

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2379

Introduced by Assembly Member Huber

February 24, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2379, as amended, Huber. Rental vehicles: ~~contracts; damage waivers.~~

Existing law governs contracts between vehicle rental companies and their customers ~~and defines an authorized driver for these purposes.~~ Existing law regulates an automobile renter's liability for loss due to theft, a rental company's loss of use, or damage or loss to a rental vehicle, damage waivers and damage waiver fees, and the notice to a renter regarding financial responsibility and optional damage waivers. Existing law authorizes the sale of a damage waiver for rental vehicles, subject to certain rate limitations, for each full or partial 24-hour rental day.

This bill would ~~make a technical, nonsubstantive change to these provisions~~ increase the amount that a rental company may charge for a damage waiver, as specified, and require that the damage waiver prices be adjusted annually to reflect changes from the previous year in the Consumer Price Index, as defined.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1936 of the Civil Code, as amended by Section 1 of Chapter 531 of the Statutes of 2011, is amended to read:

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

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

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

(3) "Authorized driver" means 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

1 consider the reasonable costs of providing the transit system or
2 busing network. Notwithstanding clause (iii) of subparagraph (A),
3 the fees designated as a customer facility charge shall not be used
4 to pay for terminal expansion, gate expansion, runway expansion,
5 changes in hours of operation, or changes in the number of flights
6 arriving or departing from the airport.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(g) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the place, such as the counter, where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental cars are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved car: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the car rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company

1 expressly lists that are permitted under subdivision (f), and (F) the
2 range of charges for the damage waiver.

3 (2) In addition to the requirements of paragraph (1), a rental
4 company that offers or provides a damage waiver shall orally
5 disclose to all renters, except those who are participants in the
6 rental company's membership program, that the damage waiver
7 may be duplicative of coverage that the customer maintains under
8 his or her own policy of motor vehicle insurance. The renter's
9 receipt of the oral disclosure shall be demonstrated through the
10 renter's acknowledging receipt of the oral disclosure near that part
11 of the contract where the renter indicates, by the renter's own
12 initials, his or her acceptance or declination of the damage waiver.
13 Adjacent to that same part, the contract also shall state that the
14 damage waiver is optional. Further, the contract for these renters
15 shall include a clear and conspicuous written disclosure that the
16 damage waiver may be duplicative of coverage that the customer
17 maintains under his or her own policy of motor vehicle insurance.

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

22
23 "NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY
24 AND OPTIONAL DAMAGE WAIVER
25

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

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

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

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

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

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

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

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

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

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

28 (2) For rental vehicles that have a manufacturer’s suggested
29 retail price from nineteen thousand one dollars (\$19,001) to
30 thirty-four thousand nine hundred ninety-nine dollars (\$34,999),
31 inclusive, and that are also either vehicles of next year’s model,
32 or not older than the previous year’s model, the rate shall not
33 exceed ~~fifteen~~ *eighteen* dollars ~~(\$15)~~ *(\$18)*. For those rental
34 vehicles older than the previous year’s model-year, the rate shall
35 not exceed ~~nine~~ *eleven* dollars ~~(\$9)~~ *(\$11)*.

36 (i) The manufacturer’s suggested retail prices *and the damage*
37 *waiver prices* described in subdivision (h) shall be adjusted
38 annually to reflect changes from the previous year in the Consumer
39 Price Index. For the purposes of this section, “Consumer Price

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

34 (i) Notwithstanding Section 10231.5 of the Government Code,
35 the airport shall provide reports on an annual basis to the Senate
36 and Assembly Committees on Judiciary detailing all of the
37 following:

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

39 (II) How the funds are being spent.

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

4 (IV) Whether airport concession fees authorized by Section
5 1936.01 have increased since the prior report, if any.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (3) This subdivision does not prohibit a rental company from
13 equipping rental vehicles with GPS-based technology that provides
14 navigation assistance to the occupants of the rental vehicle, 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 for the purposes of discovering or repairing
18 a defect in the technology and the information may then be used
19 only for that purpose.

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

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

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

1 has returned the vehicle to the rental company, and the information
2 shall only be used for the purpose described in this paragraph.

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

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

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

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

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

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

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

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

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

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

1 insurance. If it is not feasible to hang the statement from the
2 rearview mirror, it shall be hung from the steering wheel.

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

8
9 “☐ If I previously accepted the collision damage waiver, I
10 now decline it.

11
12 ☐ If I previously declined the collision damage waiver, I now
13 accept it.”

14
15 The hanger shall also provide a box for the enrollee to indicate
16 whether this change applies to this rental transaction only or to all
17 future rental transactions. The hanger shall also notify the renter
18 that he or she may make that change, prior to leaving the lot, by
19 returning the form to an employee designated to receive the form
20 who is present at the lot where the renter takes possession of the
21 car, to receive any change in the rental agreement from the renter.

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

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

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

35 (v) (1) When a rental company enters into a rental agreement
36 in the state for the rental of a vehicle to any renter who is not a
37 resident of this country and, as part of, or associated with, the rental
38 agreement, the renter purchases liability insurance, as defined in
39 subdivision (b) of Section 1758.85 of the Insurance Code, from
40 the rental company in its capacity as a rental car agent for an

1 authorized insurer, the rental company shall be authorized to accept,
2 and, if served as set forth in this subdivision, shall accept, service
3 of a summons and complaint and any other required documents
4 against the foreign renter for any accident or collision resulting
5 from the operation of the rental vehicle within the state during the
6 rental period. If the rental company has a registered agent for
7 service of process on file with the Secretary of State, process shall
8 be served on the rental company's registered agent, either by
9 first-class mail, return receipt requested, or by personal service.

10 (2) Within 30 days of acceptance of service of process, the rental
11 company shall, provide a copy of the summons and complaint and
12 any other required documents served in accordance with this
13 subdivision to the foreign renter by first-class mail, return receipt
14 requested.

15 (3) Any plaintiff, or his or her representative, who elects to serve
16 the foreign renter by delivering a copy of the summons and
17 complaint and any other required documents to the rental company
18 pursuant to paragraph (1) shall agree to limit his or her recovery
19 against the foreign renter and the rental company to the limits of
20 the protection extended by the liability insurance.

21 (4) Notwithstanding the requirements of Sections 17450 to
22 17456, inclusive, of the Vehicle Code, service of process in
23 compliance with paragraph (1) shall be deemed valid and effective
24 service.

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

29 (w) This section shall remain in effect only until January 1,
30 2015, and as of that date is repealed, unless a later enacted statute,
31 that is enacted before January 1, 2015, deletes or extends that date.