanding subdivision (n) of Section 1936 or subdivision (b) of Section 1936.01, upon an increase of the vehicle license fee above 0.65 percent of the value of the vehicle pursuant to legislation enacted with the Budget Act of 2009, the following provisions shall apply with respect to the increased vehicle license fee:

(1) A rental company shall calculate the amount of the increased vehicle license recovery fee in the following manner:

(A) The initial calculation required by this section shall be made as of August 21, 2009, and shall include the three-month period of May 21, 2009, to August 21, 2009, inclusive. Subsequent calculations shall be made every three months thereafter.

(B) The rental company shall determine the total amount of the increased vehicle license fee actually paid during the twelve months preceding the calculation date, for each particular class of vehicle being rented.

(C) The total amount of increased vehicle license fee actually paid for each class of vehicle shall be divided by the number of vehicles in the class, to determine the average increased vehicle license fee for each class.

(D) The average increased vehicle license fee for vehicles in each class shall be prorated at one three-hundred-and-sixty-fifth, to determine the daily increased vehicle license recovery fee for vehicles in each particular class of vehicle, to be charged for each full or partial 24-hour rental day that the vehicle is rented.

(2) As of November 21, 2009, and annually as of each November 21 thereafter, a rental company shall reconcile the amount of increased vehicle license fees actually paid by the rental company during the preceding 12 months for each class of vehicle and the amount of increased vehicle license recovery fees charged to customers during that same 12-month period for rental of vehicles in those classes. The rental company shall post that information on its Internet Web site by December 31 of each year.

(3) The total of all increased vehicle license fees charged to customers by the rental company for each class of vehicle shall not exceed the total of increased vehicle license recovery fees actually paid for vehicles in those classes on an annual basis.

(4) A rental company shall only advertise a rental rate that includes the entire amount, except taxes, the increased vehicle license recovery fee, a customer facility charge, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies.

(5) When providing a quote, or imposing charges for a rental, the rental company may separately state the rental rate, taxes, the increased vehicle license recovery fee, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company may not charge in addition to the rental rate, taxes, the increased vehicle license recovery fee, a customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any, any fee that must be paid by the renter as a condition of hiring or leasing the vehicle, such as, but not limited to, required fuel or airport surcharges other than customer facility charges and airport concession fees.

(6) If customer facility charges, airport concession fees, or tourism commission assessments are imposed, the rental company shall do each of the following:

(A) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate, taxes, the increased vehicle license recovery fee, customer facility charge, if any, airport concession fee, if any, and tourism commission assessment, if any, as well as the total charges for the entire rental. The total charges, if provided on an Internet Web site, shall be displayed in a typeface at least as large as any rental rate disclosed on that page and shall be provided on a page that the person receiving the quote may reach by following links through no more than two Internet Web site pages, including the page on which the rental rate is first provided. The good faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing the reservation based upon the information provided by the person.

(B) At the time and place the rental commences, clearly and conspicuously disclose in the rental contract, or that portion of the contract that is provided to the renter, the total of the rental rate, taxes, the increased vehicle license recovery fee, customer facility

charge, if any, airport concession fee, if any, and tourism commission assessment, if any, for the entire rental, exclusive of charges that cannot be determined at the time the rental commences. Charges imposed pursuant to this subparagraph shall be no more than the amount of the quote provided in a confirmed reservation, unless the person changes the terms of the rental contract subsequent to making the reservation.

(C) Provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about the increased vehicle license recovery fee, customer facility charges, airport concession fees, and tourism commission assessments as well as access to information about when those charges apply. Any person providing quotes to actual or prospective customers for the hire or lease of a vehicle from a rental company shall provide the quotes in the manner described in subparagraph (A).

(7) In addition to the rental rate, taxes, the increased vehicle license recovery fee, customer facility charges, if any, airport concession fees, if any, tourism commission assessments, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge, include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(8) A rental company may not charge any fee for authorized drivers in addition to the rental charge for an individual renter.

(9) If a rental company states a rental rate in print advertisement or in a telephonic, in-person, or computer-transmitted quote, the rental company shall clearly disclose in that advertisement or quote the terms of any mileage conditions relating to the rental rate disclosed in the advertisement or quote, including, but not limited

to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(10) (A) When a rental rate is stated in an advertisement, in connection with a car rental at an airport where a customer facility charge is imposed, the rental company shall clearly disclose the existence and amount of the customer facility charge. For the purposes of this subparagraph, advertisements include radio, television, other electronic media, and print advertisements. If the rental rate advertisement is intended to include transactions at more than one airport imposing a customer facility charge, a range of charges may be stated in the advertisement. However, all rental rate advertisements that include car rentals at airport destinations shall clearly and conspicuously include a toll-free telephone number whereby a customer can be told the specific amount of the customer facility charge to which the customer will be obligated.

(B) If any person or entity other than a rental company, including a passenger carrier or a seller of travel services, advertises a rental rate for a car rental at an airport where a customer facility charge is imposed, that person or entity shall, provided they are provided with information about the existence and amount of the charge, to the extent not specifically prohibited by federal law, clearly disclose the existence and amount of the charge. If a rental company provides the person or entity with rental rate and customer facility charge information, the rental company is not responsible for the failure of that person or entity to comply with this subparagraph.

(11) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company may not charge the renter any amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company may not charge the renter any amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(12) Except as otherwise permitted pursuant to the customer facility charge, a rental company may not separately charge, in

addition to the rental rate, a fee for transporting the renter to the location where the rented vehicle will be delivered to the renter.

(c) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(d) Any waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(e) (1) This section shall become operative only if Senate Bill 3 or Assembly Bill 3 of the 2009–10 Third Extraordinary Session of the Legislature is enacted and increases the vehicle license fee above 0.65 percent of the value of the vehicle and shall cease to become operative 12 months after the restoration of the vehicle license fee to no more than 0.65 percent of the value of the vehicle.

(2) Provisions of this section relating to the disclosure and separately stated charges for a customer facility charge or an airport concession fee shall remain operative so long as the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 of the Government Code have been satisfied.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order for passenger vehicle rental companies to begin recovering the increased vehicle license fee from renters as authorized by Chapter 8 of the Statutes of 2009 of the 2009–10 Second Extraordinary Session of the Legislature, it is necessary for this act to take effect immediately.

Approved _____, 2009

Governor