

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 13, 2009

**SENATE BILL**

**No. 348**

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**Introduced by Senator Cogdill**

February 25, 2009

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An act to amend Section 1936.015 of the Civil Code, relating to passenger vehicle rentals.

LEGISLATIVE COUNSEL'S DIGEST

SB 348, as amended, Cogdill. Passenger vehicle rentals: advertising.

Existing law, effective May 21, 2009, requires a passenger vehicle rental company to only advertise a rental rate that includes the entire amount, except taxes, the increased vehicle license fee, any customer facility charge, and any mileage charge, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. Existing law authorizes the rental company, when imposing charges for a rental, to separately state the rental rate, taxes, increased vehicle license fee, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any.

Existing law, effective May 21, 2009, also requires the rental company, if customer facility charges, airport concession fees, or tourism commission assessments are imposed, to provide the person receiving the quote with a good-faith estimate of the rental rate and certain taxes and charges, including the increased vehicle license fee, when the quote is given, to clearly and conspicuously disclose in the rental contract the total rate and certain taxes and charges, including the increased vehicle license fee, when the rental commences, and to provide each person, other than those persons within the rental company, offering quotes to

actual or prospective customers access to information about certain taxes and charges, including the increased vehicle license fee.

Existing law, effective May 21, 2009, defines the increased vehicle license fee as the amount of the fee increase in the vehicle license fee above 0.65% of the value of the vehicle. Existing law requires that fee to be separately charged, clearly stated, and prorated at  $\frac{1}{365}$  of the fee increase in the annual vehicle license fee actually paid on the particular vehicle being rented for each full or partial 24-hour rental day that the vehicle is rented. Existing law prohibits the total of all increased vehicle license fees charged to renters from exceeding the fee increase in the annual vehicle license fee actually paid for the particular vehicle rented.

~~This bill would provide that if a rental company includes an increased vehicle license recovery fee in the rental contract, the amount of the fee shall represent the rental company's good-faith estimate of the rental company's daily charge calculated to recover its actual total annual increased vehicle license fee, and shall be separately and clearly stated. The bill would prohibit the total of all increased vehicle license recovery fees charged to renters on an annual basis from exceeding the total fee increase in the annual vehicle license fees actually paid by the rental company.~~

~~The bill would define increased vehicle license recovery fee as a charge designed to recover costs incurred by a rental company for payment of increased vehicle license fees.~~

~~The bill would also provide that if the total amount of the increased vehicle license recovery fees collected by a rental company under these provisions in any calendar year is different than the total amount paid by a rental company for increased vehicle license fees, the rental company shall retain the amount collected and adjust the increased vehicle license recovery fee in the following calendar year. The bill would provide that nothing in those provisions would prevent a rental company from making adjustments to the vehicle license recovery fee more than once during a calendar year.~~

*This bill would define "increased vehicle license recovery fee" as a charge that seeks to recover the amount of increased vehicle license fees actually paid by a rental company for the particular class of vehicle being rented. The bill would require a rental company to calculate every 3 months the daily increased vehicle license recovery fee by prorating at  $\frac{1}{365}$  of the average increased vehicle license fee for vehicles in each particular class of vehicle being rented based on the increase in the annual vehicle license fee actually paid during the preceding 12*

months for each class of vehicle being rented. The bill would require the rental companies to reconcile the amount of increased vehicle license fees actually paid by the rental company for each class of vehicle and the amount of increased vehicle license recovery fees charged to customers for rental of vehicles in those classes, and to post that information on its Internet Web site, as specified. The bill would prohibit the total of all increased vehicle license fees actually paid by the rental company for each class of vehicle from exceeding the total of increased vehicle license recovery fees charged to customers for rental of vehicles in those classes on an annual basis.

The bill would make other related, technical changes.

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 1936.015 of the Civil Code, as added by  
2 Chapter 8 of the Statutes of 2009, of the Second Extraordinary  
3 Session, is amended to read:  
4 1936.015. (a) For the purposes of this section, the following  
5 definitions shall apply:  
6 (1) "Vehicle license fee" has the same meaning as in Sections  
7 10751 and 10752 of the Revenue and Taxation Code, as that fee  
8 existed on January 1, 2009.  
9 (2) "Increased vehicle license fee" means the amount of the fee  
10 increase in the vehicle license fee above 0.65 percent of the value  
11 of the vehicle.  
12 ~~(3) "Increased vehicle license recovery fee" means a charge~~  
13 ~~designed to recover costs incurred by a rental company for payment~~  
14 ~~of increased vehicle license fees. If a rental company includes a~~  
15 ~~vehicle license recovery fee in the rental contract, the amount of~~  
16 ~~the fee shall represent the rental company's good-faith estimate~~  
17 ~~of the rental company's daily charge calculated to recover its actual~~  
18 ~~total annual increased vehicle license fee, and shall be separately~~  
19 ~~and clearly stated. The total of all increased vehicle license~~  
20 ~~recovery fees charged to renters on an annual basis shall not exceed~~  
21 ~~the total fee increase in the annual vehicle license fees actually~~  
22 ~~paid by the rental company.~~  
23 (3) "Increased vehicle license recovery fee" means a charge  
24 that seeks to recover the amount of increased vehicle license fees

1 *actually paid by a rental company for the particular class of vehicle*  
2 *being rented. The increased vehicle license recovery fee shall be*  
3 *calculated as provided in paragraph (1) of subdivision (b).*

4 (b) Notwithstanding subdivision (n) of Section 1936 or  
5 subdivision (b) of Section 1936.01, upon an increase of the vehicle  
6 license fee above 0.65 percent of the value of the vehicle pursuant  
7 to legislation enacted with the Budget Act of 2009, the following  
8 provisions shall apply with respect to the increased vehicle license  
9 fee:

10 ~~(1) If the total amount of the increased vehicle license recovery~~  
11 ~~fees collected by a rental company under this section in any~~  
12 ~~calendar year is different than the total amount paid by a rental~~  
13 ~~company for increased vehicle license fees, the rental company~~  
14 ~~shall do both of the following:~~

15 ~~(A) Retain the amount collected.~~

16 ~~(B) Adjust the increased vehicle license recovery fee in the~~  
17 ~~following calendar year.~~

18 ~~(2) Nothing in this section shall prevent a rental company from~~  
19 ~~making adjustments to the vehicle license recovery fee more than~~  
20 ~~once during a calendar year.~~

21 *(1) A rental company shall calculate the amount of the increased*  
22 *vehicle license recovery fee in the following manner:*

23 *(A) The initial calculation required by this section shall be made*  
24 *as of August 21, 2009, and shall include the three-month period*  
25 *of May 21, 2009, to August 21, 2009, inclusive. Subsequent*  
26 *calculations shall be made every three months thereafter.*

27 *(B) The rental company shall determine the total amount of the*  
28 *increased vehicle license fee actually paid during the twelve months*  
29 *preceding the calculation date, for each particular class of vehicle*  
30 *being rented.*

31 *(C) The total amount of increased vehicle license fee actually*  
32 *paid for each class of vehicle shall be divided by the number of*  
33 *vehicles in the class, to determine the average increased vehicle*  
34 *license fee for each class.*

35 *(D) The average increased vehicle license fee for vehicles in*  
36 *each class shall be prorated at one three-hundred-and-sixty-fifth,*  
37 *to determine the daily increased vehicle license recovery fee for*  
38 *vehicles in each particular class of vehicle, to be charged for each*  
39 *full or partial 24-hour rental day that the vehicle is rented.*

(2) *As of November 21, 2009, and annually as of each November 21 thereafter, a rental company shall reconcile the amount of increased vehicle license fees actually paid by the rental company during the preceding 12 months for each class of vehicle and the amount of increased vehicle license recovery fees charged to customers during that same 12-month period for rental of vehicles in those classes. The rental company shall post that information on its Internet Web site by December 31 of each year.*

(3) *The total of all increased vehicle license fees actually paid by the rental company for each class of vehicle on an annual basis shall not exceed the total of increased vehicle license recovery fees charged to customers for rental of vehicles in those classes on an annual basis.*

~~(3)~~

(4) A rental company shall only advertise a rental rate that includes the entire amount, except taxes, the increased vehicle license recovery fee, 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.

~~(4)~~

(5) When providing a quote, or imposing charges for a rental, the rental company may separately state the rental rate, taxes, the increased vehicle license recovery fee, customer facility charge, if any, airport concession fee, if any, tourism commission assessment, 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 may not charge in addition to the rental rate, taxes, the increased vehicle license recovery fee, a customer facility charge, if any, airport concession fee, if any, tourism commission assessment, if any, and a mileage charge, if any, any fee that must be paid by the renter as a condition of hiring or leasing the vehicle, such as, but not limited to, required fuel or airport surcharges other than customer facility charges and airport concession fees.

~~(5)~~

(6) If customer facility charges, airport concession fees, or tourism commission assessments are imposed, the rental company shall do each of the following:

(A) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate, taxes, the

1 increased vehicle license recovery fee, customer facility charge,  
2 if any, airport concession fee, if any, and tourism commission  
3 assessment, if any, as well as the total charges for the entire rental.  
4 The total charges, if provided on an Internet Web site, shall be  
5 displayed in a typeface at least as large as any rental rate disclosed  
6 on that page and shall be provided on a page that the person  
7 receiving the quote may reach by following links through no more  
8 than two Internet Web site pages, including the page on which the  
9 rental rate is first provided. The good faith estimate may exclude  
10 mileage charges and charges for optional items that cannot be  
11 determined prior to completing the reservation based upon the  
12 information provided by the person.

13 (B) At the time and place the rental commences, clearly and  
14 conspicuously disclose in the rental contract, or that portion of the  
15 contract that is provided to the renter, the total of the rental rate,  
16 taxes, the increased vehicle license recovery fee, customer facility  
17 charge, if any, airport concession fee, if any, and tourism  
18 commission assessment, if any, for the entire rental, exclusive of  
19 charges that cannot be determined at the time the rental  
20 commences. Charges imposed pursuant to this subparagraph shall  
21 be no more than the amount of the quote provided in a confirmed  
22 reservation, unless the person changes the terms of the rental  
23 contract subsequent to making the reservation.

24 (C) Provide each person, other than those persons within the  
25 rental company, offering quotes to actual or prospective customers  
26 access to information about the increased vehicle license recovery  
27 fee, customer facility charges, airport concession fees, and tourism  
28 commission assessments as well as access to information about  
29 when those charges apply. Any person providing quotes to actual  
30 or prospective customers for the hire or lease of a vehicle from a  
31 rental company shall provide the quotes in the manner described  
32 in subparagraph (A).

33 (6)

34 (7) In addition to the rental rate, taxes, the increased vehicle  
35 license recovery fee, customer facility charges, if any, airport  
36 concession fees, if any, tourism commission assessments, if any,  
37 and mileage charges, if any, a rental company may charge for an  
38 item or service provided in connection with a particular rental  
39 transaction if the renter could have avoided incurring the charge  
40 by choosing not to obtain or utilize the optional item or service.

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

11 ~~(7)~~

12 (8) A rental company may not charge any fee for authorized  
13 drivers in addition to the rental charge for an individual renter.

14 ~~(8)~~

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

24 ~~(9)~~

25 (10) (A) When a rental rate is stated in an advertisement, in  
26 connection with a car rental at an airport where a customer facility  
27 charge is imposed, the rental company shall clearly disclose the  
28 existence and amount of the customer facility charge. For the  
29 purposes of this subparagraph, advertisements include radio,  
30 television, other electronic media, and print advertisements. If the  
31 rental rate advertisement is intended to include transactions at more  
32 than one airport imposing a customer facility charge, a range of  
33 charges may be stated in the advertisement. However, all rental  
34 rate advertisements that include car rentals at airport destinations  
35 shall clearly and conspicuously include a toll-free telephone  
36 number whereby a customer can be told the specific amount of  
37 the customer facility charge to which the customer will be  
38 obligated.

39 (B) If any person or entity other than a rental company, including  
40 a passenger carrier or a seller of travel services, advertises a rental

1 rate for a car rental at an airport where a customer facility charge  
2 is imposed, that person or entity shall, provided they are provided  
3 with information about the existence and amount of the charge, to  
4 the extent not specifically prohibited by federal law, clearly  
5 disclose the existence and amount of the charge. If a rental  
6 company provides the person or entity with rental rate and customer  
7 facility charge information, the rental company is not responsible  
8 for the failure of that person or entity to comply with this  
9 subparagraph.

10 ~~(10)~~

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

20 ~~(11)~~

21 (12) Except as otherwise permitted pursuant to the customer  
22 facility charge, a rental company may not separately charge, in  
23 addition to the rental rate, a fee for transporting the renter to the  
24 location where the rented vehicle will be delivered to the renter.

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

31 (e) This section shall become operative only if Senate Bill 3 or  
32 Assembly Bill 3 of the 2009–10 Third Extraordinary Session of  
33 the Legislature is enacted and increases the vehicle license fee  
34 above 0.65 percent of the value of the vehicle and shall cease to  
35 become operative ~~upon~~ *three months after the* restoration of the  
36 vehicle license fee to no more than 0.65 percent of the value of  
37 the vehicle.

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