

JAN 25 2006

---

---

# A BILL FOR AN ACT

RELATING TO THE MOTOR VEHICLE RENTAL INDUSTRY.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Section 437D-8.4, Hawaii Revised Statutes, is  
2 amended to read as follows:

3           "**§437D-8.4 License [and], registration, and other fees.**

4 (a) Notwithstanding any law to the contrary, a lessor may  
5 visibly pass on to a lessee:

6           (1) The general excise tax attributable to the  
7 transaction;

8           (2) The vehicle license and registration fee and weight  
9 taxes, prorated at 1/365th of the annual vehicle  
10 license and registration fee and weight taxes actually  
11 paid on the particular vehicle being rented for each  
12 full or partial twenty-four hour rental day that the  
13 vehicle is rented; provided the total of all vehicle  
14 license and registration fees charged to all lessees  
15 shall not exceed the annual vehicle license and  
16 registration fee actually paid for the particular  
17 vehicle rented;



1 (3) The rental motor vehicle surcharge tax as provided in  
2 section 251-2 attributable to the transaction;

3 (4) The county surcharge on state tax under section  
4 46-16.8; provided that the lessor itemizes the tax for  
5 the lessee; [and]

6 (5) The rents or fees paid to the department of  
7 transportation under concession contracts, negotiated  
8 pursuant to chapter 102, or service permits, granted  
9 pursuant to title 19, Hawaii Administrative Rules,  
10 provided that:

11 (A) The rents or fees are limited to amounts that can  
12 be attributed to the proceeds of the particular  
13 transaction;

14 (B) The rents or fees shall not exceed the lessor's  
15 net payments to the department of transportation  
16 made under concession contract or service permit;

17 (C) The lessor submits to the department of  
18 transportation and the department of commerce and  
19 consumer affairs a statement, verified by a  
20 certified public accountant as correct, that  
21 reports the amounts of the rents or fees paid to



1 the department of transportation pursuant to the  
2 applicable concession contract or service permit:

3 (i) For all airport locations; and

4 (ii) For each airport location;

5 (D) The lessor submits to the department of  
6 transportation and the department of commerce and  
7 consumer affairs a statement, verified by a  
8 certified public accountant as correct, that  
9 reports the amounts charged to lessees:

10 (i) For all airport locations;

11 (ii) For each airport location; and

12 (iii) For each lessee;

13 (E) The lessor includes in these reports the  
14 methodology used to determine the amount of fees  
15 charged to each lessee; and

16 (F) The lessor submits the above information to the  
17 department of transportation and the department  
18 of commerce and consumer affairs within three  
19 months of the end of the preceding annual  
20 accounting period or contract year as determined  
21 by the applicable concession agreement or service  
22 permit.



1           The respective departments, in their sole discretion,  
2           may extend the time to submit the statement required  
3           in this subsection. If the director determines that  
4           an examination of the lessor's information is  
5           inappropriate under this subsection and the lessor  
6           fails to correct the matter within ninety days, the  
7           director may conduct an examination and charge a  
8           lessor an examination fee based upon the cost per hour  
9           per examiner for evaluating, investigating, and  
10          verifying compliance with this subsection, as well as  
11          additional amounts for travel, per diem, mileage, and  
12          other reasonable expenses incurred in connection with  
13          the examination, which shall relate solely to the  
14          requirements of this subsection, and which shall be  
15          billed by the departments as soon as feasible after  
16          the close of the examination. The cost per hour shall  
17          be \$40 or as may be established by rules adopted by  
18          the director. The lessor shall pay the amounts billed  
19          within thirty days following the billing. All moneys  
20          collected by the director shall be credited to the  
21          compliance resolution fund[-]; and



- 1        (6) The concession fee paid by the lessor under any
- 2        agreement with a third party, other than the
- 3        department of transportation, that requires the
- 4        payment of the fee for the lessor to conduct business
- 5        on the third party's premises; provided that:
- 6        (A) The lessor itemizes the concession fee for the
- 7        lessee; and
- 8        (B) The concession fee shall not exceed the lessor's
- 9        concession payment to the third party.

10        (b) A representation by the lessor to the lessee [~~which~~  
 11 that states that the visible pass on of the charges in this  
 12 section is mandatory or that it is a government assessment upon  
 13 the consumer shall be a per se violation of section 480-2."

14        SECTION 2. Statutory material to be repealed is bracketed  
 15 and stricken. New statutory material is underscored.

16        SECTION 3. This Act shall take effect upon its approval.

17  
 INTRODUCED BY: *James Mercedo* BR

**SB. NO. 2963**

**Report Title:**

Motor Vehicles; Rental

**Description:**

Authorizes motor vehicle lessors to visibly pass on to the lessee third party concession fees where the third party is an entity other than the department of transportation.

