

ASSEMBLY BILL

No. 753

Introduced by Assembly Member Monning

February 17, 2011

An act to amend Section 1936 of the Civil Code, relating to vehicle rental contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 753, as introduced, Monning. Vehicle rental contracts.

Existing law authorizes a vehicle rental company and a renter of a passenger vehicle to agree that the renter will be responsible for, among other things, loss due to theft of the rented vehicle up to its fair market value. Under those provisions, a renter is presumed to not have liability due to theft if certain conditions are met, including, among others, that an authorized driver files an official report of the theft with police or other law enforcement agency within 24 hours of learning of the theft.

This bill instead would require the authorized driver to file that report within 48 hours of learning of the theft.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

- 1 SECTION 1. Section 1936 of the Civil Code is amended to
- 2 read:
- 3 1936. (a) For the purpose of this section, the following
- 4 definitions shall apply:
- 5 (1) "Rental company" means a person or entity in the business
- 6 of renting passenger vehicles to the public.

1 (2) “Renter” means any person in a manner obligated under a
2 contract for the lease or hire of a passenger vehicle from a rental
3 company for a period of less than 30 days.

4 (3) “Authorized driver” means (A) the renter, (B) the renter’s
5 spouse if that person is a licensed driver and satisfies the rental
6 company’s minimum age requirement, (C) the renter’s employer
7 or coworker if he or she is engaged in business activity with the
8 renter, is a licensed driver, and satisfies the rental company’s
9 minimum age requirement, and (D) a person expressly listed by
10 the rental company on the renter’s contract as an authorized driver.

11 (4) (A) “Customer facility charge” means any fee, including
12 an alternative fee, required by an airport to be collected by a rental
13 company from a renter for any of the following purposes:

14 (i) To finance, design, and construct consolidated airport car
15 rental facilities.

16 (ii) To finance, design, construct, and operate common-use
17 transportation systems that move passengers between airport
18 terminals and those consolidated car rental facilities, and acquire
19 vehicles for use in that system.

20 (iii) To finance, design, and construct terminal modifications
21 solely to accommodate and provide customer access to
22 common-use transportation systems.

23 (B) The aggregate amount to be collected shall not exceed the
24 reasonable costs, as determined by an independent audit paid for
25 by the airport, to finance, design, and construct those facilities.
26 Copies of the audit shall be provided to the Assembly and Senate
27 Committees on Judiciary, the Assembly Committee on
28 Transportation, and the Senate Committee on Transportation and
29 Housing. In the case of a transportation system, the audit also shall
30 consider the reasonable costs of providing the transit system or
31 busing network. Notwithstanding clause (iii) of subparagraph (A),
32 the fees designated as a customer facility charge shall not be used
33 to pay for terminal expansion, gate expansion, runway expansion,
34 changes in hours of operation, or changes in the number of flights
35 arriving or departing from the airport.

36 (C) Except as provided in subparagraph (D), the authorization
37 given pursuant to this section for an airport to impose a customer
38 facility charge shall become inoperative when the bonds used for
39 financing are paid.

1 (D) If a bond or other form of indebtedness is not used for
2 financing, or the bond or other form of indebtedness used for
3 financing has been paid, the Oakland International Airport may
4 require the collection of a customer facility charge for a period of
5 up to 10 years from the imposition of the charge for the purposes
6 allowed by, and subject to the conditions imposed by, this section.

7 (5) "Damage waiver" means a rental company's agreement not
8 to hold a renter liable for all or any portion of any damage or loss
9 related to the rented vehicle, any loss of use of the rented vehicle,
10 or any storage, impound, towing, or administrative charges.

11 (6) "Electronic surveillance technology" means a technological
12 method or system used to observe, monitor, or collect information,
13 including telematics, Global Positioning System (GPS), wireless
14 technology, or location-based technologies. "Electronic
15 surveillance technology" does not include event data recorders
16 (EDR), sensing and diagnostic modules (SDM), or other systems
17 that are used either:

18 (A) For the purpose of identifying, diagnosing, or monitoring
19 functions related to the potential need to repair, service, or perform
20 maintenance on the rental vehicle.

21 (B) As part of the vehicle's airbag sensing and diagnostic system
22 in order to capture safety systems-related data for retrieval after a
23 crash has occurred or in the event that the collision sensors are
24 activated to prepare the decisionmaking computer to make the
25 determination to deploy or not to deploy the airbag.

26 (7) "Estimated time for replacement" means the number of hours
27 of labor, or fraction thereof, needed to replace damaged vehicle
28 parts as set forth in collision damage estimating guides generally
29 used in the vehicle repair business and commonly known as "crash
30 books."

31 (8) "Estimated time for repair" means a good faith estimate of
32 the reasonable number of hours of labor, or fraction thereof, needed
33 to repair damaged vehicle parts.

34 (9) "Membership program" means a service offered by a rental
35 company that permits customers to bypass the rental counter and
36 go directly to the car previously reserved. A membership program
37 shall meet all of the following requirements:

38 (A) The renter initiates enrollment by completing an application
39 on which the renter can specify a preference for type of vehicle
40 and acceptance or declination of optional services.

1 (B) The rental company fully discloses, prior to the enrollee's
2 first rental as a participant in the program, all terms and conditions
3 of the rental agreement as well as all required disclosures.

4 (C) The renter may terminate enrollment at any time.

5 (D) The rental company fully explains to the renter that
6 designated preferences, as well as acceptance or declination of
7 optional services, may be changed by the renter at any time for
8 the next and future rentals.

9 (E) An employee designated to receive the form specified in
10 subparagraph (C) of paragraph (1) of subdivision (t) is present at
11 the lot where the renter takes possession of the car, to receive any
12 change in the rental agreement from the renter.

13 (10) "Passenger vehicle" means a passenger vehicle as defined
14 in Section 465 of the Vehicle Code.

15 (b) Except as limited by subdivision (c), a rental company and
16 a renter may agree that the renter will be responsible for no more
17 than all of the following:

18 (1) Physical or mechanical damage to the rented vehicle up to
19 its fair market value, as determined in the customary market for
20 the sale of that vehicle, resulting from collision regardless of the
21 cause of the damage.

22 (2) Loss due to theft of the rented vehicle up to its fair market
23 value, as determined in the customary market for the sale of that
24 vehicle, provided that the rental company establishes by clear and
25 convincing evidence that the renter or the authorized driver failed
26 to exercise ordinary care while in possession of the vehicle. In
27 addition, the renter shall be presumed to have no liability for any
28 loss due to theft if (A) an authorized driver has possession of the
29 ignition key furnished by the rental company or an authorized
30 driver establishes that the ignition key furnished by the rental
31 company was not in the vehicle at the time of the theft, and (B) an
32 authorized driver files an official report of the theft with the police
33 or other law enforcement agency within ~~24~~ 48 hours of learning
34 of the theft and reasonably cooperates with the rental company
35 and the police or other law enforcement agency in providing
36 information concerning the theft. The presumption set forth in this
37 paragraph is a presumption affecting the burden of proof which
38 the rental company may rebut by establishing that an authorized
39 driver committed, or aided and abetted the commission of, the
40 theft.

1 (3) Physical damage to the rented vehicle up to its fair market
2 value, as determined in the customary market for the sale of that
3 vehicle, resulting from vandalism occurring after, or in connection
4 with, the theft of the rented vehicle. However, the renter shall have
5 no liability for any damage due to vandalism if the renter would
6 have no liability for theft pursuant to paragraph (2).

7 (4) Physical damage to the rented vehicle up to a total of five
8 hundred dollars (\$500) resulting from vandalism unrelated to the
9 theft of the rented vehicle.

10 (5) Actual charges for towing, storage, and impound fees paid
11 by the rental company if the renter is liable for damage or loss.

12 (6) An administrative charge, which shall include the cost of
13 appraisal and all other costs and expenses incident to the damage,
14 loss, repair, or replacement of the rented vehicle.

15 (c) The total amount of the renter's liability to the rental
16 company resulting from damage to the rented vehicle shall not
17 exceed the sum of the following:

18 (1) The estimated cost of parts which the rental company would
19 have to pay to replace damaged vehicle parts. All discounts and
20 price reductions or adjustments that are or will be received by the
21 rental company shall be subtracted from the estimate to the extent
22 not already incorporated in the estimate, or otherwise promptly
23 credited or refunded to the renter.

24 (2) The estimated cost of labor to replace damaged vehicle parts,
25 which shall not exceed the product of (A) the rate for labor usually
26 paid by the rental company to replace vehicle parts of the type that
27 were damaged and (B) the estimated time for replacement. All
28 discounts and price reductions or adjustments that are or will be
29 received by the rental company shall be subtracted from the
30 estimate to the extent not already incorporated in the estimate, or
31 otherwise promptly credited or refunded to the renter.

32 (3) (A) The estimated cost of labor to repair damaged vehicle
33 parts, which shall not exceed the lesser of the following:

34 (i) The product of the rate for labor usually paid by the rental
35 company to repair vehicle parts of the type that were damaged and
36 the estimated time for repair.

37 (ii) The sum of the estimated labor and parts costs determined
38 under paragraphs (1) and (2) to replace the same vehicle parts.

39 (B) All discounts and price reductions or adjustments that are
40 or will be received by the rental company shall be subtracted from

1 the estimate to the extent not already incorporated in the estimate,
2 or otherwise promptly credited or refunded to the renter.

3 (4) For the purpose of converting the estimated time for repair
4 into the same units of time in which the rental rate is expressed, a
5 day shall be deemed to consist of eight hours.

6 (5) Actual charges for towing, storage, and impound fees paid
7 by the rental company.

8 (6) The administrative charge described in paragraph (6) of
9 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
10 estimated cost for parts and labor is more than one hundred dollars
11 (\$100) up to and including five hundred dollars (\$500), (B) one
12 hundred dollars (\$100) if the total estimated cost for parts and
13 labor exceeds five hundred dollars (\$500) up to and including one
14 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
15 dollars (\$150) if the total estimated cost for parts and labor exceeds
16 one thousand five hundred dollars (\$1,500). An administrative
17 charge shall not be imposed if the total estimated cost of parts and
18 labor is one hundred dollars (\$100) or less.

19 (d) (1) The total amount of an authorized driver's liability to
20 the rental company, if any, for damage occurring during the
21 authorized driver's operation of the rented vehicle shall not exceed
22 the amount of the renter's liability under subdivision (c).

23 (2) A rental company shall not recover from the renter or other
24 authorized driver an amount exceeding the renter's liability under
25 subdivision (c).

26 (3) A claim against a renter resulting from damage or loss,
27 excluding loss of use, to a rental vehicle shall be reasonably and
28 rationally related to the actual loss incurred. A rental company
29 shall mitigate damages where possible and shall not assert or collect
30 a claim for physical damage which exceeds the actual costs of the
31 repairs performed or the estimated cost of repairs, if the rental
32 company chooses not to repair the vehicle, including all discounts
33 and price reductions. However, if the vehicle is a total loss vehicle,
34 the claim shall not exceed the total loss vehicle value established
35 in accordance with procedures that are customarily used by
36 insurance companies when paying claims on total loss vehicles,
37 less the proceeds from salvaging the vehicle, if those proceeds are
38 retained by the rental company.

39 (4) If insurance coverage exists under the renter's applicable
40 personal or business insurance policy and the coverage is confirmed

1 during regular business hours, the renter may require that the rental
2 company submit any claims to the renter's applicable personal or
3 business insurance carrier. The rental company shall not make any
4 written or oral representations that it will not present claims or
5 negotiate with the renter's insurance carrier. For purposes of this
6 paragraph, confirmation of coverage includes telephone
7 confirmation from insurance company representatives during
8 regular business hours. Upon request of the renter and after
9 confirmation of coverage, the amount of claim shall be resolved
10 between the insurance carrier and the rental company. The renter
11 shall remain responsible for payment to the rental car company
12 for any loss sustained that the renter's applicable personal or
13 business insurance policy does not cover.

14 (5) A rental company shall not recover from the renter or other
15 authorized driver for an item described in subdivision (b) to the
16 extent the rental company obtains recovery from another person.

17 (6) This section applies only to the maximum liability of a renter
18 or other authorized driver to the rental company resulting from
19 damage to the rented vehicle and not to the liability of another
20 person.

21 (e) (1) Except as provided in subdivision (f), a damage waiver
22 shall provide or, if not expressly stated in writing, shall be deemed
23 to provide that the renter has no liability for a damage, loss, loss
24 of use, or a cost or expense incident thereto.

25 (2) Except as provided in subdivision (f), every limitation,
26 exception, or exclusion to a damage waiver is void and
27 unenforceable.

28 (f) A rental company may provide in the rental contract that a
29 damage waiver does not apply under any of the following
30 circumstances:

31 (1) Damage or loss results from an authorized driver's (A)
32 intentional, willful, wanton, or reckless conduct, (B) operation of
33 the vehicle under the influence of drugs or alcohol in violation of
34 Section 23152 of the Vehicle Code, (C) towing or pushing
35 anything, or (D) operation of the vehicle on an unpaved road if
36 the damage or loss is a direct result of the road or driving
37 conditions.

38 (2) Damage or loss occurs while the vehicle is (A) used for
39 commercial hire, (B) used in connection with conduct that could
40 be properly charged as a felony, (C) involved in a speed test or

1 contest or in driver training activity, (D) operated by a person other
2 than an authorized driver, or (E) operated outside the United States.

3 (3) An authorized driver who has (A) provided fraudulent
4 information to the rental company, or (B) provided false
5 information and the rental company would not have rented the
6 vehicle if it had instead received true information.

7 (g) (1) A rental company that offers or provides a damage
8 waiver for any consideration in addition to the rental rate shall
9 clearly and conspicuously disclose the following information in
10 the rental contract or holder in which the contract is placed and,
11 also, in signs posted at the place, such as the counter, where the
12 renter signs the rental contract, and, for renters who are enrolled
13 in the rental company's membership program, in a sign that shall
14 be posted in a location clearly visible to those renters as they enter
15 the location where their reserved rental cars are parked or near the
16 exit of the bus or other conveyance that transports the enrollee to
17 a reserved car: (A) the nature of the renter's liability, such as
18 liability for all collision damage regardless of cause, (B) the extent
19 of the renter's liability, such as liability for damage or loss up to
20 a specified amount, (C) the renter's personal insurance policy or
21 the credit card used to pay for the car rental transaction may
22 provide coverage for all or a portion of the renter's potential
23 liability, (D) the renter should consult with his or her insurer to
24 determine the scope of insurance coverage, including the amount
25 of the deductible, if any, for which the renter is obligated, (E) the
26 renter may purchase an optional damage waiver to cover all
27 liability, subject to whatever exceptions the rental company
28 expressly lists that are permitted under subdivision (f), and (F) the
29 range of charges for the damage waiver.

30 (2) In addition to the requirements of paragraph (1), a rental
31 company that offers or provides a damage waiver shall orally
32 disclose to all renters, except those who are participants in the
33 rental company's membership program, that the damage waiver
34 may be duplicative of coverage that the customer maintains under
35 his or her own policy of motor vehicle insurance. The renter's
36 receipt of the oral disclosure shall be demonstrated through the
37 renter's acknowledging receipt of the oral disclosure near that part
38 of the contract where the renter indicates, by the renter's own
39 initials, his or her acceptance or declination of the damage waiver.
40 Adjacent to that same part, the contract also shall state that the

1 damage waiver is optional. Further, the contract for these renters
2 shall include a clear and conspicuous written disclosure that the
3 damage waiver may be duplicative of coverage that the customer
4 maintains under his or her own policy of motor vehicle insurance.

5 (3) The following is an example, for purposes of illustration
6 and not limitation, of a notice fulfilling the requirements of
7 paragraph (1) for a rental company that imposes liability on the
8 renter for collision damage to the full value of the vehicle:

9
10 “NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
11 AND OPTIONAL DAMAGE WAIVER
12

13 You are responsible for all collision damage to the rented vehicle
14 even if someone else caused it or the cause is unknown. You are
15 responsible for the cost of repair up to the value of the vehicle,
16 and towing, storage, and impound fees.

17 Your own insurance, or the issuer of the credit card you use to
18 pay for the car rental transaction, may cover all or part of your
19 financial responsibility for the rented vehicle. You should check
20 with your insurance company, or credit card issuer, to find out
21 about your coverage and the amount of the deductible, if any, for
22 which you may be liable.

23 Further, if you use a credit card that provides coverage for your
24 potential liability, you should check with the issuer to determine
25 if you must first exhaust the coverage limits of your own insurance
26 before the credit card coverage applies.

27 The rental company will not hold you responsible if you buy a
28 damage waiver. But a damage waiver will not protect you if (list
29 exceptions).”

30 (A) When the above notice is printed in the rental contract or
31 holder in which the contract is placed, the following shall be printed
32 immediately following the notice:

33 “The cost of an optional damage waiver is \$____ for every (day
34 or week).”

35 (B) When the above notice appears on a sign, the following
36 shall appear immediately adjacent to the notice:

37 “The cost of an optional damage waiver is \$____ to \$____ for
38 every (day or week), depending upon the vehicle rented.”

39 (h) Notwithstanding any other provision of law, a rental
40 company may sell a damage waiver subject to the following rate

1 limitations for each full or partial 24-hour rental day for the damage
2 waiver.

3 (1) For rental vehicles that the rental company designates as an
4 “economy car,” “subcompact car,” “compact car,” or another term
5 having similar meaning when offered for rental, or another vehicle
6 having a manufacturer’s suggested retail price of nineteen thousand
7 dollars (\$19,000) or less, the rate shall not exceed nine dollars
8 (\$9).

9 (2) For rental vehicles that have a manufacturer’s suggested
10 retail price from nineteen thousand one dollars (\$19,001) to
11 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
12 inclusive, and that are also either vehicles of next year’s model,
13 or not older than the previous year’s model, the rate shall not
14 exceed fifteen dollars (\$15). For those rental vehicles older than
15 the previous year’s model-year, the rate shall not exceed nine
16 dollars (\$9).

17 (i) The manufacturer’s suggested retail prices described in
18 subdivision (h) shall be adjusted annually to reflect changes from
19 the previous year in the Consumer Price Index. For the purposes
20 of this section, “Consumer Price Index” means the United States
21 Consumer Price Index for All Urban Consumers, for all items.

22 (j) A rental company that disseminates in this state an
23 advertisement containing a rental rate shall include in that
24 advertisement a clearly readable statement of the charge for a
25 damage waiver and a statement that a damage waiver is optional.

26 (k) (1) A rental company shall not require the purchase of a
27 damage waiver, optional insurance, or another optional good or
28 service.

29 (2) A rental company shall not engage in any unfair, deceptive,
30 or coercive conduct to induce a renter to purchase the damage
31 waiver, optional insurance, or another optional good or service,
32 including conduct such as, but not limited to, refusing to honor
33 the renter’s reservation, limiting the availability of vehicles,
34 requiring a deposit, or debiting or blocking the renter’s credit card
35 account for a sum equivalent to a deposit if the renter declines to
36 purchase the damage waiver, optional insurance, or another
37 optional good or service.

38 (l) (1) In the absence of express permission granted by the
39 renter subsequent to damage to, or loss of, the vehicle, a rental
40 company shall not seek to recover any portion of a claim arising

1 out of damage to, or loss of, the rented vehicle by processing a
2 credit card charge or causing a debit or block to be placed on the
3 renter's credit card account.

4 (2) A rental company shall not engage in any unfair, deceptive,
5 or coercive tactics in attempting to recover or in recovering on any
6 claim arising out of damage to, or loss of, the rented vehicle.

7 (m) (1) A customer facility charge may be collected by a rental
8 company under the following circumstances:

9 (A) Collection of the fee by the rental company is required by
10 an airport operated by a city, a county, a city and county, a joint
11 powers authority, a special district, or the San Diego County
12 Regional Airport Authority formed pursuant to Division 17
13 (commencing with Section 170000) of the Public Utilities Code.

14 (B) The fee is calculated on a per contract basis or as provided
15 in paragraph (2).

16 (C) The fee is a user fee, not a tax imposed upon real property
17 or an incidence of property ownership under Article XIII D of the
18 California Constitution.

19 (D) Except as otherwise provided in subparagraph (E), the fee
20 shall be ten dollars (\$10) per contract or the amount provided in
21 paragraph (2).

22 (E) The fee for a consolidated rental car facility shall be
23 collected only from customers of on-airport rental car companies.
24 If the fee imposed by the airport is for both a consolidated rental
25 car facility and a common-use transportation system, the fee
26 collected from customers of on-airport rental car companies shall
27 be ten dollars (\$10) or the amount provided in paragraph (2), but
28 the fee imposed on customers of off-airport rental car companies
29 who are transported on the common-use transportation system is
30 proportionate to the costs of the common-use transportation system
31 only. The fee is uniformly applied to each class of on-airport or
32 off-airport customers, provided that the airport requires off-airport
33 customers to use the common-use transportation system. For
34 purposes of this subparagraph, "on-airport rental car company"
35 means a rental company operating under an airport property lease
36 or an airport concession or license agreement whose customers
37 use or will use the consolidated rental car facility and the collection
38 of the fee as to those customers is consistent with subparagraph
39 (C).

1 (F) Revenues collected from the fee do not exceed the reasonable
2 costs of financing, designing, and constructing the facility and
3 financing, designing, constructing, and operating any common-use
4 transportation system, or acquiring vehicles for use in that system,
5 and shall not be used for any other purpose.

6 (G) The fee is separately identified on the rental agreement.

7 (H) This paragraph does not apply to fees which are governed
8 by Section 50474.1 of the Government Code or Section 57.5 of
9 the San Diego Unified Port District Act.

10 (I) For any airport seeking to require rental car companies to
11 collect an alternative customer facility charge pursuant to paragraph
12 (2), the following provisions apply:

13 (i) Notwithstanding Section 10231.5 of the Government Code,
14 the airport shall provide reports on an annual basis to the Senate
15 and Assembly Committees on Judiciary detailing all of the
16 following:

17 (I) The total amount of the customer facility charge collected.

18 (II) How the funds are being spent.

19 (III) The amount of and reason for any changes in the airport's
20 budget or financial needs for the facility or common-use
21 transportation system.

22 (IV) Whether airport concession fees authorized by Section
23 1936.01 have increased since the prior report, if any.

24 (ii) The airport shall complete the independent audit required
25 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
26 initial collection of the customer facility charge, prior to any
27 increase pursuant to paragraph (2), and every three years after
28 initial collection and any increase until such time as the fee
29 authorization becomes inoperative pursuant to subparagraph (C)
30 of paragraph (4) of subdivision (a). The Controller shall review
31 those audits and independently examine and substantiate the
32 necessity for and the amount of the customer facility charge. The
33 Controller's costs shall be reimbursed by the individual airport
34 being audited. Notwithstanding Section 10231.5 of the Government
35 Code, the Controller shall report to the Legislature on its
36 conclusions, including whether the airport's actual or projected
37 costs are supported and justified, any steps the airport may take to
38 limit costs, potential alternatives for meeting the airport's revenue
39 needs other than the collection of the fee, and whether and to what
40 extent car rental companies or other businesses or individuals using

1 the facility or common-use transportation system may pay for the
2 costs associated with these facilities and systems other than the
3 fee from rental customers, or whether the airport did not comply
4 with any provision of this subparagraph.

5 (iii) Use of the bonds shall be limited to construction and design
6 of the consolidated rental car facility, terminal modifications, and
7 operating costs of the common-use transportation system, as
8 specified in paragraph (4) of subdivision (a).

9 (2) Any airport may require rental car companies to collect an
10 alternative customer facility charge under the following conditions:

11 (A) The airport first conducts a publicly noticed hearing pursuant
12 to the Ralph M. Brown Act (Chapter 9 (commencing with Section
13 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
14 to review the costs of financing the design and construction of a
15 consolidated rental car facility and the design, construction, and
16 operation of any common-use transportation system in which all
17 of the following occur:

18 (i) The airport establishes the amount of revenue necessary to
19 finance the reasonable cost to design and construct a consolidated
20 rental car facility and to design, construct, and operate any
21 common-use transportation system, or acquire vehicles for use in
22 that system, based on evidence presented during the hearing.

23 (ii) The airport finds, based on evidence presented during the
24 hearing, that the fee authorized in paragraph (1) will not generate
25 sufficient revenue to finance the reasonable costs to design and
26 construct a consolidated rental car facility and to design, construct,
27 and operate any common-use transportation system, or acquire
28 vehicles for use in that system.

29 (iii) The airport finds that the reasonable cost of the project
30 requires the additional amount of revenue that would be generated
31 by the proposed daily rate, including any rate increase, authorized
32 pursuant to this paragraph.

33 (iv) The airport outlines each of the following:

34 (I) Steps it has taken to limit costs.

35 (II) Other potential alternatives for meeting its revenue needs
36 other than the collection of the fee.

37 (III) The extent to which rental car companies or other
38 businesses or individuals using the facility or common-use
39 transportation system will pay for the costs associated with these
40 facilities and systems other than the fee from rental customers.

1 (v) The Controller reviews and substantiates the need for and
2 amount of the fee pursuant to clause (ii) of subparagraph (I) of
3 paragraph (1).

4 (B) The airport may not require the fee authorized in this
5 paragraph to be collected at any time that the fee authorized in
6 paragraph (1) of this subdivision is being collected.

7 (C) Pursuant to the procedure set forth in this subdivision, the
8 fee may be collected at a rate charged on a per-day basis subject
9 to the following conditions:

10 (i) Commencing January 1, 2011, the amount of the fee may
11 not exceed six dollars (\$6) per day.

12 (ii) Commencing January 1, 2014, the amount of the fee may
13 not exceed seven dollars and fifty cents (\$7.50) per day.

14 (iii) Commencing January 1, 2017, and thereafter, the amount
15 of the fee may not exceed nine dollars (\$9) per day.

16 (iv) At no time shall the fee authorized in this paragraph be
17 collected from any customer for more than five days for each
18 individual rental car contract.

19 (v) An airport subject to this paragraph shall initiate the process
20 for obtaining the authority to require or increase the alternative
21 fee no later than January 1, 2018. Any airport that obtains the
22 authority to require or increase an alternative fee shall be authorized
23 to continue collecting that fee until the fee authorization becomes
24 inoperative pursuant to subparagraph (C) of paragraph (4) of
25 subdivision (a).

26 (3) Notwithstanding any other provision of law, including, but
27 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
28 (commencing with Section 7280), inclusive, of Division 2 of the
29 Revenue and Taxation Code, the fees collected pursuant to this
30 section, or another law whereby a local agency operating an airport
31 requires a rental car company to collect a facility financing fee
32 from its customers, are not subject to sales, use, or transaction
33 taxes.

34 (n) (1) A rental company shall only advertise, quote, and charge
35 a rental rate that includes the entire amount except taxes, a
36 customer facility charge, if any, and a mileage charge, if any, that
37 a renter must pay to hire or lease the vehicle for the period of time
38 to which the rental rate applies. A rental company shall not charge
39 in addition to the rental rate, taxes, a customer facility charge, if
40 any, and a mileage charge, if any, any fee that is required to be

1 paid by the renter as a condition of hiring or leasing the vehicle,
2 including, but not limited to, required fuel or airport surcharges
3 other than customer facility charges, nor a fee for transporting the
4 renter to the location where the rented vehicle will be delivered to
5 the renter.

6 (2) In addition to the rental rate, taxes, customer facility charges,
7 if any, and mileage charges, if any, a rental company may charge
8 for an item or service provided in connection with a particular
9 rental transaction if the renter could have avoided incurring the
10 charge by choosing not to obtain or utilize the optional item or
11 service. Items and services for which the rental company may
12 impose an additional charge include, but are not limited to, optional
13 insurance and accessories requested by the renter, service charges
14 incident to the renter's optional return of the vehicle to a location
15 other than the location where the vehicle was hired or leased, and
16 charges for refueling the vehicle at the conclusion of the rental
17 transaction in the event the renter did not return the vehicle with
18 as much fuel as was in the fuel tank at the beginning of the rental.
19 A rental company also may impose an additional charge based on
20 reasonable age criteria established by the rental company.

21 (3) A rental company shall not charge a fee for authorized
22 drivers in addition to the rental charge for an individual renter.

23 (4) If a rental company states a rental rate in print advertisement
24 or in a telephonic, in-person, or computer-transmitted quotation,
25 the rental company shall disclose clearly in that advertisement or
26 quotation the terms of mileage conditions relating to the advertised
27 or quoted rental rate, including, but not limited to, to the extent
28 applicable, the amount of mileage and gas charges, the number of
29 miles for which no charges will be imposed, and a description of
30 geographic driving limitations within the United States and Canada.

31 (5) (A) When a rental rate is stated in an advertisement,
32 quotation, or reservation in connection with a car rental at an airport
33 where a customer facility charge is imposed, the rental company
34 shall disclose clearly the existence and amount of the customer
35 facility charge. For purposes of this subparagraph, advertisements
36 include radio, television, other electronic media, and print
37 advertisements. For purposes of this subparagraph, quotations and
38 reservations include those that are telephonic, in-person, and
39 computer-transmitted. If the rate advertisement is intended to
40 include transactions at more than one airport imposing a customer

1 facility charge, a range of fees may be stated in the advertisement.
2 However, all rate advertisements that include car rentals at airport
3 destinations shall clearly and conspicuously include a toll-free
4 telephone number whereby a customer can be told the specific
5 amount of the customer facility charge to which the customer will
6 be obligated.

7 (B) If a person or entity other than a rental car company,
8 including a passenger carrier or a seller of travel services, advertises
9 or quotes a rate for a car rental at an airport where a customer
10 facility charge is imposed, that person or entity shall, provided
11 that he, she, or it is provided with information about the existence
12 and amount of the fee, to the extent not specifically prohibited by
13 federal law, clearly disclose the existence and amount of the fee
14 in any telephonic, in-person, or computer-transmitted quotation at
15 the time of making an initial quotation of a rental rate and at the
16 time of making a reservation of a rental car. If a rental car company
17 provides the person or entity with rate and customer facility charge
18 information, the rental car company is not responsible for the
19 failure of that person or entity to comply with this subparagraph
20 when quoting or confirming a rate to a third person or entity.

21 (6) If a rental company delivers a vehicle to a renter at a location
22 other than the location where the rental company normally carries
23 on its business, the rental company shall not charge the renter an
24 amount for the rental for the period before the delivery of the
25 vehicle. If a rental company picks up a rented vehicle from a renter
26 at a location other than the location where the rental company
27 normally carries on its business, the rental company shall not
28 charge the renter an amount for the rental for the period after the
29 renter notifies the rental company to pick up the vehicle.

30 (o) A rental company shall not use, access, or obtain any
31 information relating to the renter's use of the rental vehicle that
32 was obtained using electronic surveillance technology, except in
33 the following circumstances:

34 (1) (A) When the equipment is used by the rental company
35 only for the purpose of locating a stolen, abandoned, or missing
36 rental vehicle after one of the following:

37 (i) The renter or law enforcement has informed the rental
38 company that the vehicle is missing or has been stolen or
39 abandoned.

1 (ii) The rental vehicle has not been returned following one week
2 after the contracted return date, or by one week following the end
3 of an extension of that return date.

4 (iii) The rental company discovers the rental vehicle has been
5 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
6 to law enforcement by filing a stolen vehicle report, unless law
7 enforcement has already informed the rental company that the
8 vehicle is missing or has been stolen or abandoned.

9 (B) If electronic surveillance technology is activated pursuant
10 to subparagraph (A), a rental company shall maintain a record, in
11 either electronic or written form, of information relevant to the
12 activation of that technology. That information shall include the
13 rental agreement, including the return date, and the date and time
14 the electronic surveillance technology was activated. The record
15 shall also include, if relevant, a record of written or other
16 communication with the renter, including communications
17 regarding extensions of the rental, police reports, or other written
18 communication with law enforcement officials. The record shall
19 be maintained for a period of at least 12 months from the time the
20 record is created and shall be made available upon the renter's
21 request. The rental company shall maintain and furnish explanatory
22 codes necessary to read the record. A rental company shall not be
23 required to maintain a record if electronic surveillance technology
24 is activated to recover a rental vehicle that is stolen or missing at
25 a time other than during a rental period.

26 (2) In response to a specific request from law enforcement
27 pursuant to a subpoena or search warrant.

28 (3) This subdivision does not prohibit a rental company from
29 equipping rental vehicles with GPS-based technology that provides
30 navigation assistance to the occupants of the rental vehicle, if the
31 rental company does not use, access, or obtain information relating
32 to the renter's use of the rental vehicle that was obtained using
33 that technology, except for the purposes of discovering or repairing
34 a defect in the technology and the information may then be used
35 only for that purpose.

36 (4) This subdivision does not prohibit a rental company from
37 equipping rental vehicles with electronic surveillance technology
38 that allows for the remote locking or unlocking of the vehicle at
39 the request of the renter, if the rental company does not use, access,
40 or obtain information relating to the renter's use of the rental

1 vehicle that was obtained using that technology, except as
2 necessary to lock or unlock the vehicle.

3 (5) This subdivision does not prohibit a rental company from
4 equipping rental vehicles with electronic surveillance technology
5 that allows the company to provide roadside assistance, such as
6 towing, flat tire, or fuel services, at the request of the renter, if the
7 rental company does not use, access, or obtain information relating
8 to the renter's use of the rental vehicle that was obtained using
9 that technology except as necessary to provide the requested
10 roadside assistance.

11 (6) This subdivision does not prohibit a rental company from
12 obtaining, accessing, or using information from electronic
13 surveillance technology for the sole purpose of determining the
14 date and time the vehicle is returned to the rental company, and
15 the total mileage driven and the vehicle fuel level of the returned
16 vehicle. This paragraph, however, shall apply only after the renter
17 has returned the vehicle to the rental company, and the information
18 shall only be used for the purpose described in this paragraph.

19 (p) A rental company shall not use electronic surveillance
20 technology to track a renter in order to impose fines or surcharges
21 relating to the renter's use of the rental vehicle.

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

26 (r) A rental company that brings an action against a renter for
27 loss due to theft of the vehicle shall bring the action in the county
28 in which the renter resides or, if the renter is not a resident of this
29 state, in the jurisdiction in which the renter resides.

30 (s) A waiver of any of the provisions of this section shall be
31 void and unenforceable as contrary to public policy.

32 (t) (1) A rental company's disclosure requirements shall be
33 satisfied for renters who are enrolled in the rental company's
34 membership program if all of the following conditions are met:

35 (A) Prior to the enrollee's first rental as a participant in the
36 program, the renter receives, in writing, the following:

37 (i) All of the disclosures required by paragraph (1) of subdivision
38 (g), including the terms and conditions of the rental agreement
39 then in effect.

1 (ii) An Internet Web site address, as well as a contact number
2 or address, where the enrollee can learn of changes to the rental
3 agreement or to the laws of this state governing rental agreements
4 since the effective date of the rental company's most recent
5 restatement of the rental agreement and distribution of that
6 restatement to its members.

7 (B) At the commencement of each rental period, the renter is
8 provided, on the rental record or the folder in which it is inserted,
9 with a printed notice stating that he or she had either previously
10 selected or declined an optional damage waiver and that the renter
11 has the right to change preferences.

12 (C) At the commencement of each rental period, the rental
13 company provides, on the rearview mirror, a hanger on which a
14 statement is printed, in a box, in at least 12-point boldface type,
15 notifying the renter that the collision damage waiver offered by
16 the rental company may be duplicative of coverage that the
17 customer maintains under his or her own policy of motor vehicle
18 insurance. If it is not feasible to hang the statement from the
19 rearview mirror, it shall be hung from the steering wheel.

20 The hanger shall provide the renter a box to initial if he or she
21 (not his or her employer) has previously accepted or declined the
22 collision damage waiver and that he or she now wishes to change
23 his or her decision to accept or decline the collision damage waiver,
24 as follows:

25 “☐ If I previously accepted the collision damage waiver, I
26 now decline it.

27 ☐ If I previously declined the collision damage waiver, I now
28 accept it.”

29 The hanger shall also provide a box for the enrollee to indicate
30 whether this change applies to this rental transaction only or to all
31 future rental transactions. The hanger shall also notify the renter
32 that he or she may make that change, prior to leaving the lot, by
33 returning the form to an employee designated to receive the form
34 who is present at the lot where the renter takes possession of the
35 car, to receive any change in the rental agreement from the renter.

36 (2) (A) This subdivision is not effective unless the employee
37 designated pursuant to subparagraph (E) of paragraph (8) of
38 subdivision (a) is actually present at the required location.

39 (B) This subdivision does not relieve the rental company from
40 the disclosures required to be made within the text of a contract

1 or holder in which the contract is placed; in or on an advertisement
2 containing a rental rate; or in a telephonic, in-person, or
3 computer-transmitted quotation or reservation.
4 (u) The amendments made to this section during the 2001–02
5 Regular Session of the Legislature do not affect litigation pending
6 on or before January 1, 2003, alleging a violation of Section 22325
7 of the Business and Professions Code as it read at the time the
8 action was commenced.

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