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AMENDED IN SENATE AUGUST 20, 2010
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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, repeal, and add 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, until ~~January 1, 2016~~ *January 1, 2014*, require a rental company to accept service of process on behalf of a renter who resides out of this country for any claim related to harm, loss, or damage related to the use of the rental vehicle, if the rental company provides supplemental 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 or rental company to the limits of the protection provided by the insurance coverage. ~~The bill would also revise the rate limitations on damage waivers sold by a rental company.~~

This bill would incorporate additional changes to Section 1936 of the Civil Code, as proposed by SB 1192, to be operative only if SB 1192 and this bill are both enacted, each bill amends Section 1936 of the Civil Code, and this bill is enacted after SB 1192.

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:

1 (i) To finance, design, and construct consolidated airport car
2 rental facilities.

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

6 (B) The aggregate amount to be collected shall not exceed the
7 reasonable costs, as determined by an independent audit paid for
8 by the airport, to finance, design, and construct those facilities.
9 Copies of the audit shall be provided to the Assembly and Senate
10 Committees on Judiciary, the Assembly Committee on
11 Transportation, and the Senate Committee on Transportation and
12 Housing. In the case of a transportation system, the audit also shall
13 consider the reasonable costs of providing the transit system or
14 busing network. At the Burbank Airport, and at all other airports,
15 the fees designated as a customer facility charge shall not be used
16 to pay for terminal expansion, gate expansion, runway expansion,
17 changes in hours of operation, or changes in the number of flights
18 arriving or departing from the airport.

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

23 (D) If a bond or other form of indebtedness is not used for
24 financing, or the bond or other form of indebtedness used for
25 financing has been paid, the Oakland International Airport may
26 require the collection of a customer facility charge for a period of
27 up to 10 years from the imposition of the charge for the purposes
28 allowed by, and subject to the conditions imposed by, this section.

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

33 (6) “Electronic surveillance technology” means a technological
34 method or system used to observe, monitor, or collect information,
35 including telematics, Global Positioning System (GPS), wireless
36 technology, or location-based technologies. “Electronic
37 surveillance technology” does not include event data recorders
38 (EDR), sensing and diagnostic modules (SDM), or other systems
39 that are used either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) The administrative charge described in paragraph (6) of subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total estimated cost for parts and labor is more than one hundred dollars (\$100) up to and including five hundred dollars (\$500), (B) one hundred dollars (\$100) if the total estimated cost for parts and labor exceeds five hundred dollars (\$500) up to and including one thousand five hundred dollars (\$1,500), and (C) one hundred fifty dollars (\$150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars (\$1,500). An administrative

1 charge shall not be imposed if the total estimated cost of parts and
2 labor is one hundred dollars (\$100) or less.

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

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

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

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

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

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

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

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

1 a reserved car: (A) the nature of the renter's liability, such as
2 liability for all collision damage regardless of cause, (B) the extent
3 of the renter's liability, such as liability for damage or loss up to
4 a specified amount, (C) the renter's personal insurance policy or
5 the credit card used to pay for the car rental transaction may
6 provide coverage for all or a portion of the renter's potential
7 liability, (D) the renter should consult with his or her insurer to
8 determine the scope of insurance coverage, including the amount
9 of the deductible, if any, for which the renter is obligated, (E) the
10 renter may purchase an optional damage waiver to cover all
11 liability, subject to whatever exceptions the rental company
12 expressly lists that are permitted under subdivision (f), and (F) the
13 range of charges for the damage waiver.

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

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

33
34 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
35 AND OPTIONAL DAMAGE WAIVER
36

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

1 Your own insurance, or the issuer of the credit card you use to
2 pay for the car rental transaction, may cover all or part of your
3 financial responsibility for the rented vehicle. You should check
4 with your insurance company, or credit card issuer, to find out
5 about your coverage and the amount of the deductible, if any, for
6 which you may be liable.

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

11 The rental company will not hold you responsible if you buy a
12 damage waiver. But a damage waiver will not protect you if (list
13 exceptions)."

14 (A) When the above notice is printed in the rental contract or
15 holder in which the contract is placed, the following shall be printed
16 immediately following the notice:

17 "The cost of an optional damage waiver is \$_____ for every (day
18 or week)."

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

21 "The cost of an optional damage waiver is \$_____ to \$_____ for
22 every (day or week), depending upon the vehicle rented."

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

27 (1) For rental vehicles that the rental company designates as an
28 "economy car," "subcompact car," "compact car," or another term
29 having similar meaning when offered for rental, or another vehicle
30 having a manufacturer's suggested retail price of ~~seventeen~~
31 ~~thousand dollars (\$17,000) or less, the rate shall not exceed eight~~
32 ~~dollars (\$8);~~ *nineteen thousand dollars (\$19,000) or less, the rate*
33 *shall not exceed nine dollars (\$9).*

34 (2) For rental vehicles that have a manufacturer's suggested
35 retail price from ~~seventeen thousand one dollars (\$17,001) to~~
36 ~~thirty-five thousand dollars (\$35,000);~~ *nineteen thousand one*
37 *dollars (\$19,001) to thirty-four thousand nine hundred ninety-nine*
38 *dollars (\$34,999), inclusive, and that are also either vehicles of*
39 *next year's model, or not older than the previous year's model,*
40 *the rate shall not exceed* ~~fourteen dollars (\$14)~~ *fifteen dollars (\$15).*

1 For those rental vehicles older than the previous year's model-year,
2 the rate shall not exceed ~~eight dollars (\$8)~~ *nine dollars (\$9)*.

3 (i) ~~Commencing on January 1, 2012, the~~ The manufacturer's
4 suggested retail prices described in subdivision (h) shall be adjusted
5 annually to reflect changes from the previous year in the Consumer
6 Price Index. For the purposes of this section, "Consumer Price
7 Index" means the United States Consumer Price Index for All
8 Urban Consumers, for all items.

9 (j) A rental company that disseminates in this state an
10 advertisement containing a rental rate shall include in that
11 advertisement a clearly readable statement of the charge for a
12 damage waiver and a statement that a damage waiver is optional.

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

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

25 (l) (1) In the absence of express permission granted by the
26 renter subsequent to damage to, or loss of, the vehicle, a rental
27 company shall not seek to recover any portion of a claim arising
28 out of damage to, or loss of, the rented vehicle by processing a
29 credit card charge or causing a debit or block to be placed on the
30 renter's credit card account.

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

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

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

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

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

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

7 (E) If the fee imposed by the airport is for both a consolidated
8 rental car facility and a common-use transportation system, the
9 fee collected from customers of on-airport rental car companies
10 shall be ten dollars (\$10), but the fee imposed on customers of
11 off-airport rental car companies who are transported on the
12 common-use transportation system is proportionate to the costs of
13 the common-use transportation system only. The fee is uniformly
14 applied to each class of on-airport or off-airport customers,
15 provided that the airport requires off-airport customers to use the
16 common-use transportation system.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(v) (1) When a rental company enters into a contract in the State of California for rental of a vehicle to any renter who is not a resident of this country, and as part of, or associated with, that rental agreement, supplemental liability insurance, as described in subdivision (b) of Section 1758.85 of the Insurance Code, is provided by the rental company for loss or damage caused to a third party, the rental company shall do all of the following:

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

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

(2) Any plaintiff, or his or her representative, who elects to serve the renter by delivering a copy of the summons and complaint to the rental company pursuant to subparagraph (A) of paragraph (1) shall agree to limit his or her recovery against the renter or the rental company to the limits of the protection extended by the supplemental liability insurance.

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

(w) This section shall remain in effect only until January 1, 2016 2014, and as of that date is repealed, unless a later enacted

1 statute, that is enacted before January 1, ~~2016~~ 2014, deletes or
2 extends that date.

3 *SEC. 1.5. Section 1936 of the Civil Code is amended to read:*

4 1936. (a) For the purpose of this section, the following
5 definitions shall apply:

6 (1) "Rental company" means a person or entity in the business
7 of renting passenger vehicles to the public.

8 (2) "Renter" means any person in a manner obligated under a
9 contract for the lease or hire of a passenger vehicle from a rental
10 company for a period of less than 30 days.

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

18 (4) (A) "Customer facility charge" means ~~a fee~~ *any fee*,
19 *including an alternative fee*, required by an airport to be collected
20 by a rental company from a renter for ~~either~~ *any* of the following
21 purposes:

22 (i) To finance, design, and construct consolidated airport car
23 rental facilities.

24 (ii) To finance, design, construct, and ~~provide~~ *operate*
25 common-use transportation systems that move passengers between
26 airport terminals and those consolidated car rental facilities, *and*
27 *acquire vehicles for use in that system.*

28 (iii) *To finance, design, and construct terminal modifications*
29 *solely to accommodate and provide customer access to*
30 *common-use transportation systems.*

31 (B) The aggregate amount to be collected shall not exceed the
32 reasonable costs, as determined by an independent audit paid for
33 by the airport, to finance, design, and construct those facilities.
34 Copies of the audit shall be provided to the Assembly and Senate
35 Committees on Judiciary, the Assembly Committee on
36 Transportation, and the Senate Committee on Transportation and
37 Housing. In the case of a transportation system, the audit also shall
38 consider the reasonable costs of providing the transit system or
39 busing network. ~~At the Burbank Airport, and at all other airports~~
40 *Notwithstanding clause (iii) of subparagraph (A), the fees*

1 designated as a customer facility charge shall not be used to pay
2 for terminal expansion, gate expansion, runway expansion, changes
3 in hours of operation, or changes in the number of flights arriving
4 or departing from the airport.

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

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

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

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

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

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

34 (7) “Estimated time for replacement” means the number of hours
35 of labor, or fraction thereof, needed to replace damaged vehicle
36 parts as set forth in collision damage estimating guides generally
37 used in the vehicle repair business and commonly known as “crash
38 books.”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (3) A claim against a renter resulting from damage or loss,
38 excluding loss of use, to a rental vehicle shall be reasonably and
39 rationally related to the actual loss incurred. A rental company
40 shall mitigate damages where possible and shall not assert or collect

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

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

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

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

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

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

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

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

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

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

20 (g) (1) A rental company that offers or provides a damage
21 waiver for any consideration in addition to the rental rate shall
22 clearly and conspicuously disclose the following information in
23 the rental contract or holder in which the contract is placed and,
24 also, in signs posted at the place, such as the counter, where the
25 renter signs the rental contract, and, for renters who are enrolled
26 in the rental company's membership program, in a sign that shall
27 be posted in a location clearly visible to those renters as they enter
28 the location where their reserved rental cars are parked or near the
29 exit of the bus or other conveyance that transports the enrollee to
30 a reserved car: (A) the nature of the renter's liability, such as
31 liability for all collision damage regardless of cause, (B) the extent
32 of the renter's liability, such as liability for damage or loss up to
33 a specified amount, (C) the renter's personal insurance policy or
34 the credit card used to pay for the car rental transaction may
35 provide coverage for all or a portion of the renter's potential
36 liability, (D) the renter should consult with his or her insurer to
37 determine the scope of insurance coverage, including the amount
38 of the deductible, if any, for which the renter is obligated, (E) the
39 renter may purchase an optional damage waiver to cover all
40 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
24 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
25 AND OPTIONAL DAMAGE WAIVER
26
27

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

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

38 Further, if you use a credit card that provides coverage for your
39 potential liability, you should check with the issuer to determine

1 if you must first exhaust the coverage limits of your own insurance
2 before the credit card coverage applies.

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

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

10
11 “The cost of an optional damage waiver is \$_____ for every (day
12 or week).”
13

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

16
17 “The cost of an optional damage waiver is \$_____ to \$_____ for
18 every (day or week), depending upon the vehicle rented.”
19

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

24 (1) For rental vehicles that the rental company designates as an
25 “economy car,” “subcompact car,” “compact car,” or another term
26 having similar meaning when offered for rental, or another vehicle
27 having a manufacturer’s suggested retail price of nineteen thousand
28 dollars (\$19,000) or less, the rate shall not exceed nine dollars
29 (\$9).

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

38 (i) The manufacturer’s suggested retail prices described in
39 subdivision (h) shall be adjusted annually to reflect changes from
40 the previous year in the Consumer Price Index. For the purposes

1 of this section, “Consumer Price Index” means the United States
2 Consumer Price Index for All Urban Consumers, for all items.

3 (j) 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 (k) (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 (l) (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 (m) (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 or~~ 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~~ *per contract*
36 *basis or as provided in paragraph (2)*.

37 (C) The fee is a user fee, not a tax imposed upon real property
38 or an incidence of property ownership under Article XIID 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); (\$10) or the amount provided in paragraph~~
10 ~~(2), but the fee imposed on customers of off-airport rental car~~
11 ~~companies who are transported on the common-use transportation~~
12 ~~system is proportionate to the costs of the common-use~~
13 ~~transportation system only. The fee is uniformly applied to each~~
14 ~~class of on-airport or off-airport customers, provided that the airport~~
15 ~~requires off-airport customers to use the common-use transportation~~
16 ~~system. For purposes of this subparagraph, “on-airport rental~~
17 ~~car company” means a rental company operating under an airport~~
18 ~~property lease or an airport concession or license agreement whose~~
19 ~~customers use or will use the consolidated rental car facility and~~
20 ~~the collection of the fee as to those customers is consistent with~~
21 ~~subparagraph (C).~~

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

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

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

32 (I) *For any airport seeking to require rental car companies to*
33 *collect an alternative customer facility charge pursuant to*
34 *paragraph (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 (IV) Whether airport concession fees authorized by Section
5 1936.01 have increased since the prior report, if any.

6 (ii) The airport shall complete the independent audit required
7 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
8 initial collection of the customer facility charge, prior to any
9 increase pursuant to paragraph (2), and every three years after
10 initial collection and any increase until such time as the fee
11 authorization becomes inoperative pursuant to subparagraph (C)
12 of paragraph (4) of subdivision (a). The Controller shall review
13 those audits and independently examine and substantiate the
14 necessity for and the amount of the customer facility charge. The
15 Controller's costs shall be reimbursed by the individual airport
16 being audited. Notwithstanding Section 10231.5 of the Government
17 Code, the Controller shall report to the Legislature on its
18 conclusions, including whether the airport's actual or projected
19 costs are supported and justified, any steps the airport may take
20 to limit costs, potential alternatives for meeting the airport's
21 revenue needs other than the collection of the fee, and whether
22 and to what extent car rental companies or other businesses or
23 individuals using the facility or common-use transportation system
24 may pay for the costs associated with these facilities and systems
25 other than the fee from rental customers, or whether the airport
26 did not comply with any provision of this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 (v) *An airport subject to this paragraph shall initiate the process*
5 *for obtaining the authority to require or increase the alternative*
6 *fee no later than January 1, 2018. Any airport that obtains the*
7 *authority to require or increase an alternative fee shall be*
8 *authorized to continue collecting that fee until the fee authorization*
9 *becomes inoperative pursuant to subparagraph (C) of paragraph*
10 *(4) of subdivision (a).*

11 (2)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9
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
15 The hanger shall also provide a box for the enrollee to indicate
16 whether this change applies to this rental transaction only or to all
17 future rental transactions. The hanger shall also notify the renter
18 that he or she may make that change, prior to leaving the lot, by
19 returning the form to an employee designated to receive the form
20 who is present at the lot where the renter takes possession of the
21 ~~car~~ rental vehicle, to receive any change in the rental agreement
22 from the renter.

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

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

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

36 (v) (1) *When a rental company enters into a contract in the*
37 *State of California for rental of a vehicle to any renter who is not*
38 *a resident of this country, and as part of, or associated with, that*
39 *rental agreement, supplemental liability insurance, as described*
40 *in subdivision (b) of Section 1758.85 of the Insurance Code, is*

1 provided by the rental company for loss or damage caused to a
2 third party, the rental company shall do all of the following:

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

9 (B) Provide a copy of any summons and complaint served
10 pursuant to subparagraph (A) to the renter by first-class mail,
11 return receipt requested, or registered mail.

12 (2) Any plaintiff, or his or her representative, who elects to serve
13 the renter by delivering a copy of the summons and complaint to
14 the rental company pursuant to subparagraph (A) of paragraph
15 (1) shall agree to limit his or her recovery against the renter or
16 the rental company to the limits of the protection extended by the
17 supplemental liability insurance.

18 (3) Notwithstanding any other provision of law, the requirement
19 that the rental company accept service of process pursuant to
20 subparagraph (A) of paragraph (1) shall not create any duty,
21 obligation, or agency relationship other than that provided in
22 subparagraph (B) of paragraph (1).

23 (w) This section shall remain in effect only until January 1,
24 2014, and as of that date is repealed, unless a later enacted statute,
25 that is enacted before January 1, 2014, deletes or extends that
26 date.

27 SEC. 2. Section 1936 is added to the Civil Code, to read:

28 1936. (a) For the purpose of this section, the following
29 definitions shall apply:

30 (1) "Rental company" means a person or entity in the business
31 of renting passenger vehicles to the public.

32 (2) "Renter" means any person in a manner obligated under a
33 contract for the lease or hire of a passenger vehicle from a rental
34 company for a period of less than 30 days.

35 (3) "Authorized driver" means (A) the renter, (B) the renter's
36 spouse if that person is a licensed driver and satisfies the rental
37 company's minimum age requirement, (C) the renter's employer
38 or coworker if he or she is engaged in business activity with the
39 renter, is a licensed driver, and satisfies the rental company's

1 minimum age requirement, and (D) a person expressly listed by
2 the rental company on the renter's contract as an authorized driver.

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

6 (i) To finance, design, and construct consolidated airport car
7 rental facilities.

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

11 (B) The aggregate amount to be collected shall not exceed the
12 reasonable costs, as determined by an independent audit paid for
13 by the airport, to finance, design, and construct those facilities.
14 Copies of the audit shall be provided to the Assembly and Senate
15 Committees on Judiciary, the Assembly Committee on
16 Transportation, and the Senate Committee on Transportation and
17 Housing. In the case of a transportation system, the audit also shall
18 consider the reasonable costs of providing the transit system or
19 busing network. At the Burbank Airport, and at all other airports,
20 the fees designated as a customer facility charge shall not be used
21 to pay for terminal expansion, gate expansion, runway expansion,
22 changes in hours of operation, or changes in the number of flights
23 arriving or departing from the airport.

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

28 (D) If a bond or other form of indebtedness is not used for
29 financing, or the bond or other form of indebtedness used for
30 financing has been paid, the Oakland International Airport may
31 require the collection of a customer facility charge for a period of
32 up to 10 years from the imposition of the charge for the purposes
33 allowed by, and subject to the conditions imposed by, this section.

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

38 (6) "Electronic surveillance technology" means a technological
39 method or system used to observe, monitor, or collect information,
40 including telematics, Global Positioning System (GPS), wireless

1 technology, or location-based technologies. “Electronic
2 surveillance technology” does not include event data recorders
3 (EDR), sensing and diagnostic modules (SDM), or other systems
4 that are used either:

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

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

13 (7) “Estimated time for replacement” means the number of hours
14 of labor, or fraction thereof, needed to replace damaged vehicle
15 parts as set forth in collision damage estimating guides generally
16 used in the vehicle repair business and commonly known as “crash
17 books.”

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

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

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

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

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

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

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

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

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

6 (1) Physical or mechanical damage to the rented vehicle up to
7 its fair market value, as determined in the customary market for
8 the sale of that vehicle, resulting from collision regardless of the
9 cause of the damage.

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

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

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

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

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

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

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

13 (2) The estimated cost of labor to replace damaged vehicle parts,
14 which shall not exceed the product of (A) the rate for labor usually
15 paid by the rental company to replace vehicle parts of the type that
16 were damaged and (B) the estimated time for replacement. All
17 discounts and price reductions or adjustments that are or will be
18 received by the rental company shall be subtracted from the
19 estimate to the extent not already incorporated in the estimate, or
20 otherwise promptly credited or refunded to the renter.

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

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

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

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

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

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

37 (6) The administrative charge described in paragraph (6) of
38 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
39 estimated cost for parts and labor is more than one hundred dollars
40 (\$100) up to and including five hundred dollars (\$500), (B) one

1 hundred dollars (\$100) if the total estimated cost for parts and
2 labor exceeds five hundred dollars (\$500) up to and including one
3 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
4 dollars (\$150) if the total estimated cost for parts and labor exceeds
5 one thousand five hundred dollars (\$1,500). An administrative
6 charge shall not be imposed if the total estimated cost of parts and
7 labor is one hundred dollars (\$100) or less.

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

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

15 (3) A claim against a renter resulting from damage or loss,
16 excluding loss of use, to a rental vehicle shall be reasonably and
17 rationally related to the actual loss incurred. A rental company
18 shall mitigate damages where possible and shall not assert or collect
19 a claim for physical damage which exceeds the actual costs of the
20 repairs performed or the estimated cost of repairs, if the rental
21 company chooses not to repair the vehicle, including all discounts
22 and price reductions. However, if the vehicle is a total loss vehicle,
23 the claim shall not exceed the total loss vehicle value established
24 in accordance with procedures that are customarily used by
25 insurance companies when paying claims on total loss vehicles,
26 less the proceeds from salvaging the vehicle, if those proceeds are
27 retained by the rental company.

28 (4) If insurance coverage exists under the renter's applicable
29 personal or business insurance policy and the coverage is confirmed
30 during regular business hours, the renter may require that the rental
31 company submit any claims to the renter's applicable personal or
32 business insurance carrier. The rental company shall not make any
33 written or oral representations that it will not present claims or
34 negotiate with the renter's insurance carrier. For purposes of this
35 paragraph, confirmation of coverage includes telephone
36 confirmation from insurance company representatives during
37 regular business hours. Upon request of the renter and after
38 confirmation of coverage, the amount of claim shall be resolved
39 between the insurance carrier and the rental company. The renter
40 shall remain responsible for payment to the rental car company

1 for any loss sustained that the renter's applicable personal or
2 business insurance policy does not cover.

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

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

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

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

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

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

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

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

36 (g) (1) A rental company that offers or provides a damage
37 waiver for any consideration in addition to the rental rate shall
38 clearly and conspicuously disclose the following information in
39 the rental contract or holder in which the contract is placed and,
40 also, in signs posted at the place, such as the counter, where the

1 renter signs the rental contract, and, for renters who are enrolled
2 in the rental company's membership program, in a sign that shall
3 be posted in a location clearly visible to those renters as they enter
4 the location where their reserved rental cars are parked or near the
5 exit of the bus or other conveyance that transports the enrollee to
6 a reserved car: (A) the nature of the renter's liability, such as
7 liability for all collision damage regardless of cause, (B) the extent
8 of the renter's liability, such as liability for damage or loss up to
9 a specified amount, (C) the renter's personal insurance policy or
10 the credit card used to pay for the car rental transaction may
11 provide coverage for all or a portion of the renter's potential
12 liability, (D) the renter should consult with his or her insurer to
13 determine the scope of insurance coverage, including the amount
14 of the deductible, if any, for which the renter is obligated, (E) the
15 renter may purchase an optional damage waiver to cover all
16 liability, subject to whatever exceptions the rental company
17 expressly lists that are permitted under subdivision (f), and (F) the
18 range of charges for the damage waiver.

19 (2) In addition to the requirements of paragraph (1), a rental
20 company that offers or provides a damage waiver shall orally
21 disclose to all renters, except those who are participants in the
22 rental company's membership program, that the damage waiver
23 may be duplicative of coverage that the customer maintains under
24 his or her own policy of motor vehicle insurance. The renter's
25 receipt of the oral disclosure shall be demonstrated through the
26 renter's acknowledging receipt of the oral disclosure near that part
27 of the contract where the renter indicates, by the renter's own
28 initials, his or her acceptance or declination of the damage waiver.
29 Adjacent to that same part, the contract also shall state that the
30 damage waiver is optional. Further, the contract for these renters
31 shall include a clear and conspicuous written disclosure that the
32 damage waiver may be duplicative of coverage that the customer
33 maintains under his or her own policy of motor vehicle insurance.

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

1 “NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
2 AND OPTIONAL DAMAGE WAIVER

3
4 You are responsible for all collision damage to the rented vehicle
5 even if someone else caused it or the cause is unknown. You are
6 responsible for the cost of repair up to the value of the vehicle,
7 and towing, storage, and impound fees.

8 Your own insurance, or the issuer of the credit card you use to
9 pay for the car rental transaction, may cover all or part of your
10 financial responsibility for the rented vehicle. You should check
11 with your insurance company, or credit card issuer, to find out
12 about your coverage and the amount of the deductible, if any, for
13 which you may be liable.

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

18 The rental company will not hold you responsible if you buy a
19 damage waiver. But a damage waiver will not protect you if (list
20 exceptions).”

21 (A) When the above notice is printed in the rental contract or
22 holder in which the contract is placed, the following shall be printed
23 immediately following the notice:

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

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

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

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

34 (1) For rental vehicles that the rental company designates as an
35 “economy car,” “subcompact car,” “compact car,” or another term
36 having similar meaning when offered for rental, or another vehicle
37 having a manufacturer’s suggested retail price of nineteen thousand
38 dollars (\$19,000) or less, the rate shall not exceed nine dollars
39 (\$9).

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

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

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

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

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

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

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

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

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

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

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

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

12 (E) If the fee imposed by the airport is for both a consolidated
13 rental car facility and a common-use transportation system, the
14 fee collected from customers of on-airport rental car companies
15 shall be ten dollars (\$10), but the fee imposed on customers of
16 off-airport rental car companies who are transported on the
17 common-use transportation system is proportionate to the costs of
18 the common-use transportation system only. The fee is uniformly
19 applied to each class of on-airport or off-airport customers,
20 provided that the airport requires off-airport customers to use the
21 common-use transportation system.

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

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

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

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

38 (n) (1) A rental company shall only advertise, quote, and charge
39 a rental rate that includes the entire amount except taxes, a
40 customer facility charge, if any, and a mileage charge, if any, that

1 a renter must pay to hire or lease the vehicle for the period of time
2 to which the rental rate applies. A rental company shall not charge
3 in addition to the rental rate, taxes, a customer facility charge, if
4 any, and a mileage charge, if any, any fee that is required to be
5 paid by the renter as a condition of hiring or leasing the vehicle,
6 including, but not limited to, required fuel or airport surcharges
7 other than customer facility charges, nor a fee for transporting the
8 renter to the location where the rented vehicle will be delivered to
9 the renter.

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

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

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

35 (5) (A) When a rental rate is stated in an advertisement,
36 quotation, or reservation in connection with a car rental at an airport
37 where a customer facility charge is imposed, the rental company
38 shall disclose clearly the existence and amount of the customer
39 facility charge. For purposes of this subparagraph, advertisements
40 include radio, television, other electronic media, and print

1 advertisements. For purposes of this subparagraph, quotations and
2 reservations include those that are telephonic, in-person, and
3 computer-transmitted. If the rate advertisement is intended to
4 include transactions at more than one airport imposing a customer
5 facility charge, a range of fees may be stated in the advertisement.
6 However, all rate advertisements that include car rentals at airport
7 destinations shall clearly and conspicuously include a toll-free
8 telephone number whereby a customer can be told the specific
9 amount of the customer facility charge to which the customer will
10 be obligated.

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

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

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

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

1 (i) The renter or law enforcement has informed the rental
2 company that the vehicle is missing or has been stolen or
3 abandoned.

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

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

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

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

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

39 (4) This subdivision does not prohibit a rental company from
40 equipping rental vehicles with electronic surveillance technology

1 that allows for the remote locking or unlocking of the vehicle at
2 the request of the renter, if the rental company does not use, access,
3 or obtain information relating to the renter's use of the rental
4 vehicle that was obtained using that technology, except as
5 necessary to lock or unlock the vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

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

28 “☐ If I previously accepted the collision damage waiver, I
29 now decline it.

30 ☐ If I previously declined the collision damage waiver, I now
31 accept it.”

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

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

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

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

(v) This section shall become operative on January 1, ~~2016~~ 2014.

SEC. 2.5. Section 1936 is added to the Civil Code, to read:

1936. (a) For the purpose of this section, the following definitions shall apply:

(1) “Rental company” means a person or entity in the business of renting passenger vehicles to the public.

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

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

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

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

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

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

4 (B) The aggregate amount to be collected shall not exceed the
5 reasonable costs, as determined by an independent audit paid for
6 by the airport, to finance, design, and construct those facilities.
7 Copies of the audit shall be provided to the Assembly and Senate
8 Committees on Judiciary, the Assembly Committee on
9 Transportation, and the Senate Committee on Transportation and
10 Housing. In the case of a transportation system, the audit also
11 shall consider the reasonable costs of providing the transit system
12 or busing network. Notwithstanding clause (iii) of subparagraph
13 (A), the fees designated as a customer facility charge shall not be
14 used to pay for terminal expansion, gate expansion, runway
15 expansion, changes in hours of operation, or changes in the number
16 of flights arriving or departing from the airport.

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

21 (D) If a bond or other form of indebtedness is not used for
22 financing, or the bond or other form of indebtedness used for
23 financing has been paid, the Oakland International Airport may
24 require the collection of a customer facility charge for a period
25 of up to 10 years from the imposition of the charge for the purposes
26 allowed by, and subject to the conditions imposed by, this section.

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

32 (6) "Electronic surveillance technology" means a technological
33 method or system used to observe, monitor, or collect information,
34 including telematics, Global Positioning System (GPS), wireless
35 technology, or location-based technologies. "Electronic
36 surveillance technology" does not include event data recorders
37 (EDR), sensing and diagnostic modules (SDM), or other systems
38 that are used either:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 (6) The administrative charge described in paragraph (6) of
32 subdivision (b) shall not exceed (A) fifty dollars (\$50) if the total
33 estimated cost for parts and labor is more than one hundred dollars
34 (\$100) up to and including five hundred dollars (\$500), (B) one
35 hundred dollars (\$100) if the total estimated cost for parts and
36 labor exceeds five hundred dollars (\$500) up to and including one
37 thousand five hundred dollars (\$1,500), and (C) one hundred fifty
38 dollars (\$150) if the total estimated cost for parts and labor
39 exceeds one thousand five hundred dollars (\$1,500). An

1 *administrative charge shall not be imposed if the total estimated*
2 *cost of parts and labor is one hundred dollars (\$100) or less.*

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

7 *(2) A rental company shall not recover from the renter or other*
8 *authorized driver an amount exceeding the renter's liability under*
9 *subdivision (c).*

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

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

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

1 (6) *This section applies only to the maximum liability of a renter*
2 *or other authorized driver to the rental company resulting from*
3 *damage to the rented vehicle and not to the liability of another*
4 *person.*

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

9 (2) *Except as provided in subdivision (f), every limitation,*
10 *exception, or exclusion to a damage waiver is void and*
11 *unenforceable.*

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

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

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

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

31 (g) (1) *A rental company that offers or provides a damage*
32 *waiver for any consideration in addition to the rental rate shall*
33 *clearly and conspicuously disclose the following information in*
34 *the rental contract or holder in which the contract is placed and,*
35 *also, in signs posted at the place, such as the counter, where the*
36 *renter signs the rental contract, and, for renters who are enrolled*
37 *in the rental company's membership program, in a sign that shall*
38 *be posted in a location clearly visible to those renters as they enter*
39 *the location where their reserved rental cars are parked or near*
40 *the exit of the bus or other conveyance that transports the enrollee*

1 to a reserved car: (A) the nature of the renter's liability, such as
2 liability for all collision damage regardless of cause, (B) the extent
3 of the renter's liability, such as liability for damage or loss up to
4 a specified amount, (C) the renter's personal insurance policy or
5 the credit card used to pay for the car rental transaction may
6 provide coverage for all or a portion of the renter's potential
7 liability, (D) the renter should consult with his or her insurer to
8 determine the scope of insurance coverage, including the amount
9 of the deductible, if any, for which the renter is obligated, (E) the
10 renter may purchase an optional damage waiver to cover all
11 liability, subject to whatever exceptions the rental company
12 expressly lists that are permitted under subdivision (f), and (F)
13 the range of charges for the damage waiver.

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

29 (3) The following is an example, for purposes of illustration
30 and not limitation, of a notice fulfilling the requirements of
31 paragraph (1) for a rental company that imposes liability on the
32 renter for collision damage to the full value of the vehicle:
33
34

35 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND
36 OPTIONAL DAMAGE WAIVER
37
38

39 You are responsible for all collision damage to the rented vehicle
40 even if someone else caused it or the cause is unknown. You are

1 responsible for the cost of repair up to the value of the vehicle,
2 and towing, storage, and impound fees.

3 Your own insurance, or the issuer of the credit card you use to
4 pay for the car rental transaction, may cover all or part of your
5 financial responsibility for the rented vehicle. You should check
6 with your insurance company, or credit card issuer, to find out
7 about your coverage and the amount of the deductible, if any, for
8 which you may be liable.

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

13 The rental company will not hold you responsible if you buy a
14 damage waiver. But a damage waiver will not protect you if (list
15 exceptions).”

16
17 (A) When the above notice is printed in the rental contract or
18 holder in which the contract is placed, the following shall be
19 printed immediately following the notice:

20
21 “The cost of an optional damage waiver is \$____ for every (day
22 or week).”

23
24 (B) When the above notice appears on a sign, the following
25 shall appear immediately adjacent to the notice:

26
27 “The cost of an optional damage waiver is \$____ to \$____ for
28 every (day or week), depending upon the vehicle rented.”

29
30 (h) Notwithstanding any other provision of law, a rental
31 company may sell a damage waiver subject to the following rate
32 limitations for each full or partial 24-hour rental day for the
33 damage waiver:

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

1 (2) For rental vehicles that have a manufacturer's suggested
2 retail price from nineteen thousand one dollars (\$19,001) to
3 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
4 inclusive, and that are also either vehicles of next year's model,
5 or not older than the previous year's model, the rate shall not
6 exceed fifteen dollars (\$15). For those rental vehicles older than
7 the previous year's model-year, the rate shall not exceed nine
8 dollars (\$9).

9 (i) The manufacturer's suggested retail prices described in
10 subdivision (h) shall be adjusted annually to reflect changes from
11 the previous year in the Consumer Price Index. For the purposes
12 of this section, "Consumer Price Index" means the United States
13 Consumer Price Index for All Urban Consumers, for all items.

14 (j) A rental company that disseminates in this state an
15 advertisement containing a rental rate shall include in that
16 advertisement a clearly readable statement of the charge for a
17 damage waiver and a statement that a damage waiver is optional.

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

21 (2) A rental company shall not engage in any unfair, deceptive,
22 or coercive conduct to induce a renter to purchase the damage
23 waiver, optional insurance, or another optional good or service,
24 including conduct such as, but not limited to, refusing to honor
25 the renter's reservation, limiting the availability of vehicles,
26 requiring a deposit, or debiting or blocking the renter's credit
27 card account for a sum equivalent to a deposit if the renter declines
28 to purchase the damage waiver, optional insurance, or another
29 optional good or service.

30 (l) (1) In the absence of express permission granted by the
31 renter subsequent to damage to, or loss of, the vehicle, a rental
32 company shall not seek to recover any portion of a claim arising
33 out of damage to, or loss of, the rented vehicle by processing a
34 credit card charge or causing a debit or block to be placed on the
35 renter's credit card account.

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

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

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

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

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

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

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

32 (F) Revenues collected from the fee do not exceed the reasonable
33 costs of financing, designing, and constructing the facility and
34 financing, designing, constructing, and operating any common-use
35 transportation system, or acquiring vehicles for use in that system,
36 and shall not be used for any other purpose.

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

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

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

4 (i) Notwithstanding Section 10231.5 of the Government Code,
5 the airport shall provide reports on an annual basis to the Senate
6 and Assembly Committees on Judiciary detailing all of the
7 following:

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

9 (II) How the funds are being spent.

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

13 (IV) Whether airport concession fees authorized by Section
14 1936.01 have increased since the prior report, if any.

15 (ii) The airport shall complete the independent audit required
16 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
17 initial collection of the customer facility charge, prior to any
18 increase pursuant to paragraph (2), and every three years after
19 initial collection and any increase until such time as the fee
20 authorization becomes inoperative pursuant to subparagraph (C)
21 of paragraph (4) of subdivision (a). The Controller shall review
22 those audits and independently examine and substantiate the
23 necessity for and the amount of the customer facility charge. The
24 Controller's costs shall be reimbursed by the individual airport
25 being audited. Notwithstanding Section 10231.5 of the Government
26 Code, the Controller shall report to the Legislature on its
27 conclusions, including whether the airport's actual or projected
28 costs are supported and justified, any steps the airport may take
29 to limit costs, potential alternatives for meeting the airport's
30 revenue needs other than the collection of the fee, and whether
31 and to what extent car rental companies or other businesses or
32 individuals using the facility or common-use transportation system
33 may pay for the costs associated with these facilities and systems
34 other than the fee from rental , or whether the airport did not
35 comply with any provision of this subparagraph.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) 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, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.

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

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

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

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

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

1 include a toll-free telephone number whereby a customer can be
2 told the specific amount of the customer facility charge to which
3 the customer will be obligated.

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

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

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

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

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

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

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

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

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

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

33 (4) This subdivision does not prohibit a rental company from
34 equipping rental vehicles with electronic surveillance technology
35 that allows for the remote locking or unlocking of the vehicle at
36 the request of the renter, if the rental company does not use, access,
37 or obtain information relating to the renter's use of the rental
38 vehicle that was obtained using that technology, except as
39 necessary to lock or unlock the vehicle.

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

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

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

(q) 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.

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

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

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

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

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

(ii) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements

1 since the effective date of the rental company's most recent
2 restatement of the rental agreement and distribution of that
3 restatement to its members.

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

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

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

22
23 “☐ If I previously accepted the collision damage waiver, I
24 now decline it.

25 ☐ If I previously declined the collision damage waiver, I now
26 accept it.”

27
28 The hanger shall also provide a box for the enrollee to indicate
29 whether this change applies to this rental transaction only or to
30 all future rental transactions. The hanger shall also notify the
31 renter that he or she may make that change, prior to leaving the
32 lot, by returning the form to an employee designated to receive
33 the form who is present at the lot where the renter takes possession
34 of the rental vehicle, to receive any change in the rental agreement
35 from the renter.

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

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

1 or holder in which the contract is placed; in or on an advertisement
2 containing a rental rate; or in a telephonic, in-person, or
3 computer-transmitted quotation or reservation.

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

9 (v) This section shall become operative on January 1, 2014.

10 SEC. 3. Sections 1.5 and 2.5 of this bill incorporate
11 amendments to Section 1936 of the Civil Code proposed by both
12 this bill and SB 1192. They shall only become operative if (1) both
13 bills are enacted and become effective on or before January 1,
14 2011, (2) each bill amends Section 1936 of the Civil Code, and
15 (3) this bill is enacted after SB 1192, in which case Sections 1 and
16 2 of this bill shall not become operative.