

ASSEMBLY BILL

No. 2051

Introduced by Assembly Member O'Donnell

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2051, as introduced, O'Donnell. Rental vehicles: electronic surveillance technology.

Existing law governs the contracts between a rental car company and its customer and, among other things, prohibits a rental car company from using, accessing, or obtaining any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology unless certain conditions are met, including that the rental vehicle has not been returned following one week after the contracted return date, or by one week following the end of an extension of that return date.

This bill would instead authorize a rental car company to use, access, or obtain information relating to the renter's use of a rental vehicle that was obtained using electronic surveillance technology if the rental vehicle has not been returned following 3 days after the contracted return date, or by 3 calendar days following the end of an extension of that return date.

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.
 7 (2) “Renter” means any person in a manner obligated under a
 8 contract for the lease or hire of a passenger vehicle from a rental
 9 company for a period of less than 30 days.
 10 (3) “Additional mandatory charges” means any separately stated
 11 charges that the rental car company requires the renter to pay to
 12 hire or lease the vehicle for the period of time to which the rental
 13 rate applies, which are imposed by a governmental entity and
 14 specifically relate to the operation of a rental car business,
 15 including, but not limited to, a customer facility charge, airport
 16 concession fee, tourism commission assessment, vehicle license
 17 recovery fee, or other government imposed taxes or fees.
 18 (4) “Airport concession fee” means a charge collected by a
 19 rental company from a renter that is the renter’s proportionate
 20 share of the amount paid by the rental company to the owner or
 21 operator of an airport for the right or privilege of conducting a
 22 vehicle rental business on the airport’s premises.
 23 (5) “Authorized driver” means all of the following:
 24 (A) The renter.
 25 (B) The renter’s spouse if that person is a licensed driver and
 26 satisfies the rental company’s minimum age requirement.
 27 (C) The renter’s employer or coworker if he or she is engaged
 28 in business activity with the renter, is a licensed driver, and satisfies
 29 the rental company’s minimum age requirement.
 30 (D) A person expressly listed by the rental company on that
 31 renter’s contract as an authorized driver.
 32 (6) (A) “Customer facility charge” means any fee, including
 33 an alternative fee, required by an airport to be collected by a rental
 34 company from a renter for any of the following purposes:
 35 (i) To finance, design, and construct consolidated airport car
 36 rental facilities.
 37 (ii) To finance, design, construct, and operate common-use
 38 transportation systems that move passengers between airport

1 terminals and those consolidated car rental facilities, and acquire
2 vehicles for use in that system.

3 (iii) To finance, design, and construct terminal modifications
4 solely to accommodate and provide customer access to
5 common-use transportation systems.

6 (B) The aggregate amount to be collected shall not exceed the
7 reasonable costs, as determined by an audit, by an independent
8 auditor, paid for by the airport, to finance, design, and construct
9 those facilities. The auditor shall independently examine and
10 substantiate the necessity for and the amount of the customer
11 facility charge, including whether the airport's actual or projected
12 costs are supported and justified, any steps the airport may take to
13 limit costs, potential alternatives for meeting the airport's revenue
14 needs other than the collection of the fee, and whether and to what
15 extent car rental companies or other businesses or individuals using
16 the facility or common-use transportation system may pay for the
17 costs associated with these facilities and systems other than the
18 fee from rental customers, or whether the airport did not comply
19 with any provision of this subparagraph. Copies of the audit shall
20 be provided to the Assembly and Senate Committees on Judiciary,
21 the Assembly Committee on Transportation, and the Senate
22 Committee on Transportation and Housing and shall be posted on
23 the airport's Internet Web site. In the case of a customer facility
24 charge for a common-use transportation system, the audit also
25 shall consider the reasonable costs of providing the transit system
26 or busing network pursuant to clause (ii) of subparagraph (A). Any
27 audit required by this subparagraph may be included as a part of
28 an audit of an airport's finances. Notwithstanding clause (iii) of
29 subparagraph (A), the fees designated as a customer facility charge
30 shall not be used to pay for terminal expansion, gate expansion,
31 runway expansion, changes in hours of operation, or changes in
32 the number of flights arriving or departing from the airport.

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

37 (D) If a bond or other form of indebtedness is not used for
38 financing, or the bond or other form of indebtedness used for
39 financing has been paid, the Oakland International Airport may
40 require the collection of a customer facility charge for a period of

1 up to 10 years from the imposition of the charge for the purposes
2 allowed by, and subject to the conditions imposed by, this section.

3 (7) “Damage waiver” means a rental company’s agreement not
4 to hold a renter liable for all or any portion of any damage or loss
5 related to the rented vehicle, any loss of use of the rented vehicle,
6 or any storage, impound, towing, or administrative charges.

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

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

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

22 (9) “Estimated time for replacement” means the number of hours
23 of labor, or fraction thereof, needed to replace damaged vehicle
24 parts as set forth in collision damage estimating guides generally
25 used in the vehicle repair business and commonly known as “crash
26 books.”

27 (10) “Estimated time for repair” means a good faith estimate of
28 the reasonable number of hours of labor, or fraction thereof, needed
29 to repair damaged vehicle parts.

30 (11) “Membership program” means a service offered by a rental
31 company that permits customers to bypass the rental counter and
32 go directly to the car previously reserved. A membership program
33 shall meet all of the following requirements:

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

37 (B) The rental company fully discloses, prior to the enrollee’s
38 first rental as a participant in the program, all terms and conditions
39 of the rental agreement as well as all required disclosures.

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

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

5 (E) An employee designated to receive the form specified in
6 subparagraph (C) of paragraph (1) of subdivision (s) is present at
7 the lot where the renter takes possession of the car, to receive any
8 change in the rental agreement from the renter.

9 (12) “Passenger vehicle” means a passenger vehicle as defined
10 in Section 465 of the Vehicle Code.

11 (13) “Quote” means an estimated cost of rental provided by a
12 rental company or a third party to a potential customer by
13 telephone, in-person, computer-transmission, or other means, that
14 is based on information provided by the potential customer and
15 used to generate an estimated cost of rental, including, but not
16 limited to, potential dates of rental, locations, or classes of car.

17 (14) “Tourism commission assessment” means the charge
18 collected by a rental company from a renter that has been
19 established by the California Travel and Tourism Commission
20 pursuant to Section 13995.65 of the Government Code.

21 (15) “Vehicle license fee” means the tax imposed pursuant to
22 the Vehicle License Fee Law (Part 5 (commencing with Section
23 10701) of Division 2 of the Revenue and Taxation Code).

24 (16) “Vehicle registration fee” means any fee imposed pursuant
25 to any provision of Chapter 6 (commencing with Section 9101)
26 of Division 3 of the Vehicle Code.

27 (17) “Vehicle license recovery fee” means a charge that seeks
28 to recover the amount of any vehicle license fee and vehicle
29 registration fee paid by a rental company for the particular class
30 of vehicle being rented.

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

34 (1) Physical or mechanical damage to the rented vehicle up to
35 its fair market value, as determined in the customary market for
36 the sale of that vehicle, resulting from collision regardless of the
37 cause of the damage.

38 (2) Loss due to theft of the rented vehicle up to its fair market
39 value, as determined in the customary market for the sale of that
40 vehicle, provided that the rental company establishes by clear and

1 convincing evidence that the renter or the authorized driver failed
2 to exercise ordinary care while in possession of the vehicle. In
3 addition, the renter shall be presumed to have no liability for any
4 loss due to theft if (A) an authorized driver has possession of the
5 ignition key furnished by the rental company or an authorized
6 driver establishes that the ignition key furnished by the rental
7 company was not in the vehicle at the time of the theft, and (B) an
8 authorized driver files an official report of the theft with the police
9 or other law enforcement agency within 24 hours of learning of
10 the theft and reasonably cooperates with the rental company and
11 the police or other law enforcement agency in providing
12 information concerning the theft. The presumption set forth in this
13 paragraph is a presumption affecting the burden of proof which
14 the rental company may rebut by establishing that an authorized
15 driver committed, or aided and abetted the commission of, the
16 theft.

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

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

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

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

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

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

1 (2) The estimated cost of labor to replace damaged vehicle parts,
2 which shall not exceed the product of (A) the rate for labor usually
3 paid by the rental company to replace vehicle parts of the type that
4 were damaged and (B) the estimated time for replacement. All
5 discounts and price reductions or adjustments that are or will be
6 received by the rental company shall be subtracted from the
7 estimate to the extent not already incorporated in the estimate, or
8 otherwise promptly credited or refunded to the renter.

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

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

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

16 (B) All discounts and price reductions or adjustments that are
17 or will be received by the rental company shall be subtracted from
18 the estimate to the extent not already incorporated in the estimate,
19 or otherwise promptly credited or refunded to the renter.

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

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

25 (6) The administrative charge described in paragraph (6) of
26 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
27 estimated cost for parts and labor is more than one hundred dollars
28 (\$100) up to and including five hundred dollars (\$500), (B) one
29 hundred dollars (\$100) if the total estimated cost for parts and
30 labor exceeds five hundred dollars (\$500) up to and including one
31 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
32 dollars (\$150) if the total estimated cost for parts and labor exceeds
33 one thousand five hundred dollars (\$1,500). An administrative
34 charge shall not be imposed if the total estimated cost of parts and
35 labor is one hundred dollars (\$100) or less.

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

1 (2) A rental company shall not recover from the renter or other
2 authorized driver an amount exceeding the renter’s liability under
3 subdivision (c).

4 (3) A claim against a renter resulting from damage or loss,
5 excluding loss of use, to a rental vehicle shall be reasonably and
6 rationally related to the actual loss incurred. A rental company
7 shall mitigate damages where possible and shall not assert or collect
8 a claim for physical damage which exceeds the actual costs of the
9 repairs performed or the estimated cost of repairs, if the rental
10 company chooses not to repair the vehicle, including all discounts
11 and price reductions. However, if the vehicle is a total loss vehicle,
12 the claim shall not exceed the total loss vehicle value established
13 in accordance with procedures that are customarily used by
14 insurance companies when paying claims on total loss vehicles,
15 less the proceeds from salvaging the vehicle, if those proceeds are
16 retained by the rental company.

17 (4) If insurance coverage exists under the renter’s applicable
18 personal or business insurance policy and the coverage is confirmed
19 during regular business hours, the renter may require that the rental
20 company submit any claims to the renter’s applicable personal or
21 business insurance carrier. The rental company shall not make any
22 written or oral representations that it will not present claims or
23 negotiate with the renter’s insurance carrier. For purposes of this
24 paragraph, confirmation of coverage includes telephone
25 confirmation from insurance company representatives during
26 regular business hours. Upon request of the renter and after
27 confirmation of coverage, the amount of claim shall be resolved
28 between the insurance carrier and the rental company. The renter
29 shall remain responsible for payment to the rental car company
30 for any loss sustained that the renter’s applicable personal or
31 business insurance policy does not cover.

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

35 (6) This section applies only to the maximum liability of a renter
36 or other authorized driver to the rental company resulting from
37 damage to the rented vehicle and not to the liability of another
38 person.

39 (e) (1) Except as provided in subdivision (f), a damage waiver
40 shall provide or, if not expressly stated in writing, shall be deemed

1 to provide that the renter has no liability for damage, loss, loss of
2 use, or a cost or expense incident thereto.

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

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

9 (1) Damage or loss results from an authorized driver's (A)
10 intentional, willful, wanton, or reckless conduct, (B) operation of
11 the vehicle under the influence of drugs or alcohol in violation of
12 Section 23152 of the Vehicle Code, (C) towing or pushing
13 anything, or (D) operation of the vehicle on an unpaved road if
14 the damage or loss is a direct result of the road or driving
15 conditions.

16 (2) Damage or loss occurs while the vehicle is (A) used for
17 commercial hire, (B) used in connection with conduct that could
18 be properly charged as a felony, (C) involved in a speed test or
19 contest or in driver training activity, (D) operated by a person other
20 than an authorized driver, or (E) operated outside the United States.

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

25 (g) (1) A rental company that offers or provides a damage
26 waiver for any consideration in addition to the rental rate shall
27 clearly and conspicuously disclose the following information in
28 the rental contract or holder in which the contract is placed and,
29 also, in signs posted at the place, such as the counter, where the
30 renter signs the rental contract, and, for renters who are enrolled
31 in the rental company's membership program, in a sign that shall
32 be posted in a location clearly visible to those renters as they enter
33 the location where their reserved rental cars are parked or near the
34 exit of the bus or other conveyance that transports the enrollee to
35 a reserved car: (A) the nature of the renter's liability, such as
36 liability for all collision damage regardless of cause, (B) the extent
37 of the renter's liability, such as liability for damage or loss up to
38 a specified amount, (C) the renter's personal insurance policy or
39 the credit card used to pay for the car rental transaction may
40 provide coverage for all or a portion of the renter's potential

1 liability, (D) the renter should consult with his or her insurer to
 2 determine the scope of insurance coverage, including the amount
 3 of the deductible, if any, for which the renter is obligated, (E) the
 4 renter may purchase an optional damage waiver to cover all
 5 liability, subject to whatever exceptions the rental company
 6 expressly lists that are permitted under subdivision (f), and (F) the
 7 range of charges for the damage waiver.

8 (2) In addition to the requirements of paragraph (1), a rental
 9 company that offers or provides a damage waiver shall orally
 10 disclose to all renters, except those who are participants in the
 11 rental company’s membership program, that the damage waiver
 12 may be duplicative of coverage that the customer maintains under
 13 his or her own policy of motor vehicle insurance. The renter’s
 14 receipt of the oral disclosure shall be demonstrated through the
 15 renter’s acknowledging receipt of the oral disclosure near that part
 16 of the contract where the renter indicates, by the renter’s own
 17 initials, his or her acceptance or declination of the damage waiver.
 18 Adjacent to that same part, the contract also shall state that the
 19 damage waiver is optional. Further, the contract for these renters
 20 shall include a clear and conspicuous written disclosure that the
 21 damage waiver may be duplicative of coverage that the customer
 22 maintains under his or her own policy of motor vehicle insurance.

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

27
 28 “NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
 29 AND OPTIONAL DAMAGE WAIVER
 30

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

35 Your own insurance, or the issuer of the credit card you use to
 36 pay for the car rental transaction, may cover all or part of your
 37 financial responsibility for the rented vehicle. You should check
 38 with your insurance company, or credit card issuer, to find out
 39 about your coverage and the amount of the deductible, if any, for
 40 which you may be liable.

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

5 The rental company will not hold you responsible if you buy a
6 damage waiver. But a damage waiver will not protect you if (list
7 exceptions).”

8
9 (A) When the above notice is printed in the rental contract or
10 holder in which the contract is placed, the following shall be printed
11 immediately following the notice:

12
13 “The cost of an optional damage waiver is \$____ for every (day
14 or week).”

15
16 (B) When the above notice appears on a sign, the following
17 shall appear immediately adjacent to the notice:

18
19 “The cost of an optional damage waiver is \$____ to \$____ for
20 every (day or week), depending upon the vehicle rented.”

21
22 (h) Notwithstanding any other provision of law, a rental
23 company may sell a damage waiver subject to the following rate
24 limitations for each full or partial 24-hour rental day for the damage
25 waiver:

26 (1) For rental vehicles that the rental company designates as an
27 “economy car,” “compact car,” or another term having similar
28 meaning to the two smallest body-size categories of vehicles
29 established by the Association of Car Rental Industry Systems
30 Standards for North America, as of January 1, 2014, when offered
31 for rental, the rate shall not exceed eleven dollars (\$11).

32 (2) For rental vehicles that the rental company designates as an
33 “intermediate car,” “standard car,” or “full-size car,” or another
34 term having similar meaning to the next three body-size categories
35 of vehicles established by the Association of Car Rental Industry
36 Systems Standards for North America, as of January 1, 2014, and
37 that are also either vehicles of the next model-year, or not older
38 than the previous year’s model, when offered for rental, the rate
39 shall not exceed seventeen dollars (\$17). For rental vehicles that

1 are older than the previous year's model-year, the rate shall not
2 exceed eleven dollars (\$11).

3 (i) A rental company that disseminates in this state an
4 advertisement containing a rental rate shall include in that
5 advertisement a clearly readable statement of the charge for a
6 damage waiver and a statement that a damage waiver is optional.

7 (j) (1) A rental company shall not require the purchase of a
8 damage waiver, optional insurance, or another optional good or
9 service.

10 (2) A rental company shall not engage in any unfair, deceptive,
11 or coercive conduct to induce a renter to purchase the damage
12 waiver, optional insurance, or another optional good or service,
13 including conduct such as, but not limited to, refusing to honor
14 the renter's reservation, limiting the availability of vehicles,
15 requiring a deposit, or debiting or blocking the renter's credit card
16 account for a sum equivalent to a deposit if the renter declines to
17 purchase the damage waiver, optional insurance, or another
18 optional good or service.

19 (k) (1) In the absence of express permission granted by the
20 renter subsequent to damage to, or loss of, the vehicle, a rental
21 company shall not seek to recover any portion of a claim arising
22 out of damage to, or loss of, the rented vehicle by processing a
23 credit card charge or causing a debit or block to be placed on the
24 renter's credit card account.

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

28 (l) (1) A customer facility charge may be collected by a rental
29 company under the following circumstances:

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

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

37 (C) The fee is a user fee, not a tax imposed upon real property
38 or an incident of property ownership under Article XIII D of the
39 California Constitution.

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

4 (E) The fee for a consolidated rental car facility shall be
5 collected only from customers of on-airport rental car companies.
6 If the fee imposed by the airport is for both a consolidated rental
7 car facility and a common-use transportation system, the fee
8 collected from customers of on-airport rental car companies shall
9 be ten dollars (\$10) or the amount provided in paragraph (2), but
10 the fee imposed on customers of off-airport rental car companies
11 who are transported on the common-use transportation system is
12 proportionate to the costs of the common-use transportation system
13 only. The fee is uniformly applied to each class of on-airport or
14 off-airport customers, provided that the airport requires off-airport
15 customers to use the common-use transportation system. For
16 purposes of this subparagraph, “on-airport rental car company”
17 means a rental company operating under an airport property lease
18 or an airport concession or license agreement whose customers
19 use or will use the consolidated rental car facility and the collection
20 of the fee as to those customers is consistent with subparagraph
21 (C).

22 (F) Revenues collected from the fee do not exceed the reasonable
23 costs of financing, designing, and constructing the facility and
24 financing, designing, constructing, and operating any common-use
25 transportation system, or acquiring vehicles for use in that system,
26 and shall not be used for any other purpose.

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

28 (H) This paragraph does not apply to fees which are governed
29 by Section 50474.1 of the Government Code or Section 57.5 of
30 the San Diego Unified Port District Act (Chapter 67 of the First
31 Extraordinary Session of the Statutes of 1962).

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

35 (i) Notwithstanding Section 10231.5 of the Government Code,
36 the airport shall provide reports on an annual basis to the Senate
37 and Assembly Committees on Judiciary detailing all of the
38 following:

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

40 (II) How the funds are being spent.

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

4 (ii) (I) The airport shall complete the audit required by
5 subparagraph (B) of paragraph (6) of subdivision (a) prior to the
6 initial collection of the customer facility charge. Notwithstanding
7 Section 10231.5 of the Government Code, copies of the audit shall
8 be provided to the Assembly and Senate Committees on Judiciary,
9 the Assembly Committee on Transportation, and the Senate
10 Committee on Transportation and Housing and shall be posted on
11 the airport's Internet Web site.

12 (II) Prior to any increase pursuant to paragraph (2), the airport
13 shall update the information provided in the initial collection audit
14 pursuant to subclause (I). Notwithstanding Section 10231.5 of the
15 Government Code, copies of the updated audit shall be provided
16 to the Assembly and Senate Committees on Judiciary, the
17 Assembly Committee on Transportation, and the Senate Committee
18 on Transportation and Housing, and shall be posted on the airport's
19 Internet Web site.

20 (III) An audit shall be completed every three years after initial
21 collection only if the customer facility charge is collected for the
22 purpose of operating a common-use transportation system or to
23 acquire vehicles for use in the system pursuant to clause (ii) of
24 subparagraph (A) of paragraph (6) of subdivision (a). A regularly
25 conducted audit of airport finances that includes the customer
26 facility charge information, that satisfies the requirements of
27 subparagraph (B) of paragraph (6) of subdivision (a), and is
28 produced in accordance with the generally accepted accounting
29 principles of the Government Accounting Standards Board, shall
30 satisfy the requirements of this subclause. This obligation shall
31 continue until the fee authorization becomes inoperative pursuant
32 to subparagraph (C) of paragraph (6) of subdivision (a).
33 Notwithstanding Section 10231.5 of the Government Code, the
34 information reported pursuant to this subclause shall be compiled
35 into one document, shall be provided to the Assembly and Senate
36 Committees on Judiciary, the Assembly Committee on
37 Transportation, and the Senate Committee on Transportation and
38 Housing and shall be posted on the airport's Internet Web site
39 accessible to the public. The information reported shall be

1 contained within one easily accessible page contained within the
2 airport's Internet Web site.

3 (IV) This section shall not be construed to require an airport to
4 audit a common-use transportation system not financed by a
5 customer facility charge and used for the purposes permitted
6 pursuant to clause (ii) of subparagraph (A) of paragraph (6) of
7 subdivision (a).

8 (V) The airport shall post on the airport's Internet Web site
9 copies of the completed audits required by this clause for a period
10 of six years following the audit's completion.

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

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

17 (A) The airport first conducts a publicly noticed hearing pursuant
18 to the Ralph M. Brown Act (Chapter 9 (commencing with Section
19 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
20 to review the costs of financing the design and construction of a
21 consolidated rental car facility and the design, construction, and
22 operation of any common-use transportation system in which all
23 of the following occur:

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

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

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

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

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

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

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

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

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

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

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

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

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

22 (v) An airport subject to this paragraph shall initiate the process
23 for obtaining the authority to require or increase the alternative
24 fee no later than January 1, 2018. Any airport that obtains the
25 authority to require or increase an alternative fee shall be authorized
26 to continue collecting that fee until the fee authorization becomes
27 inoperative pursuant to subparagraph (C) of paragraph (6) of
28 subdivision (a).

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

37 (m) (1) When providing a quote, or imposing charges for a
38 rental, the rental company may separately state the rental rate,
39 additional mandatory charges, if any, and a mileage charge, if any,
40 that a renter must pay to hire or lease the vehicle for the period of

1 time to which the rental rate applies. A rental company shall not
2 charge in addition to the rental rate, additional mandatory charges,
3 or a mileage charge, as those may be applicable, any other fee that
4 is required to be paid by the renter as a condition of hiring or
5 leasing the vehicle.

6 (2) If additional mandatory charges are imposed, the rental
7 company shall do each of the following:

8 (A) At the time the quote is given, provide the person receiving
9 the quote with a good faith estimate of the rental rate and all
10 additional mandatory charges, as well as the total charges for the
11 entire rental. The total charges, if provided on an Internet Web site
12 page, shall be displayed in a typeface at least as large as any rental
13 rate disclosed on that page and shall be provided on a page that
14 the person receiving the quote may reach by following links
15 through no more than two Internet Web site pages, including the
16 page on which the rental rate is first provided. The good faith
17 estimate may exclude mileage charges and charges for optional
18 items that cannot be determined prior to completing the reservation
19 based upon the information provided by the person.

20 (B) At the time and place the rental commences, clearly and
21 conspicuously disclose in the rental contract, or that portion of the
22 contract that is provided to the renter, the total of the rental rate,
23 additional mandatory charges, for the entire rental, exclusive of
24 charges that cannot be determined at the time the rental
25 commences. Charges imposed pursuant to this subparagraph shall
26 be no more than the amount of the quote provided in a confirmed
27 reservation, unless the person changes the terms of the rental
28 contract subsequent to making the reservation.

29 (C) Provide each person, other than those persons within the
30 rental company, offering quotes to actual or prospective customers
31 access to information about additional mandatory charges, as well
32 as access to information about when those charges apply. Any
33 person providing quotes to actual or prospective customers for the
34 hire or lease of a vehicle from a rental company shall provide the
35 quotes in the manner described in subparagraph (A).

36 (3) In addition to the rental rate, taxes, additional mandatory
37 charges, if any, and mileage charges, if any, a rental company may
38 charge for an item or service provided in connection with a
39 particular rental transaction if the renter could have avoided
40 incurring the charge by choosing not to obtain or utilize the

1 optional item or service. Items and services for which the rental
2 company may impose an additional charge include, but are not
3 limited to, optional insurance and accessories requested by the
4 renter, service charges incident to the renter's optional return of
5 the vehicle to a location other than the location where the vehicle
6 was hired or leased, and charges for refueling the vehicle at the
7 conclusion of the rental transaction in the event the renter did not
8 return the vehicle with as much fuel as was in the fuel tank at the
9 beginning of the rental. A rental company also may impose an
10 additional charge based on reasonable age criteria established by
11 the rental company.

12 (4) A rental company shall not charge a fee for authorized
13 drivers in addition to the rental charge for an individual renter.

14 (5) If a rental company states a rental rate in print advertisement
15 or in a telephonic, in-person, or computer-transmitted quotation,
16 the rental company shall disclose clearly in that advertisement or
17 quotation the terms of mileage conditions relating to the advertised
18 or quoted rental rate, including, but not limited to, to the extent
19 applicable, the amount of mileage and gas charges, the number of
20 miles for which no charges will be imposed, and a description of
21 geographic driving limitations within the United States and Canada.

22 (6) All rate advertisements shall include the following
23 disclaimer, which shall be prominently displayed: "Additional
24 mandatory charges may be imposed, including, but not limited to,
25 a customer facility charge, airport concession fee, tourism
26 commission assessment, vehicle license recovery fee, or other
27 government imposed taxes or fees. For more information, including
28 an estimate of your total rental cost, visit our Internet Web site at
29 [www.____.com]."

30 (7) If a rental company delivers a vehicle to a renter at a location
31 other than the location where the rental company normally carries
32 on its business, the rental company shall not charge the renter an
33 amount for the rental for the period before the delivery of the
34 vehicle. If a rental company picks up a rented vehicle from a renter
35 at a location other than the location where the rental company
36 normally carries on its business, the rental company shall not
37 charge the renter an amount for the rental for the period after the
38 renter notifies the rental company to pick up the vehicle.

39 (8) Except as otherwise permitted pursuant to the customer
40 facility charge, a rental company shall not separately charge, in

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

3 (n) A rental company shall not use, access, or obtain any
4 information relating to the renter's use of the rental vehicle that
5 was obtained using electronic surveillance technology, except in
6 the following circumstances:

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

10 (i) The renter or law enforcement has informed the rental
11 company that the vehicle is missing or has been stolen or
12 abandoned.

13 (ii) The rental vehicle has not been returned following ~~one week~~
14 *three calendar days* after the contracted return date, or by ~~one~~
15 *week three calendar days* following the end of an extension of
16 that return date.

17 (iii) The rental company discovers the rental vehicle has been
18 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
19 to law enforcement by filing a stolen vehicle report, unless law
20 enforcement has already informed the rental company that the
21 vehicle is missing or has been stolen or abandoned.

22 (B) If electronic surveillance technology is activated pursuant
23 to subparagraph (A), a rental company shall maintain a record, in
24 either electronic or written form, of information relevant to the
25 activation of that technology. That information shall include the
26 rental agreement, including the return date, and the date and time
27 the electronic surveillance technology was activated. The record
28 shall also include, if relevant, a record of written or other
29 communication with the renter, including communications
30 regarding extensions of the rental, police reports, or other written
31 communication with law enforcement officials. The record shall
32 be maintained for a period of at least 12 months from the time the
33 record is created and shall be made available upon the renter's
34 request. The rental company shall maintain and furnish explanatory
35 codes necessary to read the record. A rental company shall not be
36 required to maintain a record if electronic surveillance technology
37 is activated to recover a rental vehicle that is stolen or missing at
38 a time other than during a rental period.

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

1 (3) This subdivision does not prohibit a rental company from
2 equipping rental vehicles with GPS-based technology that provides
3 navigation assistance to the occupants of the rental vehicle, if the
4 rental company does not use, access, or obtain information relating
5 to the renter's use of the rental vehicle that was obtained using
6 that technology, except for the purposes of discovering or repairing
7 a defect in the technology and the information may then be used
8 only for that purpose.

9 (4) This subdivision does not prohibit a rental company from
10 equipping rental vehicles with electronic surveillance technology
11 that allows for the remote locking or unlocking of the vehicle at
12 the request of the renter, if the rental company does not use, access,
13 or obtain information relating to the renter's use of the rental
14 vehicle that was obtained using that technology, except as
15 necessary to lock or unlock the vehicle.

16 (5) This subdivision does not prohibit a rental company from
17 equipping rental vehicles with electronic surveillance technology
18 that allows the company to provide roadside assistance, such as
19 towing, flat tire, or fuel services, at the request of the renter, if the
20 rental company does not use, access, or obtain information relating
21 to the renter's use of the rental vehicle that was obtained using
22 that technology except as necessary to provide the requested
23 roadside assistance.

24 (6) This subdivision does not prohibit a rental company from
25 obtaining, accessing, or using information from electronic
26 surveillance technology for the sole purpose of determining the
27 date and time the vehicle is returned to the rental company, and
28 the total mileage driven and the vehicle fuel level of the returned
29 vehicle. This paragraph, however, shall apply only after the renter
30 has returned the vehicle to the rental company, and the information
31 shall only be used for the purpose described in this paragraph.

32 (o) A rental company shall not use electronic surveillance
33 technology to track a renter in order to impose fines or surcharges
34 relating to the renter's use of the rental vehicle.

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

39 (q) A rental company that brings an action against a renter for
40 loss due to theft of the vehicle shall bring the action in the county

1 in which the renter resides or, if the renter is not a resident of this
2 state, in the jurisdiction in which the renter resides.

3 (r) A waiver of any of the provisions of this section shall be
4 void and unenforceable as contrary to public policy.

5 (s) (1) A rental company's disclosure requirements shall be
6 satisfied for renters who are enrolled in the rental company's
7 membership program if all of the following conditions are met:

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

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

13 (ii) An Internet Web site address, as well as a contact number
14 or address, where the enrollee can learn of changes to the rental
15 agreement or to the laws of this state governing rental agreements
16 since the effective date of the rental company's most recent
17 restatement of the rental agreement and distribution of that
18 restatement to its members.

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

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

32 The hanger shall provide the renter a box to initial if he or she
33 (not his or her employer) has previously accepted or declined the
34 collision damage waiver and that he or she now wishes to change
35 his or her decision to accept or decline the collision damage waiver,
36 as follows:

37
38 "If I previously accepted the collision damage waiver, I now
39 decline it.

40

1
2 If I previously declined the collision damage waiver, I now
3 accept it.”
4

5 The hanger shall also provide a box for the enrollee to indicate
6 whether this change applies to this rental transaction only or to all
7 future rental transactions. The hanger shall also notify the renter
8 that he or she may make that change, prior to leaving the lot, by
9 returning the form to an employee designated to receive the form
10 who is present at the lot where the renter takes possession of the
11 car, to receive any change in the rental agreement from the renter.

12 (2) (A) This subdivision is not effective unless the employee
13 designated pursuant to subparagraph (E) of paragraph (9) of
14 subdivision (a) is actually present at the required location.

15 (B) This subdivision does not relieve the rental company from
16 the disclosures required to be made within the text of a contract
17 or holder in which the contract is placed; in or on an advertisement
18 containing a rental rate; or in a telephonic, in-person, or
19 computer-transmitted quotation or reservation.

20 (t) The amendments made to this section during the 2001–02
21 Regular Session of the Legislature do not affect litigation pending
22 on or before January 1, 2003, alleging a violation of Section 22325
23 of the Business and Professions Code as it read at the time the
24 action was commenced.

25 (u) (1) When a rental company enters into a rental agreement
26 in the state for the rental of a vehicle to any renter who is not a
27 resident of this country and, as part of, or associated with, the rental
28 agreement, the renter purchases liability insurance, as defined in
29 subdivision (b) of Section 1758.85 of the Insurance Code, from
30 the rental company in its capacity as a rental car agent for an
31 authorized insurer, the rental company shall be authorized to accept,
32 and, if served as set forth in this subdivision, shall accept, service
33 of a summons and complaint and any other required documents
34 against the foreign renter for any accident or collision resulting
35 from the operation of the rental vehicle within the state during the
36 rental period. If the rental company has a registered agent for
37 service of process on file with the Secretary of State, process shall
38 be served on the rental company’s registered agent, either by
39 first-class mail, return receipt requested, or by personal service.

1 (2) Within 30 days of acceptance of service of process, the rental
2 company shall provide a copy of the summons and complaint and
3 any other required documents served in accordance with this
4 subdivision to the foreign renter by first-class mail, return receipt
5 requested.

6 (3) Any plaintiff, or his or her representative, who elects to serve
7 the foreign renter by delivering a copy of the summons and
8 complaint and any other required documents to the rental company
9 pursuant to paragraph (1) shall agree to limit his or her recovery
10 against the foreign renter and the rental company to the limits of
11 the protection extended by the liability insurance.

12 (4) Notwithstanding the requirements of Sections 17450 to
13 17456, inclusive, of the Vehicle Code, service of process in
14 compliance with paragraph (1) shall be deemed valid and effective
15 service.

16 (5) Notwithstanding any other provision of law, the requirement
17 that the rental company accept service of process pursuant to
18 paragraph (1) shall not create any duty, obligation, or agency
19 relationship other than that provided in paragraph (1).