

ASSEMBLY BILL

No. 817

Introduced by Assembly Member Gatto

February 17, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 817, as introduced, Gatto. Vehicle rental contracts.

Existing law governs contracts between rental car companies and their customers. Existing law requires a rental company to disclose certain information in a quote for a passenger vehicle rental.

This bill would define “quote” for purposes of those provisions.

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

1 company's minimum age requirement, (C) the renter's employer
2 or coworker if he or she is engaged in business activity with the
3 renter, is a licensed driver, and satisfies the rental company's
4 minimum age requirement, and (D) a person expressly listed by
5 the rental company on the renter's contract as an authorized driver.

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

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

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

15 (iii) To finance, design, and construct terminal modifications
16 solely to accommodate and provide customer access to
17 common-use transportation systems.

18 (B) The aggregate amount to be collected shall not exceed the
19 reasonable costs, as determined by an independent audit paid for
20 by the airport, to finance, design, and construct those facilities.
21 Copies of the audit shall be provided to the Assembly and Senate
22 Committees on Judiciary, the Assembly Committee on
23 Transportation, and the Senate Committee on Transportation and
24 Housing. In the case of a transportation system, the audit also shall
25 consider the reasonable costs of providing the transit system or
26 busing network. Notwithstanding clause (iii) of subparagraph (A),
27 the fees designated as a customer facility charge shall not be used
28 to pay for terminal expansion, gate expansion, runway expansion,
29 changes in hours of operation, or changes in the number of flights
30 arriving or departing from the airport.

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

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

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

5 (6) “Electronic surveillance technology” means a technological
6 method or system used to observe, monitor, or collect information,
7 including telematics, Global Positioning System (GPS), wireless
8 technology, or location-based technologies. “Electronic
9 surveillance technology” does not include event data recorders
10 (EDR), sensing and diagnostic modules (SDM), or other systems
11 that are used either:

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

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

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

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

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

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

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

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

39 (D) The rental company fully explains to the renter that
40 designated preferences, as well as acceptance or declination of

1 optional services, may be changed by the renter at any time for
2 the next and future rentals.

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

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

9 (11) "*Quote*" means an estimated cost of rental provided by a
10 rental company or third party to a potential customer by telephone,
11 in-person, computer-transmission, or other means, that is based
12 on information provided by the potential customer and used to
13 generate an estimated cost of rental, including, but not limited to,
14 the following:

15 (A) *Potential dates of rental.*

16 (B) *Locations.*

17 (C) *Classes of cars.*

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

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

25 (2) Loss due to theft of the rented vehicle up to its fair market
26 value, as determined in the customary market for the sale of that
27 vehicle, provided that the rental company establishes by clear and
28 convincing evidence that the renter or the authorized driver failed
29 to exercise ordinary care while in possession of the vehicle. In
30 addition, the renter shall be presumed to have no liability for any
31 loss due to theft if (A) an authorized driver has possession of the
32 ignition key furnished by the rental company or an authorized
33 driver establishes that the ignition key furnished by the rental
34 company was not in the vehicle at the time of the theft, and (B) an
35 authorized driver files an official report of the theft with the police
36 or other law enforcement agency within 24 hours of learning of
37 the theft and reasonably cooperates with the rental company and
38 the police or other law enforcement agency in providing
39 information concerning the theft. The presumption set forth in this
40 paragraph is a presumption affecting the burden of proof which

1 the rental company may rebut by establishing that an authorized
2 driver committed, or aided and abetted the commission of, the
3 theft.

4 (3) Physical damage to the rented vehicle up to its fair market
5 value, as determined in the customary market for the sale of that
6 vehicle, resulting from vandalism occurring after, or in connection
7 with, the theft of the rented vehicle. However, the renter shall have
8 no liability for any damage due to vandalism if the renter would
9 have no liability for theft pursuant to paragraph (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) A claim against a renter resulting from damage or loss,
31 excluding loss of use, to a rental vehicle shall be reasonably and
32 rationally related to the actual loss incurred. A rental company
33 shall mitigate damages where possible and shall not assert or collect
34 a claim for physical damage which exceeds the actual costs of the
35 repairs performed or the estimated cost of repairs, if the rental
36 company chooses not to repair the vehicle, including all discounts
37 and price reductions. However, if the vehicle is a total loss vehicle,
38 the claim shall not exceed the total loss vehicle value established
39 in accordance with procedures that are customarily used by
40 insurance companies when paying claims on total loss vehicles,

1 less the proceeds from salvaging the vehicle, if those proceeds are
2 retained by the rental company.

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

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

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

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

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

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

35 (1) Damage or loss results from an authorized driver's (A)
36 intentional, willful, wanton, or reckless conduct, (B) operation of
37 the vehicle under the influence of drugs or alcohol in violation of
38 Section 23152 of the Vehicle Code, (C) towing or pushing
39 anything, or (D) operation of the vehicle on an unpaved road if

1 the damage or loss is a direct result of the road or driving
2 conditions.

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

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

12 (g) (1) A rental company that offers or provides a damage
13 waiver for any consideration in addition to the rental rate shall
14 clearly and conspicuously disclose the following information in
15 the rental contract or holder in which the contract is placed and,
16 also, in signs posted at the place, such as the counter, where the
17 renter signs the rental contract, and, for renters who are enrolled
18 in the rental company's membership program, in a sign that shall
19 be posted in a location clearly visible to those renters as they enter
20 the location where their reserved rental cars are parked or near the
21 exit of the bus or other conveyance that transports the enrollee to
22 a reserved car: (A) the nature of the renter's liability, such as
23 liability for all collision damage regardless of cause, (B) the extent
24 of the renter's liability, such as liability for damage or loss up to
25 a specified amount, (C) the renter's personal insurance policy or
26 the credit card used to pay for the car rental transaction may
27 provide coverage for all or a portion of the renter's potential
28 liability, (D) the renter should consult with his or her insurer to
29 determine the scope of insurance coverage, including the amount
30 of the deductible, if any, for which the renter is obligated, (E) the
31 renter may purchase an optional damage waiver to cover all
32 liability, subject to whatever exceptions the rental company
33 expressly lists that are permitted under subdivision (f), and (F) the
34 range of charges for the damage waiver.

35 (2) In addition to the requirements of paragraph (1), a rental
36 company that offers or provides a damage waiver shall orally
37 disclose to all renters, except those who are participants in the
38 rental company's membership program, that the damage waiver
39 may be duplicative of coverage that the customer maintains under
40 his or her own policy of motor vehicle insurance. The renter's

1 receipt of the oral disclosure shall be demonstrated through the
2 renter's acknowledging receipt of the oral disclosure near that part
3 of the contract where the renter indicates, by the renter's own
4 initials, his or her acceptance or declination of the damage waiver.
5 Adjacent to that same part, the contract also shall state that the
6 damage waiver is optional. Further, the contract for these renters
7 shall include a clear and conspicuous written disclosure that the
8 damage waiver may be duplicative of coverage that the customer
9 maintains under his or her own policy of motor vehicle insurance.

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

14
15 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
16 AND OPTIONAL DAMAGE WAIVER
17

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

22 Your own insurance, or the issuer of the credit card you use to
23 pay for the car rental transaction, may cover all or part of your
24 financial responsibility for the rented vehicle. You should check
25 with your insurance company, or credit card issuer, to find out
26 about your coverage and the amount of the deductible, if any, for
27 which you may be liable.

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

32 The rental company will not hold you responsible if you buy a
33 damage waiver. But a damage waiver will not protect you if (list
34 exceptions)."

35 (A) When the above notice is printed in the rental contract or
36 holder in which the contract is placed, the following shall be printed
37 immediately following the notice:

38 "The cost of an optional damage waiver is \$____ for every (day
39 or week)."

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

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

5 (h) Notwithstanding any other provision of law, a rental
6 company may sell a damage waiver subject to the following rate
7 limitations for each full or partial 24-hour rental day for the damage
8 waiver.

9 (1) For rental vehicles that the rental company designates as an
10 “economy car,” “subcompact car,” “compact car,” or another term
11 having similar meaning when offered for rental, or another vehicle
12 having a manufacturer’s suggested retail price of nineteen thousand
13 dollars (\$19,000) or less, the rate shall not exceed nine dollars
14 (\$9).

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

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

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

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

35 (2) A rental company shall not engage in any unfair, deceptive,
36 or coercive conduct to induce a renter to purchase the damage
37 waiver, optional insurance, or another optional good or service,
38 including conduct such as, but not limited to, refusing to honor
39 the renter’s reservation, limiting the availability of vehicles,
40 requiring a deposit, or debiting or blocking the renter’s credit card

1 account for a sum equivalent to a deposit if the renter declines to
2 purchase the damage waiver, optional insurance, or another
3 optional good or service.

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

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

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

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

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

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

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

28 (E) The fee for a consolidated rental car facility shall be
29 collected only from customers of on-airport rental car companies.
30 If the fee imposed by the airport is for both a consolidated rental
31 car facility and a common-use transportation system, the fee
32 collected from customers of on-airport rental car companies shall
33 be ten dollars (\$10) or the amount provided in paragraph (2), but
34 the fee imposed on customers of off-airport rental car companies
35 who are transported on the common-use transportation system is
36 proportionate to the costs of the common-use transportation system
37 only. The fee is uniformly applied to each class of on-airport or
38 off-airport customers, provided that the airport requires off-airport
39 customers to use the common-use transportation system. For
40 purposes of this subparagraph, "on-airport rental car company"

1 means a rental company operating under an airport property lease
2 or an airport concession or license agreement whose customers
3 use or will use the consolidated rental car facility and the collection
4 of the fee as to those customers is consistent with subparagraph
5 (C).

6 (F) Revenues collected from the fee do not exceed the reasonable
7 costs of financing, designing, and constructing the facility and
8 financing, designing, constructing, and operating any common-use
9 transportation system, or acquiring vehicles for use in that system,
10 and shall not be used for any other purpose.

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

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

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

18 (i) Notwithstanding Section 10231.5 of the Government Code,
19 the airport shall provide reports on an annual basis to the Senate
20 and Assembly Committees on Judiciary detailing all of the
21 following:

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

23 (II) How the funds are being spent.

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

27 (IV) Whether airport concession fees authorized by Section
28 1936.01 have increased since the prior report, if any.

29 (ii) The airport shall complete the independent audit required
30 by subparagraph (B) of paragraph (4) of subdivision (a) prior to
31 initial collection of the customer facility charge, prior to any
32 increase pursuant to paragraph (2), and every three years after
33 initial collection and any increase until such time as the fee
34 authorization becomes inoperative pursuant to subparagraph (C)
35 of paragraph (4) of subdivision (a). The Controller shall review
36 those audits and independently examine and substantiate the
37 necessity for and the amount of the customer facility charge. The
38 Controller's costs shall be reimbursed by the individual airport
39 being audited. Notwithstanding Section 10231.5 of the Government
40 Code, the Controller shall report to the Legislature on its

1 conclusions, including whether the airport's actual or projected
2 costs are supported and justified, any steps the airport may take to
3 limit costs, potential alternatives for meeting the airport's revenue
4 needs other than the collection of the fee, and whether and to what
5 extent car rental companies or other businesses or individuals using
6 the facility or common-use transportation system may pay for the
7 costs associated with these facilities and systems other than the
8 fee from rental customers, or whether the airport did not comply
9 with any provision of this subparagraph.

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

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

16 (A) The airport first conducts a publicly noticed hearing pursuant
17 to the Ralph M. Brown Act (Chapter 9 (commencing with Section
18 54950) of Part 1 of Division 2 of Title 5 of the Government Code)
19 to review the costs of financing the design and construction of a
20 consolidated rental car facility and the design, construction, and
21 operation of any common-use transportation system in which all
22 of the following occur:

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

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

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

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

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

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

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

7 (v) The Controller reviews and substantiates the need for and
8 amount of the fee pursuant to clause (ii) of subparagraph (I) of
9 paragraph (1).

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

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

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

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

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

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

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

32 (3) Notwithstanding any other provision of law, including, but
33 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
34 (commencing with Section 7280), inclusive, of Division 2 of the
35 Revenue and Taxation Code, the fees collected pursuant to this
36 section, or another law whereby a local agency operating an airport
37 requires a rental car company to collect a facility financing fee
38 from its customers, are not subject to sales, use, or transaction
39 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.

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

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

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

(5) (A) When a rental rate is stated in an advertisement, quotation, or reservation in connection with a car rental at an airport

1 where a customer facility charge is imposed, the rental company
2 shall disclose clearly the existence and amount of the customer
3 facility charge. For purposes of this subparagraph, advertisements
4 include radio, television, other electronic media, and print
5 advertisements. For purposes of this subparagraph, ~~quotations~~
6 *quotes* and reservations include those that are telephonic, in-person,
7 and computer-transmitted. If the rate advertisement is intended to
8 include transactions at more than one airport imposing a customer
9 facility charge, a range of fees may be stated in the advertisement.
10 However, all rate advertisements that include car rentals at airport
11 destinations shall clearly and conspicuously include a toll-free
12 telephone number whereby a customer can be told the specific
13 amount of the customer facility charge to which the customer will
14 be obligated.

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

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

38 (o) A rental company shall not use, access, or obtain any
39 information relating to the renter's use of the rental vehicle that

1 was obtained using electronic surveillance technology, except in
2 the following circumstances:

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

6 (i) The renter or law enforcement has informed the rental
7 company that the vehicle is missing or has been stolen or
8 abandoned.

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

12 (iii) The rental company discovers the rental vehicle has been
13 stolen or abandoned, and, if stolen, it shall report the vehicle stolen
14 to law enforcement by filing a stolen vehicle report, unless law
15 enforcement has already informed the rental company that the
16 vehicle is missing or has been stolen or abandoned.

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

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

36 (3) This subdivision does not prohibit a rental company from
37 equipping rental vehicles with GPS-based technology that provides
38 navigation assistance to the occupants of the rental vehicle, if the
39 rental company does not use, access, or obtain information relating
40 to the renter's use of the rental vehicle that was obtained using

1 that technology, except for the purposes of discovering or repairing
2 a defect in the technology and the information may then be used
3 only for that purpose.

4 (4) This subdivision does not prohibit a rental company from
5 equipping rental vehicles with electronic surveillance technology
6 that allows for the remote locking or unlocking of the vehicle at
7 the request of the renter, if the rental company does not use, access,
8 or obtain information relating to the renter's use of the rental
9 vehicle that was obtained using that technology, except as
10 necessary to lock or unlock the vehicle.

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

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

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

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

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

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

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

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

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

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

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

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

28 The hanger shall provide the renter a box to initial if he or she
29 (not his or her employer) has previously accepted or declined the
30 collision damage waiver and that he or she now wishes to change
31 his or her decision to accept or decline the collision damage waiver,
32 as follows:

33 "☐ If I previously accepted the collision damage waiver, I
34 now decline it.

35 ☐ If I previously declined the collision damage waiver, I now
36 accept it."

37 The hanger shall also provide a box for the enrollee to indicate
38 whether this change applies to this rental transaction only or to all
39 future rental transactions. The hanger shall also notify the renter
40 that he or she may make that change, prior to leaving the lot, by

1 returning the form to an employee designated to receive the form
2 who is present at the lot where the renter takes possession of the
3 car, to receive any change in the rental agreement from the renter.

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

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

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