

**Senate Bill No. 1228**

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Passed the Senate      September 10, 1999

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*Secretary of the Senate*

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Passed the Assembly      September 8, 1999

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*Chief Clerk of the Assembly*

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This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 1999, at \_\_\_\_\_ o'clock \_\_\_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*



## CHAPTER \_\_\_\_\_

An act to add Section 1936.5 to the Civil Code, relating to rental vehicles.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1228, Vasconcellos. Rental vehicles: airports.

Existing law regulates the advertisement of vehicle rental company rates and generally requires that a rental company advertise and charge a rate that includes the entire amount, except taxes and mileage, and prohibits additional fees, including the imposition of airport fees and charges.

This bill would require rental car companies doing business with specified customers at the San Jose International Airport to impose an additional fee for the purpose of providing an airport-mandated common use busing system for the movement of passengers between the terminal and an interim car rental facility until the commencement of the collection of the next described fee. The bill would require the companies to impose an additional fee for the purpose of financing, designing, or constructing either consolidated rental car facilities or a common use transportation system, or both, if certain conditions are met, and would require additional disclosures in advertising and contracts by rental car companies imposing that fee, or by any person or entity other than a rental car company, including a passenger carrier or a seller of travel services, that advertises or quotes a rate for a car rental subject to a surcharge. The bill would provide that authorization to impose the fee would expire no later than 20 years from the date that the amount of the first fee is collected. The bill would make legislative findings and declarations as to the necessity for a special statute.



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

SECTION 1. Section 1936.5 is added to the Civil Code, to read:

1936.5. (a) Notwithstanding subdivision (m) of Section 1936, a rental car company conducting business with customers that use either the consolidated rental car facility or the common use transportation system, or both, at the San Jose International Airport shall surcharge a fee to its customers that meets all of the following criteria:

(1) The fee is imposed by the City of San Jose, by duly adopted ordinance or resolution, and is required to be remitted to the City of San Jose by the rental car company for the purpose of financing, designing, and constructing one or both of the following:

(A) Consolidated rental car facilities.

(B) An airport-mandated common use transportation system for the movement of passengers between the terminals and the consolidated on-airport rental car facilities.

(2) The fee imposed on customers of on-airport rental car companies is proportionate to the costs of the consolidated rental car facilities and the common use transportation system. The fee imposed on customers that are picked up or delivered to the airport by off-airport rental car companies is proportionate to the costs of the common use transportation system only. The fee is uniformly applied to each class of on-airport or off-airport customers.

(3) The fee is imposed on a per contract basis and does not exceed ten dollars and fifteen cents (\$10.15).

(4) Collection of the fee commences when the consolidated rental car facility is constructed, occupied, and opened for service. Authority to collect the fee shall expire no later than 20 years from the date the fee is first collected. Any fees so collected that are not used for design and construction shall be applied to retire the debt on the consolidated rental car facilities and common use transportation system.



(5) The fee collected for this purpose is debt owed to the airport by the collecting party. The debt is due and payable to the airport, monthly, quarterly, or at any other interval the airport may establish to facilitate collection and insure payment.

(6) The fee is a user fee, not a tax, and the fee is not related to property under Article XIII D of the California Constitution.

(7) Revenues collected from the fees are applied in accordance with the terms of any resolutions, indentures, or other financing documents applicable to the provision of facilities and payments of expenses and do not exceed the reasonable costs of financing, designing, and constructing:

(A) Consolidated rental car facilities.

(B) An airport-mandated common use transportation system for the movement of passengers between the terminals and the consolidated on-airport rental car facilities.

(8) Revenues collected from the fees are not applied to costs for the design and construction of a consolidated rental car facility in excess of \$155 million or to costs for the design and construction of a common use transportation system in excess of \$120 million.

(b) Notwithstanding subdivision (m) of Section 1936, a rental car company conducting business with customers that use an airport-mandated common use busing system operated for the movement of passengers between the terminal and an interim car rental facility at San Jose International Airport shall surcharge a fee to its customers. The surcharge shall meet all of the following criteria:

(1) The fee is imposed by the City of San Jose, by duly adopted ordinance or resolution, and is required to be remitted to the City of San Jose by the rental car company for the purpose of providing the common use busing system.

(2) The fee is imposed on a per contract basis, not to exceed five dollars (\$5) per contract.



(3) The fee collected for this purpose is debt owed to the airport by the collecting party. The debt is due and payable to the airport, monthly, quarterly, or at any other interval the airport may establish to facilitate collection and ensure payment.

(4) The fee is a user fee, and not a tax, and the fee is not related to property under Article XIII D of the California Constitution.

(5) Revenues collected from the fee may not exceed the reasonable costs of providing the busing and may not be used for any other purpose.

(6) The authority to collect the fee under this section expires when collection of the fee described in subdivision (a) of this section commences.

(c) A rental car company that charges its customers a fee pursuant to subdivision (a) or (b) shall do all of the following with respect to any advertisements or quotations of rental rates applicable to San Jose International Airport:

(1) Clearly disclose the existence and amount of the fee in any radio, television, or other electronic media advertisement.

(2) Clearly disclose the existence and amount of the fee in any print advertising, in a print size no smaller than the print size of the rental rate.

(3) Clearly disclose the existence and amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car.

(4) In any computer-assisted transaction, prominently display the fee on the same page on the computer screen with the displayed rental rate, in a print size no smaller than the print size of the rental rate.

(5) Separately identify the purpose of the fee and the amount on its rental agreement.

(d) If any person or entity other than a rental car company, including a passenger carrier or a seller of travel services, advertises or quotes a rate for a car rental subject to a surcharge imposed pursuant to subdivision



(a) or (b), that person or entity shall, to the extent not specifically prohibited by federal law, clearly disclose the existence and the amount of the fee in any telephonic, in-person, or computer-transmitted quotation at the time of making an initial quotation of a rental rate and at the time of making a reservation of a rental car.

(e) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section shall not be subject to sales, use, or transaction taxes.

(f) The authorization to surcharge fees provided in this section shall become inoperative as of the date described in paragraph (4) of subdivision (a).

(g) A rental car company that surcharges its customers a fee pursuant to this section shall remit the amounts collected to the City of San Jose, in accordance with any applicable local ordinance, resolution, indenture, or financing document.

(h) A rental car company that surcharges a fee pursuant to this section and does not comply with the disclosure requirements of subdivision (c) or a person or entity that does not comply with subdivision (d) shall be subject to all applicable remedies for failing to make required disclosures, including, but not limited to Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code.

SEC. 2. The Legislature finds and declares with respect to Section 1 of this act that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique funding, public service, and jurisdictional concerns involving the City of San Jose and the San Jose International Airport.



Approved \_\_\_\_\_, 1999

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*Governor*

