

Honorable Rosalyn Baker, Chair  
Committee on Ways and Means  
Hawaii State Senate  
State of Hawaii

Hearing: March 28, 2008, 9:30 a.m., Conf. Room 211

Re: HB 3196, SD1 --- Relating To The Rental Motor Vehicle Surcharge Tax

Honorable Chair Baker and Honorable Committee Members:

My name is Wayne Tanaka and I am the chair of the Legislative Committee for Catrala-Hawaii. Catrala's membership consists of the major u-drive (car and truck rental leasing) companies in Hawaii and the many businesses which support our industry.

Catrala is opposed to this bill in its present form. Catrala supports this bill with amendment attached hereto as Exhibit A. Exhibit A is a copy of HB 3196, HD1 passed from the House to the Senate. To avoid loss of revenues HB 3196, HD1 fairly extends the temporary \$3 daily tax for another year while the DOT is required to do a study and report back to the Legislature in 2009.

This bill in its present form as amended by the prior Senate Committees is not fair AS AN UNFAIR TAX INCREASE DIRECTED ONLY AT OUR INDUSTRY and has other problems in several areas:

a) It does not require the DOT to involve others in making its recommendations to the Legislature like HB 3196, HD1 did and also in keeping with the provisions of SB 1133 passed by the Senate and House last session. Our industry and others should be involved in reviewing matters with the DOT prior to making recommendations to the Legislature and thus we respectfully ask that the provisions of HB 3196, HD1 be adopted.

b) By leaving the amount blank, this bill suggests a TAX INCREASE when the DOT by the Administration version of the bill is willing to accept the amount of \$3 daily which is the present daily "temporary" amount. If the DOT is only seeking \$3 why is the dollar figure blank? Is the Senate seeking an amount higher than \$3? Why is the Senate targeting the u-drive industry when the DOT is willing to accept \$3 even on a temporary basis while it conducts a study?

c) This bill unfairly singles out the u-drive industry for a PERMANENT TAX INCREASE since the present daily surcharge tax should be \$2 and not the present \$3 which some seek to make permanent. About 8 years ago the u-drive industry was singled out for a "temporary" tax increase from \$2 to \$3 daily to help with the needs of the General Fund. Due to a packaging of legislative measures the industry reluctantly accepted the "temporary" tax increase.

Some monies from the tax increase going into the Highway Fund were transferred to the General Fund. The surcharge tax was scheduled to sunset back from \$3 daily to \$2 in 2007 when State revenues were hopefully better. This should have occurred due to the reported "surplus revenues" in 2007. Due to growing surplus in revenues and the increasing needs of the Highway Fund the Governor prior to 2007 stopped the transfer of revenues from the Highway Fund to the General Fund. In fact due to reported transfer of \$150,000,000 or more out of the Highway Fund, the Governor

in 2007 recommended using some of surplus revenues to repay the Highway Fund given its anticipated future needs and federal cut backs. Such repayment did not occur.

As one can see from the foregoing, the Highway Fund is apparently in need of revenues. However, the u-drive industry should not be singled out for "permanent tax increase" when after 8 years the surcharge tax was suppose to sunset back from \$3 to \$2 daily in 2007 which was a year of surplus revenues. If more monies are needed then revenues should be generated from all users of the highways (as well as possible others) and u-drives should contribute their fair share by adjusting the daily surcharge tax from a base of \$2 and not \$3.

Catrala firmly believes the daily surcharge tax is already high and must be kept as low as possible. Hawaii is primarily a family oriented tourist destination which competes with places such as Florida. Florida's surcharge tax is \$2 daily and we believe Hawaii should be the same if not lower.

The 2004 study by the DOT which a prior Senate Committee referred to is a flawed study that does not validly substantiate any national average. DOT has agreed the study is not valid. Regardless, you don't compare cities/States who are not dependent on tourism like Hawaii and use the figures from such cities/States in deciding legislation for Hawaii. It's like comparing apples with oranges. The 2004 study is a misleading and a poor study. For example, the sales tax in Cleveland is 7.5%. Does that mean that Hawaii's GET tax (version of sales tax) should be raised to 5% or 6%? Obviously not. The circumstances in Cleveland are not the same as Hawaii. The same should apply when one tries to compare or use surcharge taxes from other cities/States.

Further, u-drive vehicles provide the tourists the freedom to explore on their own schedule and repeatedly, if they so desire, the many wonders throughout Hawaii which are heavily advertised and promoted. High daily taxes will discourage the rental of vehicles. This in turn will reduce overall tourist satisfaction.

In addition, the reduction in daily rental of vehicles will also result in economic hardship to the many local restaurants and shops which benefit from tourists who stop, eat and shop as they explore along the way the beauties and enjoy the many activities Hawaii has to offer.

In closing, Hawaii is anticipating a drop off in tourism due to national and foreign economic events together with rising fuel cost and surcharges. Please be fair to the u-drive industry and do not unfairly single it out for a permanent tax increase. We respectfully urge you to pass this bill as Exhibit A. Thank you for allowing us to testify.

#### EXHIBIT A BELOW

**Report Title:**

*Rental motor vehicle; surcharge; surcharge tax; State Highway Fund*

**Description:**

*Extends the \$1 per day surcharge on rental motor vehicles beyond September 1, 2008 and deposits the money into the State Highway Fund. (HB3196 HD1)*

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## A BILL FOR AN ACT

*RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX.*

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

SECTION 1. Section 251-2, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

"(a) There is levied and shall be assessed and collected each month a rental motor vehicle surcharge tax of \$2 a day, except that for the period of September 1, 1999, to August 31, [~~2008~~] 2009, the tax shall be \$3 a day, or any portion of a day that a rental motor vehicle is rented or leased. The rental motor vehicle surcharge tax shall be levied upon the lessor; provided that the tax shall not be levied on the lessor if:

- (1) The lessor is renting the vehicle to replace a vehicle of the lessee that is being repaired; and
- (2) A record of the repair order for the vehicle is retained either by the lessor for two years for verification purposes or by a motor vehicle repair dealer for two years as provided in section 437B-16."

SECTION 2. (a) The department of transportation shall study the financial requirements of the state highway fund, with an emphasis of the adequacy and equity of revenues generated by one or more revenues sources pursuant to section 251-2, Hawaii Revised Statutes, compared with other revenue sources contributing to or that could be contributing to the highway fund.

(b) The study may include discussions and meetings with representatives of different interest groups and present contributors of revenues to the highway fund.

(c) The study may include a review of:

- (1) Past, present, and projected revenues of the state highway fund;
- (2) The ability of the department of transportation to plan, implement, and expend funds on a timely basis;

- (3) An analysis of the actual revenue needs of the department of transportation;
- (4) Other revenue sources of the state highway fund and their nexus to the fund; and
- (5) Other governmental matching funds.

(d) The study shall include data from the 2000-2001 fiscal year to the present fiscal year and may include any data, information, or conclusions by task forces or groups that have discussed or met in the past to evaluate at least in part the fiscal needs, revenue sources, or viability of the state highway fund.

(e) The department of transportation shall submit a final report, including proposed legislation for increasing revenue sources for the state highway fund to meet its ongoing and future needs, to the legislature no later than twenty days prior to the convening of the regular session of 2009.

SECTION 3. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 4. This Act shall take effect upon its approval.

**EXHIBIT A ABOVE**



Honorable Rosalyn Baker, Chair  
Committee on Ways and Means  
Hawaii State Senate  
State of Hawaii

Hearing: March 28, 2008, 9:30 a.m., Conf. Room 211

Re: HB 3196, SD1 --- Relating To The Rental Motor Vehicle Surcharge Tax

Honorable Chair Baker and Honorable Committee Members:

My name is Aaron Medina and I am the General Manager, Hawaii, with The Hertz Corporation.

Our company opposes this bill in its present form and supports the amendments to the bill recommended by Catrala Hawaii. To avoid loss of revenues the temporary tax should be extended another year while DOT does a study and reports back to the legislature next year.

This bill is an unfair permanent tax increase directed only against the car rental industry and has problems in other areas:

- a) It does not require the DOT to involve others in its study and recommendations to the Legislature like SB 1133 passed last session which involved other parties.
- b) By leaving the amount blank, this bill suggests a TAX INCREASE. The DOT, in its Legislation and its testimony on HB 3196 HD1, is only seeking to maintain the current and temporary amount of \$3 a day while it does a study. If the DOT is only seeking a temporary extension of the \$3 a day, why is the dollar figure blank in this bill?
- c) This bill unfairly singles out the u-drive industry for a PERMANENT TAX INCREASE. The bill does not have any sunset date and thus makes a temporary tax permanent while not fairly raising revenues from others who use the highways. This is a permanent tax increase directed only against our industry. If revenues need to be raised, contributions from u-drives should start from the base of \$2 daily and not \$3 which is the temporary tax amount that singled out only the u-drive industry 8 years ago.

Please do not unfairly burden or tax our industry. Revenues should be fairly raised from all users of our highways. Thank you for allowing us to testify.



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Committee on Ways and Means  
Hawaii State Senate  
State of Hawaii

Hearing: March 28, 2008, 9:30 a.m., Conf. Room 211

Re: HB 3196, SD1 --- Relating To The Rental Motor Vehicle Surcharge Tax

Honorable Chair Baker and Honorable Committee Members:

My name is Randy Monturi and I am the Regional Vice President with National Car Rental.

Our company opposes this bill in its present form and supports the amendments to the bill recommended by Catrala Hawaii. To avoid loss of revenues the temporary tax should be extended another year while DOT does a study and reports back to the legislature next year.

This bill is an unfair permanent tax increase directly only against our industry and has problems in other areas:

a) It does not require the DOT to involve others in its study and recommendations to the Legislature like SB 1133 passed last session which involved other parties.

b) By leaving the amount blank, this bill suggests a TAX INCREASE when the DOT in its Legislation and its testimony on HB 3196, HD1 is only seeking to maintain the amount of \$3 daily which is the present daily amount while it does a study. If the DOT is only seeking \$3 why is the dollar figure blank in this bill?

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Re: HB 3196, SD1 -- Relating To The Rental Motor Vehicle Surcharge Tax

Honorable Chair Baker and Honorable Committee Members:

My name is Wayne Tanaka and I am the V.P. / General Manager at Enterprise Rent-A-Car Company of Hawaii.

Our company opposes this bill in its present form and supports the amendments to the bill recommended by Catrala Hawaii. To avoid loss of revenues the temporary tax should be extended another year while DOT does a study and reports back to the legislature next year.

This bill is an unfair permanent tax increase directly only against our industry and has problems in other areas:

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A handwritten signature in black ink, appearing to read 'Wayne Tanaka'.



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Please do not unfairly burden or tax our industry. Revenues should be fairly raised from all users of our highways. Thank you for allowing us to testify.



# TAXBILLSERVICE

126 Queen Street, Suite 304

TAX FOUNDATION OF HAWAII

Honolulu, Hawaii 96813 Tel. 536-4587

**SUBJECT:** RENTAL MOTOR VEHICLE AND TOUR VEHICLE SURCHARGE, Make increase permanent

**BILL NUMBER:** HB 3196, SD-2

**INTRODUCED BY:** Senate Committee on Economic Development and Taxation

**BRIEF SUMMARY:** Amends HRS section 251-2 to repeal the provision reducing the \$3 rental motor vehicle surcharge tax to \$2 on September 1, 2008 and provides that the \$3 per day surcharge shall be \$\_\_\_\_\_.

Also requires the department of transportation to provide recommendations for additional revenue-generating initiatives that will replenish the state highway fund to the 2009 legislature.

**EFFECTIVE DATE:** July 1, 2050

**STAFF COMMENTS:** The legislature by Act 263, SLH 1991, adopted a \$2 per day tax on rental motor vehicles as part of the state administration's plan to bail out the state's ailing highway fund. This action was in contrast to a recommendation from a citizen's task force that had been convened in 1988 to address the looming shortfall in the state highway fund that the fuel and weight tax rates be increased as well as continuing to transfer the collections of the general excise tax imposed on the sale of fuel for highway use from the general fund to the state highway fund. This latter source of revenue provided a relatively accurate gauge of highway use given the ease of administration and compliance and represented a user-based activity charge. However, by the time the issue of sustaining the highway fund garnered the attention of the legislature in 1990, there was evidence that the state general fund finances were also in trouble following the burst of the Japanese "bubble."

Rather than beginning the process to adjust the growth of state government to available revenues, lawmakers and the administration felt it expedient to "take back" the general excise tax collected on the sale of gasoline by allowing the transfer enacted by Act 239, SLH 1985, to lapse. Given the deleterious impact the lapsing of this transfer of general excise tax revenues may have had on the highway fund and the politically difficult challenge of raising the fuel tax on gasoline, lawmakers devised the rental motor vehicle/tour vehicle surcharge tax which was enacted with Act 263, SLH 1991. Aimed primarily at visitors, the attempt was intended to make this segment of the de facto population pay a larger share of the cost of maintaining the highways. It also allowed lawmakers to avoid raising the tax on gasoline even higher than the additional five cents they adopted with the 1991 legislation.

Since the early 1980's a number of citizens' task forces have been convened to evaluate the fiscal viability of the state highway fund. In all cases, these task forces came to the conclusion that the state motor vehicle tax, fuel and weight taxes would have to be periodically increased because the per unit taxes used to fund the state highway program were based on consumption and are not inflation sensitive like the costs of repairing and maintaining the highway system.

The failing fiscal health of the state highway fund became very apparent by 1999 after the legislature began raiding the fund to pay for general fund programs. Over the years since this began, more than \$155 million was taken from the highway fund to keep general fund programs running. The then administration revealed the projected failure of the state highway fund when it submitted its budget in 1999 which forecast that the state highway fund would be in the red to the tune of more than \$70 million by the end of fiscal year 2003. But opportunity also struck that session when the rental car industry sought approval to show out the multitude of fees and user charges imposed by the state on the industry and for concessions at the airports. In return, the industry agreed to a temporary seven-year increase in the per day rental car fee going from \$2 per day to \$3 per day. This deal is embodied in Act 223, SLH 1999, which increased the amount of the surcharge to \$3 between 11/1/99 to 8/31/07. Act 258, SLH 2007, extended the 8/31/07 sunset date to 8/31/08. This measure proposes that the rental motor vehicle and tour vehicle surcharge shall be permanently set at \$\_\_\_\_\_ per day.

Obviously keeping the burden on non-voting visitors is politically driven especially in the wake of public complaints about the high cost of motor fuel in Hawaii. But is it necessarily the most accountable approach or for that matter transparent? Is this bill doing nothing more than hiding, if not forestalling, the problems facing the state highway fund? Does it perpetuate the inefficiencies that are inherent in a program that is entirely special-fund financed where the majority of the beneficiaries are not being asked to shoulder their fair share of the cost of operating this program?

What would highway users say if, indeed, the fuel tax rates were increased to cover the forecasted shortfalls? Would they demand more accountability from highway officials for the repair and maintenance of the state roads? Would they ask more often why highway users are being asked to pay for so much when so little seems to be done to keep the roadways in good repair? Administration officials and lawmakers may think that visitors will not notice because it is a continuance of the rate that was adopted in 1999, but what will happen when the surcharge doesn't keep up with costs and a substantial hike will be needed in the fuel tax rate regardless of these strategies?

If, indeed, the highway fund is in dire straits, then the money that was taken to supplement the general fund in the 1990's should be returned. Further, small incremental increases in the fuel tax should be undertaken to ease the burden of taxes that will be needed over time to keep the fund solvent. Consideration might be given to reestablishing the transfer of general excise taxes collected on the sale of fuel for highway use to the highway fund as those taxes are paid by highway users. While the \$3 per day rental surcharge may still be needed to balance the fund, it by no means should be the only source to be tapped as it merely postpones the day of reckoning. It should be remembered that unlike the other resources of the state highway fund, the fortunes of the motor vehicle surcharge are highly dependent on the utilization of rental cars which in turn is dependent on the fortunes of the visitor industry and the number of those visitors electing to rent those vehicles. Thus, the motor vehicle rental surcharge is the least reliable of those revenue resources available to the state highway fund.

Digested 3/27/08

LINDA LINGLE  
GOVERNOR

JAMES R. AIONA, JR.  
LT. GOVERNOR



KURT KAWAFUCHI  
DIRECTOR OF TAXATION

SANDRA L. YAHIRO  
DEPUTY DIRECTOR

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## SENATE COMMITTEE ON WAYS & MEANS

### TESTIMONY REGARDING HB 3196 HD 1 SD 2 RELATING TO RENTAL MOTOR VEHICLE SURCHARGE TAX

**TESTIFIER: KURT KAWAFUCHI, DIRECTOR OF TAXATION (OR DESIGNEE)**

**DATE: MARCH 28, 2008**

**TIME: 9:30AM**

**ROOM: 211**

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This legislation amends the rental motor vehicle surcharge tax to an unspecified amount.

The Department of Taxation (Department) **supports the intent** of this measure.

Currently, there is a rental motor vehicle surcharge of \$3 per day, which will drop to \$2 per day after August 31, 2008. Potentially increasing the surcharge indefinitely will be extremely useful in building reserves in the State Highway Fund. Maintaining a consistently sufficient revenue stream for the state highways is critical to maintaining Hawaii's infrastructure.

This legislation will result in no revenue impact to the general fund. The State Highway Fund will receive an indeterminate revenue impact because the amount of tax is unspecified. However, assuming the \$3 per day surcharge is extended, the State Highway Fund will increase by \$13.3 million in FY 2009 (10 months), and \$16.0 million in FY 2010 and thereafter. The \$3 a day rental vehicle surcharge tax now yields about \$48 million annually. This total includes the taxes on other tour vehicles (vans and buses), but the taxes on these other vehicles account for less than 1% of the total. Hence, an increase of \$1 a day (from \$2 after the reversion to \$3) would yield \$16 million annually.

As a result of the foregoing, the Department supports this legislation.

LINDA LINGLE  
GOVERNOR



STATE OF HAWAII  
DEPARTMENT OF TRANSPORTATION  
869 PUNCHBOWL STREET  
HONOLULU, HAWAII 96813-5097

BRENNON T. MORIOKA  
DIRECTOR

Deputy Directors  
MICHAEL D. FORMBY  
FRANCIS PAUL KEENO  
BRIAN H. SEKIGUCHI

IN REPLY REFER TO:

March 28, 2008

TESTIMONY OF THE DEPARTMENT OF TRANSPORTATION

HOUSE BILL NO. 3196, HD1, SD2

COMMITTEE ON WAYS AND MEANS

We support this bill. Currently, Section 251-2(a), HRS, provides for a rental motor vehicle surcharge of \$3.00 per day from September 1, 1999 to August 31, 2008. The Department of Transportation (DOT) supports the repealing of the sunset date and maintaining the \$3 per day surcharge on a permanent basis. This dedicated revenue will help support the Highways Division's expenditures for the operation, maintenance and construction of state highways.

Each dollar collected through the rental vehicle surcharge provides approximately \$16 million in annual revenues for the State Highway Fund. If the \$3 per day surcharge is not extended, the Highways Division will need to cut its maintenance program by almost 10%.