

AMENDED IN ASSEMBLY JULY 14, 2009

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE MAY 20, 2009

AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 348

Introduced by Senator Cogdill

February 25, 2009

An act to amend Section 1936.015 of the Civil Code, relating to passenger vehicle rentals, and declaring the urgency thereof, to take effect immediately.

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 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~~ *charged to customers* by the rental company for each class of vehicle from exceeding the total of increased vehicle license recovery fees ~~charged to customers~~ *actually paid for rental of* vehicles in those classes on an annual basis.

The bill would make other related, technical changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. 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 that seeks to recover the amount of increased vehicle license fees
14 actually paid by a rental company for the particular class of vehicle
15 being rented. The increased vehicle license recovery fee shall be
16 calculated as provided in paragraph (1) of subdivision (b).

17 (b) Notwithstanding subdivision (n) of Section 1936 or
18 subdivision (b) of Section 1936.01, upon an increase of the vehicle
19 license fee above 0.65 percent of the value of the vehicle pursuant
20 to legislation enacted with the Budget Act of 2009, the following
21 provisions shall apply with respect to the increased vehicle license
22 fee:

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

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

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

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

37 (D) The average increased vehicle license fee for vehicles in
38 each class shall be prorated at one three-hundred-and-sixty-fifth,

1 to determine the daily increased vehicle license recovery fee for
2 vehicles in each particular class of vehicle, to be charged for each
3 full or partial 24-hour rental day that the vehicle is rented.

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

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

17 (4) A rental company shall only advertise a rental rate that
18 includes the entire amount, except taxes, the increased vehicle
19 license recovery fee, a customer facility charge, if any, and a
20 mileage charge, if any, that a renter must pay to hire or lease the
21 vehicle for the period of time to which the rental rate applies.

22 (5) When providing a quote, or imposing charges for a rental,
23 the rental company may separately state the rental rate, taxes, the
24 increased vehicle license recovery fee, customer facility charge,
25 if any, airport concession fee, if any, tourism commission
26 assessment, if any, and a mileage charge, if any, that a renter must
27 pay to hire or lease the vehicle for the period of time to which the
28 rental rate applies. A rental company may not charge in addition
29 to the rental rate, taxes, the increased vehicle license recovery fee,
30 a customer facility charge, if any, airport concession fee, if any,
31 tourism commission assessment, if any, and a mileage charge, if
32 any, any fee that must be paid by the renter as a condition of hiring
33 or leasing the vehicle, such as, but not limited to, required fuel or
34 airport surcharges other than customer facility charges and airport
35 concession fees.

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

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

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

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

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

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

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

disclose the existence and amount of the charge. If a rental company provides the person or entity with rental rate and customer facility charge information, the rental company is not responsible for the failure of that person or entity to comply with this subparagraph.

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

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

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

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

(e) (1) This section shall become operative only if Senate Bill 3 or Assembly Bill 3 of the 2009–10 Third Extraordinary Session of the Legislature is enacted and increases the vehicle license fee above 0.65 percent of the value of the vehicle and shall cease to become operative 12 months after the restoration of the vehicle license fee to no more than 0.65 percent of the value of the vehicle.

(2) *Provisions of this section relating to the disclosure and separately stated charges for a customer facility charge or an airport concession fee shall remain operative so long as the Secretary of Business, Transportation and Housing provides notice to the Legislature and the Secretary of State and posts notice on its Internet Web site that the conditions described in Section 13995.92 of the Government Code have been satisfied.*

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within

1 the meaning of Article IV of the Constitution and shall go into
2 immediate effect. The facts constituting the necessity are:
3 In order for passenger vehicle rental companies to begin
4 recovering the increased vehicle license fee from renters as
5 authorized by Chapter 8 of the Statutes of 2009 of the 2009–10
6 Second Extraordinary Session of the Legislature, it is necessary
7 for this act to take effect immediately.

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