

Assembly Bill No. 2761

CHAPTER 536

An act to add Section 1936.05 to the Civil Code, relating to vehicle rental agreements.

[Approved by Governor September 15, 2004. Filed with Secretary of State September 15, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2761, Leno. Vehicle rental agreements.

Existing law regulates various terms and conditions of vehicle rental agreements for the lease or hire of a passenger vehicle from a rental company for less than a period of 30 days, as specified. Existing law authorizes a renter to bring an action against a rental company for a violation of these provisions.

This bill would create an exception to this provision authorizing a rental car company to separately quote, and separately impose, additional charges for the rental in connection with the qualified business rental of a passenger vehicle to a business renter of a business program sponsor, as defined, under the sponsor's business program. The bill would also authorize a renter to bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of these provisions.

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

SECTION 1. Section 1936.05 is added to the Civil Code, to read: 1936.05. (a) For purposes of this section:

(1) "Additional charges" means charges other than a per period base rental rate established by the business program.

(2) "Business program" means (A) a contract between a rental company and a business program sponsor that has established the per period base rental rate, and any other material terms relating to additional charges, on which the rental company will rent passenger vehicles to persons authorized by the sponsor, or (B) a plan, program, or other arrangement established by a rental company at the request of, or with the consent of, a business program sponsor under which the rental company offers to rent passenger vehicles to persons authorized by the sponsor at per period base rental rates, and any other material terms relating to additional charges, that are not the same as those generally offered by the rental company to the public.



(3) “Business program sponsor” means a legal entity, other than a natural person, that is a corporation, limited liability company, or partnership.

(4) “Business renter” means, for any business program sponsor, a person who is authorized by the sponsor, through the use of an identifying number or program name or code, to enter into a rental contract under the sponsor’s business program. In no case shall the term “business renter” include a person renting as: (A) a nonemployee member of a not-for-profit organization, (B) the purchaser of a voucher or other prepaid rental arrangement from a person, including a tour operator, engaged in the business of reselling those vouchers or prepaid rental arrangements to the general public, (C) an individual whose car rental is eligible for reimbursement in whole or in part as a result of the person being insured or provided coverage under a policy of insurance issued by an insurance company, or (D) an individual whose car rental is eligible for reimbursement in whole or in part as a result of the person purchasing passenger vehicle repair services from a person licensed to perform such services.

(5) “Qualified business rental” under a business program established for a business program sponsor by a rental company means the rental of a passenger vehicle under the business program if either (A) in the 12-month period ending on the date of the rental or in the calendar year immediately preceding the year in which the rental occurs, the rentals under all business programs established by the rental company for the business program sponsor and its affiliates produced gross rental revenues in excess of twenty-five thousand dollars (\$25,000) or (B) the rental company in good faith estimates that rentals under all the business programs established by the rental company for the business program sponsor and its affiliates will produce gross rental revenues in excess of twenty-five thousand dollars (\$25,000) in the 12-month period commencing with the date of the rental or in the calendar year in which the rental occurs. The rental company has the burden of establishing by objectively verifiable evidence that the rental was a qualified business rental.

(6) “Quote” means telephonic, in-person, and computer-transmitted quotations.

(b) Notwithstanding any provision to the contrary contained in paragraph (1) of subdivision (n) of Section 1936, a rental car company may, in connection with the qualified business rental of a passenger vehicle to a business renter of a business program sponsor under the sponsor’s business program, do both of the following:

(1) Separately quote additional charges for the rental if, at the time the quote is provided, the person receiving the quote is also provided a good



faith estimate of the total of all the charges for the entire rental. The estimate may exclude mileage charges and charges for optional items and services that cannot be determined prior to completing the reservation based upon the information provided by the renter.

(2) Separately impose additional charges for the rental, if the rental contract, or another document provided to the business renter at the time and place the rental commences, clearly and conspicuously discloses the total of all the charges for the entire rental, exclusive of charges that cannot be determined at the time the rental commences.

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

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

(e) Nothing in this section shall be interpreted to mean that a rental company is not required to comply with the requirements of paragraphs (2) to (6), inclusive, of subdivision (n) of Section 1936.

