

AMENDED IN ASSEMBLY MAY 10, 2010

AMENDED IN ASSEMBLY APRIL 22, 2010

AMENDED IN ASSEMBLY MARCH 25, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2059

**Introduced by Assembly Member Charles Calderon
(Coauthor: Assembly Member Solorio)**

February 18, 2010

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2059, as amended, Charles Calderon. Vehicle rental agreements.

Existing law governs contracts between vehicle rental companies and their customers. Existing law regulates an automobile renter's liability for loss due to theft, a rental company's loss of use, or damage or loss to a rental vehicle, a renter's credit card liability, the submission of insurance claims, damage waivers and damage waiver fees, and the notice to a renter regarding financial responsibility and optional damage waivers.

This bill would require a rental company, ~~if it enters into a rental contract with a renter who resides out of state in which 3rd-party liability insurance is provided to accept service of process on behalf of the renter.~~ *These provisions would also apply if an authorized driver resides out of state to accept service of process on behalf of a renter or authorized driver who resides out of state for any claim related to harm, loss, or damage related to the use of the rental vehicle, if the rental company provides 3rd-party liability insurance coverage as part of, or associated*

with, the rental agreement. The bill would require that any plaintiff who elects to deliver process to the rental company pursuant to these provisions agree to limit his or her recovery against the renter, authorized driver, or rental company to the limits of the protection provided by the insurance coverage.

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) "Authorized driver" means (A) the renter, (B) the renter's
11 spouse if that person is a licensed driver and satisfies the rental
12 company's minimum age requirement, (C) the renter's employer
13 or coworker if he or she is engaged in business activity with the
14 renter, is a licensed driver, and satisfies the rental company's
15 minimum age requirement, and (D) a person expressly listed by
16 the rental company on the renter's contract as an authorized driver.

17 (4) (A) "Customer facility charge" means a fee required by an
18 airport to be collected by a rental company from a renter for either
19 of the following purposes:

20 (i) To finance, design, and construct consolidated airport car
21 rental facilities.

22 (ii) To finance, design, construct, and provide common-use
23 transportation systems that move passengers between airport
24 terminals and those consolidated car rental facilities.

25 (B) The aggregate amount to be collected shall not exceed the
26 reasonable costs, as determined by an independent audit paid for
27 by the airport, to finance, design, and construct those facilities.
28 Copies of the audit shall be provided to the Assembly and Senate
29 Committees on Judiciary, the Assembly Committee on
30 Transportation, and the Senate Committee on Transportation and

1 Housing. In the case of a transportation system, the audit also shall
2 consider the reasonable costs of providing the transit system or
3 busing network. At the Burbank Airport, and at all other airports,
4 the fees designated as a customer facility charge shall not be used
5 to pay for terminal expansion, gate expansion, runway expansion,
6 changes in hours of operation, or changes in the number of flights
7 arriving or departing from the airport.

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

12 (D) If a bond or other form of indebtedness is not used for
13 financing, or the bond or other form of indebtedness used for
14 financing has been paid, the Oakland International Airport may
15 require the collection of a customer facility charge for a period of
16 up to 10 years from the imposition of the charge for the purposes
17 allowed by, and subject to the conditions imposed by, this section.

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

22 (6) "Electronic surveillance technology" means a technological
23 method or system used to observe, monitor, or collect information,
24 including telematics, Global Positioning System (GPS), wireless
25 technology, or location-based technologies. "Electronic
26 surveillance technology" does not include event data recorders
27 (EDR), sensing and diagnostic modules (SDM), or other systems
28 that are used either:

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

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

37 (7) "Estimated time for replacement" means the number of hours
38 of labor, or fraction thereof, needed to replace damaged vehicle
39 parts as set forth in collision damage estimating guides generally

1 used in the vehicle repair business and commonly known as “crash
2 books.”

3 (8) “Estimated time for repair” means a good faith estimate of
4 the reasonable number of hours of labor, or fraction thereof, needed
5 to repair damaged vehicle parts.

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

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

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

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

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

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

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

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

30 (1) Physical or mechanical damage to the rented vehicle up to
31 its fair market value, as determined in the customary market for
32 the sale of that vehicle, resulting from collision regardless of the
33 cause of the damage.

34 (2) Loss due to theft of the rented vehicle up to its fair market
35 value, as determined in the customary market for the sale of that
36 vehicle, provided that the rental company establishes by clear and
37 convincing evidence that the renter or the authorized driver failed
38 to exercise ordinary care while in possession of the vehicle. In
39 addition, the renter shall be presumed to have no liability for any
40 loss due to theft if (A) an authorized driver has possession of the

1 ignition key furnished by the rental company or an authorized
2 driver establishes that the ignition key furnished by the rental
3 company was not in the vehicle at the time of the theft, and (B) an
4 authorized driver files an official report of the theft with the police
5 or other law enforcement agency within 24 hours of learning of
6 the theft and reasonably cooperates with the rental company and
7 the police or other law enforcement agency in providing
8 information concerning the theft. The presumption set forth in this
9 paragraph is a presumption affecting the burden of proof which
10 the rental company may rebut by establishing that an authorized
11 driver committed, or aided and abetted the commission of, the
12 theft.

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

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

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

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

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

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

36 (2) The estimated cost of labor to replace damaged vehicle parts,
37 which shall not exceed the product of (A) the rate for labor usually
38 paid by the rental company to replace vehicle parts of the type that
39 were damaged and (B) the estimated time for replacement. All
40 discounts and price reductions or adjustments that are or will be

1 received by the rental company shall be subtracted from the
2 estimate to the extent not already incorporated in the estimate, or
3 otherwise promptly credited or refunded to the renter.

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

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

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

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

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

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

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

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

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

38 (3) A claim against a renter resulting from damage or loss,
39 excluding loss of use, to a rental vehicle shall be reasonably and
40 rationally related to the actual loss incurred. A rental company

1 shall mitigate damages where possible and shall not assert or collect
2 a claim for physical damage which exceeds the actual costs of the
3 repairs performed or the estimated cost of repairs, if the rental
4 company chooses not to repair the vehicle, including all discounts
5 and price reductions. However, if the vehicle is a total loss vehicle,
6 the claim shall not exceed the total loss vehicle value established
7 in accordance with procedures that are customarily used by
8 insurance companies when paying claims on total loss vehicles,
9 less the proceeds from salvaging the vehicle, if those proceeds are
10 retained by the rental company.

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

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

29 (6) This section applies only to the maximum liability of a renter
30 or other authorized driver to the rental company resulting from
31 damage to the rented vehicle and not to the liability of another
32 person.

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

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

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

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

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

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

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company

1 expressly lists that are permitted under subdivision (f), and (F) the
2 range of charges for the damage waiver.

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

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

22
23 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
24 AND OPTIONAL DAMAGE WAIVER
25

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

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

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

1 The rental company will not hold you responsible if you buy a
2 damage waiver. But a damage waiver will not protect you if (list
3 exceptions).”

4 (A) When the above notice is printed in the rental contract or
5 holder in which the contract is placed, the following shall be printed
6 immediately following the notice:

7 “The cost of an optional damage waiver is \$_____ for every (day
8 or week).”

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

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

13 (h) Notwithstanding any other provision of law, a rental
14 company may sell a damage waiver subject to the following rate
15 limitations for each full or partial 24-hour rental day for the damage
16 waiver.;

17 (1) For rental vehicles that the rental company designates as an
18 “economy car,” “subcompact car,” “compact car,” or another term
19 having similar meaning when offered for rental, or another vehicle
20 having a manufacturer’s suggested retail price of nineteen thousand
21 dollars (\$19,000) or less, the rate shall not exceed nine dollars
22 (\$9).

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

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

36 (j) A rental company that disseminates in this state an
37 advertisement containing a rental rate shall include in that
38 advertisement a clearly readable statement of the charge for a
39 damage waiver and a statement that a damage waiver is optional.

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

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

13 (l) (1) In the absence of express permission granted by the
14 renter subsequent to damage to, or loss of, the vehicle, a rental
15 company shall not seek to recover any portion of a claim arising
16 out of damage to, or loss of, the rented vehicle by processing a
17 credit card charge or causing a debit or block to be placed on the
18 renter's credit card account.

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

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

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

29 (B) The fee is calculated on a per-contract basis.

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

33 (D) Except as otherwise provided in subparagraph (E), the fee
34 shall be ten dollars (\$10) per contract.

35 (E) If the fee imposed by the airport is for both a consolidated
36 rental car facility and a common-use transportation system, the
37 fee collected from customers of on-airport rental car companies
38 shall be ten dollars (\$10), but the fee imposed on customers of
39 off-airport rental car companies who are transported on the
40 common-use transportation system is proportionate to the costs of

1 the common-use transportation system only. The fee is uniformly
2 applied to each class of on-airport or off-airport customers,
3 provided that the airport requires off-airport customers to use the
4 common-use transportation system.

5 (F) Revenues collected from the fee do not exceed the reasonable
6 costs of financing, designing, constructing, or operating the facility
7 or transportation services and shall not be used for any other
8 purpose.

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

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

13 (2) Notwithstanding any other provision of law, including, but
14 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
15 (commencing with Section 7280), inclusive, of Division 2 of the
16 Revenue and Taxation Code, the fees collected pursuant to this
17 section, or another law whereby a local agency operating an airport
18 requires a rental car company to collect a facility financing fee
19 from its customers, are not subject to sales, use, or transaction
20 taxes.

21 (n) (1) A rental company shall only advertise, quote, and charge
22 a rental rate that includes the entire amount except taxes, a
23 customer facility charge, if any, and a mileage charge, if any, that
24 a renter must pay to hire or lease the vehicle for the period of time
25 to which the rental rate applies. A rental company shall not charge
26 in addition to the rental rate, taxes, a customer facility charge, if
27 any, and a mileage charge, if any, any fee that is required to be
28 paid by the renter as a condition of hiring or leasing the vehicle,
29 including, but not limited to, required fuel or airport surcharges
30 other than customer facility charges, nor a fee for transporting the
31 renter to the location where the rented vehicle will be delivered to
32 the renter.

33 (2) In addition to the rental rate, taxes, customer facility charges,
34 if any, and mileage charges, if any, a rental company may charge
35 for an item or service provided in connection with a particular
36 rental transaction if the renter could have avoided incurring the
37 charge by choosing not to obtain or utilize the optional item or
38 service. Items and services for which the rental company may
39 impose an additional charge include, but are not limited to, optional
40 insurance and accessories requested by the renter, service charges

1 incident to the renter's optional return of the vehicle to a location
2 other than the location where the vehicle was hired or leased, and
3 charges for refueling the vehicle at the conclusion of the rental
4 transaction in the event the renter did not return the vehicle with
5 as much fuel as was in the fuel tank at the beginning of the rental.
6 A rental company also may impose an additional charge based on
7 reasonable age criteria established by the rental company.

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

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

18 (5) (A) When a rental rate is stated in an advertisement,
19 quotation, or reservation in connection with a car rental at an airport
20 where a customer facility charge is imposed, the rental company
21 shall disclose clearly the existence and amount of the customer
22 facility charge. For purposes of this subparagraph, advertisements
23 include radio, television, other electronic media, and print
24 advertisements. For purposes of this subparagraph, quotations and
25 reservations include those that are telephonic, in-person, and
26 computer-transmitted. If the rate advertisement is intended to
27 include transactions at more than one airport imposing a customer
28 facility charge, a range of fees may be stated in the advertisement.
29 However, all rate advertisements that include car rentals at airport
30 destinations shall clearly and conspicuously include a toll-free
31 telephone number whereby a customer can be told the specific
32 amount of the customer facility charge to which the customer will
33 be obligated.

34 (B) If a person or entity other than a rental car company,
35 including a passenger carrier or a seller of travel services, advertises
36 or quotes a rate for a car rental at an airport where a customer
37 facility charge is imposed, that person or entity shall, provided
38 that he, she, or it is provided with information about the existence
39 and amount of the fee, to the extent not specifically prohibited by
40 federal law, clearly disclose the existence and amount of the fee

1 in any telephonic, in-person, or computer-transmitted quotation at
2 the time of making an initial quotation of a rental rate and at the
3 time of making a reservation of a rental car. If a rental car company
4 provides the person or entity with rate and customer facility charge
5 information, the rental car company is not responsible for the
6 failure of that person or entity to comply with this subparagraph
7 when quoting or confirming a rate to a third person or entity.

8 (6) If a rental company delivers a vehicle to a renter at a location
9 other than the location where the rental company normally carries
10 on its business, the rental company shall not charge the renter an
11 amount for the rental for the period before the delivery of the
12 vehicle. If a rental company picks up a rented vehicle from a renter
13 at a location other than the location where the rental company
14 normally carries on its business, the rental company shall not
15 charge the renter an amount for the rental for the period after the
16 renter notifies the rental company to pick up the vehicle.

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

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

24 (i) The renter or law enforcement has informed the rental
25 company that the vehicle is missing or has been stolen or
26 abandoned.

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

30 (iii) The rental company discovers the rental vehicle has been
31 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
32 to law enforcement by filing a stolen vehicle report, unless law
33 enforcement has already informed the rental company that the
34 vehicle is missing or has been stolen or abandoned.

35 (B) If electronic surveillance technology is activated pursuant
36 to subparagraph (A), a rental company shall maintain a record, in
37 either electronic or written form, of information relevant to the
38 activation of that technology. That information shall include the
39 rental agreement, including the return date, and the date and time
40 the electronic surveillance technology was activated. The record

1 shall also include, if relevant, a record of written or other
2 communication with the renter, including communications
3 regarding extensions of the rental, police reports, or other written
4 communication with law enforcement officials. The record shall
5 be maintained for a period of at least 12 months from the time the
6 record is created and shall be made available upon the renter's
7 request. The rental company shall maintain and furnish explanatory
8 codes necessary to read the record. A rental company shall not be
9 required to maintain a record if electronic surveillance technology
10 is activated to recover a rental vehicle that is stolen or missing at
11 a time other than during a rental period.

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

14 (3) This subdivision does not prohibit a rental company from
15 equipping rental vehicles with GPS-based technology that provides
16 navigation assistance to the occupants of the rental vehicle, if the
17 rental company does not use, access, or obtain information relating
18 to the renter's use of the rental vehicle that was obtained using
19 that technology, except for the purposes of discovering or repairing
20 a defect in the technology and the information may then be used
21 only for that purpose.

22 (4) This subdivision does not prohibit a rental company from
23 equipping rental vehicles with electronic surveillance technology
24 that allows for the remote locking or unlocking of the vehicle at
25 the request of the renter, if the rental company does not use, access,
26 or obtain information relating to the renter's use of the rental
27 vehicle that was obtained using that technology, except as
28 necessary to lock or unlock the vehicle.

29 (5) This subdivision does not prohibit a rental company from
30 equipping rental vehicles with electronic surveillance technology
31 that allows the company to provide roadside assistance, such as
32 towing, flat tire, or fuel services, at the request of the renter, if the
33 rental company does not use, access, or obtain information relating
34 to the renter's use of the rental vehicle that was obtained using
35 that technology except as necessary to provide the requested
36 roadside assistance.

37 (6) This subdivision does not prohibit a rental company from
38 obtaining, accessing, or using information from electronic
39 surveillance technology for the sole purpose of determining the
40 date and time the vehicle is returned to the rental company, and

1 the total mileage driven and the vehicle fuel level of the returned
2 vehicle. This paragraph, however, shall apply only after the renter
3 has returned the vehicle to the rental company, and the information
4 shall only be used for the purpose described in this paragraph.

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

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

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

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

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

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

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

26 (ii) An Internet Web site address, as well as a contact number
27 or address, where the enrollee can learn of changes to the rental
28 agreement or to the laws of this state governing rental agreements
29 since the effective date of the rental company's most recent
30 restatement of the rental agreement and distribution of that
31 restatement to its members.

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

37 (C) At the commencement of each rental period, the rental
38 company provides, on the rearview mirror, a hanger on which a
39 statement is printed, in a box, in at least 12-point boldface type,
40 notifying the renter that the collision damage waiver offered by

1 the rental company may be duplicative of coverage that the
2 customer maintains under his or her own policy of motor vehicle
3 insurance. If it is not feasible to hang the statement from the
4 rearview mirror, it shall be hung from the steering wheel.

5 The hanger shall provide the renter a box to initial if he or she
6 (not his or her employer) has previously accepted or declined the
7 collision damage waiver and that he or she now wishes to change
8 his or her decision to accept or decline the collision damage waiver,
9 as follows:

10 “☐ If I previously accepted the collision damage waiver, I
11 now decline it.

12 ☐ If I previously declined the collision damage waiver, I now
13 accept it.”

14 The hanger shall also provide a box for the enrollee to indicate
15 whether this change applies to this rental transaction only or to all
16 future rental transactions. The hanger shall also notify the renter
17 that he or she may make that change, prior to leaving the lot, by
18 returning the form to an employee designated to receive the form
19 who is present at the lot where the renter takes possession of the
20 ~~car~~ rental vehicle, to receive any change in the rental agreement
21 from the renter.

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

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

30 (u) The amendments made to this section during the 2001–02
31 Regular Session of the Legislature do not affect litigation pending
32 on or before January 1, 2003, alleging a violation of Section 22325
33 of the Business and Professions Code as it read at the time the
34 action was commenced.

35 (v) (1) When a rental company enters into a contract in the
36 State of California for rental of a vehicle to any renter who is not
37 a resident of this state, and as part of, or associated with, that rental
38 agreement any insurance is provided by the rental company for
39 loss or damage caused to a third party, the rental company shall
40 do all of the following:

1 (A) Accept service of process of any complaint against the renter
2 or authorized driver related to any harm, loss, or damage related
3 to the use or operation of the rental vehicle. Process may be served
4 by first-class mail, return receipt requested, or by personal service
5 by a registered agent of service of process on file with the Secretary
6 of State and Consumer Services.

7 (B) Provide a copy of any summons and complaint served
8 pursuant to subparagraph (B) to the renter or authorized driver by
9 first-class mail, return receipt requested.

10 (2) Every rental company contract shall disclose to a renter who
11 is not a resident of this state a notice, which shall appear in at least
12 12-point boldface type, that the renter agrees to and authorizes the
13 rental company to accept service of process on his or her behalf
14 for any harm, loss, or damage related to the use or operation of
15 the vehicle that occurs during the rental period.

16 (3) Any plaintiff, or his or her representative, who elects to serve
17 the renter or authorized driver by delivering a copy of the summons
18 and complaint to the rental company pursuant to subparagraph (B)
19 of paragraph (1) shall agree to limit his or her recovery against the
20 renter, authorized driver, or the rental company to the limits of the
21 protection extended by the coverage, benefit, or insurance.

22 (4) *Notwithstanding any other provision of law, the requirement*
23 *that the rental company accept service of process pursuant to*
24 *subparagraph (A) of paragraph (1) shall not create any duty,*
25 *obligation, or agency relationship other than that provided in*
26 *subparagraph (B) of paragraph (1).*