

**ASSEMBLY BILL**

**No. 2379**

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**Introduced by Assembly Member Huber**

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2379, as introduced, Huber. Rental vehicles: contracts.

Existing law governs contracts between vehicle rental companies and their customers and defines an authorized driver for these purposes.

This bill would make a technical, nonsubstantive change to these 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, as amended by  
2     Section 1 of Chapter 531 of the Statutes of 2011, is amended to  
3     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.

(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.~~  
all of the following:

(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.

(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.

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

(B) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an independent audit paid for by the airport, to finance, design, and construct those facilities. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing. In the case of a transportation system, the audit also shall consider the reasonable costs of providing the transit system or busing network. Notwithstanding clause (iii) of subparagraph (A), the fees designated as a customer facility charge shall not be used to pay for terminal expansion, gate expansion, runway expansion,

1 changes in hours of operation, or changes in the number of flights  
2 arriving or departing from the airport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 the theft and reasonably cooperates with the rental company and  
2 the police or other law enforcement agency in providing  
3 information concerning the theft. The presumption set forth in this  
4 paragraph is a presumption affecting the burden of proof which  
5 the rental company may rebut by establishing that an authorized  
6 driver committed, or aided and abetted the commission of, the  
7 theft.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (3) A claim against a renter resulting from damage or loss,  
34 excluding loss of use, to a rental vehicle shall be reasonably and  
35 rationally related to the actual loss incurred. A rental company  
36 shall mitigate damages where possible and shall not assert or collect  
37 a claim for physical damage which exceeds the actual costs of the  
38 repairs performed or the estimated cost of repairs, if the rental  
39 company chooses not to repair the vehicle, including all discounts  
40 and price reductions. However, if the vehicle is a total loss vehicle,

1 the claim shall not exceed the total loss vehicle value established  
2 in accordance with procedures that are customarily used by  
3 insurance companies when paying claims on total loss vehicles,  
4 less the proceeds from salvaging the vehicle, if those proceeds are  
5 retained by the rental company.

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

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

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

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

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

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

38 (1) Damage or loss results from an authorized driver's (A)  
39 intentional, willful, wanton, or reckless conduct, (B) operation of  
40 the vehicle under the influence of drugs or alcohol in violation of

1 Section 23152 of the Vehicle Code, (C) towing or pushing  
2 anything, or (D) operation of the vehicle on an unpaved road if  
3 the damage or loss is a direct result of the road or driving  
4 conditions.

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

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

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

37 (2) In addition to the requirements of paragraph (1), a rental  
38 company that offers or provides a damage waiver shall orally  
39 disclose to all renters, except those who are participants in the  
40 rental company's membership program, that the damage waiver

may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter's receipt of the oral disclosure shall be demonstrated through the renter's acknowledging receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. (3) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

“NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY  
AND OPTIONAL DAMAGE WAIVER

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

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

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

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

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

1  
2 “The cost of an optional damage waiver is \$\_\_\_\_\_ for every (day  
3 or week).”  
4

5 (B) When the above notice appears on a sign, the following  
6 shall appear immediately adjacent to the notice:  
7

8 “The cost of an optional damage waiver is \$\_\_\_\_\_ to \$\_\_\_\_\_ for  
9 every (day or week), depending upon the vehicle rented.”  
10

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

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

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

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

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

38 (k) (1) A rental company shall not require the purchase of a  
39 damage waiver, optional insurance, or another optional good or  
40 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:

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

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

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

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

(E) The fee for a consolidated rental car facility shall be collected only from customers of on-airport rental car companies. If the fee imposed by the airport is for both a consolidated rental car facility and a common-use transportation system, the fee collected from customers of on-airport rental car companies shall be ten dollars (\$10) or the amount provided in paragraph (2), but the fee imposed on customers of off-airport rental car companies

1 who are transported on the common-use transportation system is  
2 proportionate to the costs of the common-use transportation system  
3 only. The fee is uniformly applied to each class of on-airport or  
4 off-airport customers, provided that the airport requires off-airport  
5 customers to use the common-use transportation system. For  
6 purposes of this subparagraph, “on-airport rental car company”  
7 means a rental company operating under an airport property lease  
8 or an airport concession or license agreement whose customers  
9 use or will use the consolidated rental car facility and the collection  
10 of the fee as to those customers is consistent with subparagraph  
11 (C).

12 (F) Revenues collected from the fee do not exceed the reasonable  
13 costs of financing, designing, and constructing the facility and  
14 financing, designing, constructing, and operating any common-use  
15 transportation system, or acquiring vehicles for use in that system,  
16 and shall not be used for any other purpose.

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

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

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

24 (i) Notwithstanding Section 10231.5 of the Government Code,  
25 the airport shall provide reports on an annual basis to the Senate  
26 and Assembly Committees on Judiciary detailing all of the  
27 following:

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

29 (II) How the funds are being spent.

30 (III) The amount of and reason for any changes in the airport’s  
31 budget or financial needs for the facility or common-use  
32 transportation system.

33 (IV) Whether airport concession fees authorized by Section  
34 1936.01 have increased since the prior report, if any.

35 (ii) The airport shall complete the independent audit required  
36 by subparagraph (B) of paragraph (4) of subdivision (a) prior to  
37 initial collection of the customer facility charge, prior to any  
38 increase pursuant to paragraph (2), and every three years after  
39 initial collection and any increase until such time as the fee  
40 authorization becomes inoperative pursuant to subparagraph (C)

1 of paragraph (4) of subdivision (a). The Controller shall review  
2 those audits and independently examine and substantiate the  
3 necessity for and the amount of the customer facility charge. The  
4 Controller's costs shall be reimbursed by the individual airport  
5 being audited. Notwithstanding Section 10231.5 of the Government  
6 Code, the Controller shall report to the Legislature on its  
7 conclusions, including whether the airport's actual or projected  
8 costs are supported and justified, any steps the airport may take to  
9 limit costs, potential alternatives for meeting the airport's revenue  
10 needs other than the collection of the fee, and whether and to what  
11 extent car rental companies or other businesses or individuals using  
12 the facility or common-use transportation system may pay for the  
13 costs associated with these facilities and systems other than the  
14 fee from rental customers, or whether the airport did not comply  
15 with any provision of this subparagraph.

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

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

22 (A) The airport first conducts a publicly noticed hearing pursuant  
23 to the Ralph M. Brown Act (Chapter 9 (commencing with Section  
24 54950) of Part 1 of Division 2 of Title 5 of the Government Code)  
25 to review the costs of financing the design and construction of a  
26 consolidated rental car facility and the design, construction, and  
27 operation of any common-use transportation system in which all  
28 of the following occur:

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

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

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

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

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

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

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

13 (v) The Controller reviews and substantiates the need for and  
14 amount of the fee pursuant to clause (ii) of subparagraph (I) of  
15 paragraph (1).

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

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

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

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

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

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

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

38 (3) Notwithstanding any other provision of law, including, but  
39 not limited to, Part 1 (commencing with Section 6001) to Part 1.7  
40 (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.

(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, the rental company shall disclose clearly in that advertisement or quotation 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

1 miles for which no charges will be imposed, and a description of  
2 geographic driving limitations within the United States and Canada.

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

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

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

1 charge the renter an amount for the rental for the period after the  
2 renter notifies the rental company to pick up the vehicle.

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

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

10 (i) The renter or law enforcement has informed the rental  
11 company that the vehicle is missing or has been stolen or  
12 abandoned.

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

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

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

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

1 (3) This subdivision does not prohibit a rental company from  
2 equipping rental vehicles with GPS-based technology that provides  
3 navigation assistance to the occupants of the rental vehicle, if the  
4 rental company does not use, access, or obtain information relating  
5 to the renter's use of the rental vehicle that was obtained using  
6 that technology, except for the purposes of discovering or repairing  
7 a defect in the technology and the information may then be used  
8 only for that purpose.

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

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

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

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

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

39 (r) A rental company that brings an action against a renter for  
40 loss due to theft of the vehicle shall bring the action in the county

1 in which the renter resides or, if the renter is not a resident of this  
2 state, in the jurisdiction in which the renter resides.

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

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

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

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

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

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

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

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

37  
38 "☐ If I previously accepted the collision damage waiver, I  
39 now decline it.  
40

1       □ If I previously declined the collision damage waiver, I now  
2 accept it.”

3  
4       The hanger shall also provide a box for the enrollee to indicate  
5 whether this change applies to this rental transaction only or to all  
6 future rental transactions. The hanger shall also notify the renter  
7 that he or she may make that change, prior to leaving the lot, by  
8 returning the form to an employee designated to receive the form  
9 who is present at the lot where the renter takes possession of the  
10 car, to receive any change in the rental agreement from the renter.

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

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

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

24       (v) (1) When a rental company enters into a rental agreement  
25 in the state for the rental of a vehicle to any renter who is not a  
26 resident of this country and, as part of, or associated with, the rental  
27 agreement, the renter purchases liability insurance, as defined in  
28 subdivision (b) of Section 1758.85 of the Insurance Code, from  
29 the rental company in its capacity as a rental car agent for an  
30 authorized insurer, the rental company shall be authorized to accept,  
31 and, if served as set forth in this subdivision, shall accept, service  
32 of a summons and complaint and any other required documents  
33 against the foreign renter for any accident or collision resulting  
34 from the operation of the rental vehicle within the state during the  
35 rental period. If the rental company has a registered agent for  
36 service of process on file with the Secretary of State, process shall  
37 be served on the rental company’s registered agent, either by  
38 first-class mail, return receipt requested, or by personal service.

39       (2) Within 30 days of acceptance of service of process, the rental  
40 company shall, provide a copy of the summons and complaint and

1 any other required documents served in accordance with this  
2 subdivision to the foreign renter by first-class mail, return receipt  
3 requested.

4 (3) Any plaintiff, or his or her representative, who elects to serve  
5 the foreign renter by delivering a copy of the summons and  
6 complaint and any other required documents to the rental company  
7 pursuant to paragraph (1) shall agree to limit his or her recovery  
8 against the foreign renter and the rental company to the limits of  
9 the protection extended by the liability insurance.

10 (4) Notwithstanding the requirements of Sections 17450 to  
11 17456, inclusive, of the Vehicle Code, service of process in  
12 compliance with paragraph (1) shall be deemed valid and effective  
13 service.

14 (5) Notwithstanding any other provision of law, the requirement  
15 that the rental company accept service of process pursuant to  
16 paragraph (1) shall not create any duty, obligation, or agency  
17 relationship other than that provided in paragraph (1).

18 (w) This section shall remain in effect only until January 1,  
19 2015, and as of that date is repealed, unless a later enacted statute,  
20 that is enacted before January 1, 2015, deletes or extends that date.