
A BILL FOR AN ACT

RELATING TO MOTOR VEHICLE RENTAL INDUSTRY.

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

1 SECTION 1. The legislature finds that a healthy and robust
2 rental car industry is vital to Hawaii's tourism economy and
3 supports tourism as an integral part of Hawaii's transportation
4 infrastructure. While keeping the industry healthy is
5 important, the legislature also finds that rental car customers,
6 who are predominantly tourists, should be fully aware of all of
7 the mandatory government taxes and fees that are assessed on
8 each rental car.

9 The legislature further finds that Hawaii is currently the
10 only state where the existing law virtually ensures that the
11 rental car industry cannot fully recover the government fees it
12 pays when it brings cars into the State. Examples of the fees
13 the companies cannot currently collect include the general
14 excise tax for the vehicle and license plating fees, among
15 others. Thirty-eight states currently permit rental car
16 companies to fully recover all of these government fees. Under
17 the current formula in the law, rental car companies experience



1 a shortfall in collections. This places pressure on the
2 companies' ability to provide customers, of which approximately
3 eighty-five per cent are tourists, the vehicles they want as
4 they explore non-traditional areas on the islands that require a
5 rental car to access.

6 The purpose of this Act is to allow rental car companies to
7 fully collect from customers the government-assessed fees they
8 pay while ensuring the protection of customers by:

- 9 (1) Expanding the categories of fees that can be recovered
10 by a rental car company;
- 11 (2) Prohibiting rental car companies from collecting more
12 fees from customers than the total fees paid; and
- 13 (3) Requiring all rental car companies to undergo annual
14 third party audits by a certified public accountant.

15 SECTION 2. Section 437D-3, Hawaii Revised Statutes, is
16 amended by adding a new definition to be appropriately inserted
17 and to read as follows:

18 "Government assessed vehicle fees" includes motor vehicle
19 weight taxes under section 249-2; license plate fees under
20 section 249-7(b); fees connected with the registration of
21 special interest vehicles as defined in section 286-2; fees



1 connected with registration of specially constructed,
2 reconstructed, or rebuilt vehicles as referenced under section
3 286-41(c); fees connected with the registration of imported
4 vehicles as referenced in section 286-41(c); and any use tax
5 under chapter 238."

6 SECTION 3. Section 437D-8.4, Hawaii Revised Statutes, is
7 amended by amending subsection (a) to read as follows:

8 "(a) Notwithstanding any law to the contrary, a lessor may
9 visibly pass on to a lessee:

- 10 (1) The general excise tax attributable to the
11 transaction;
- 12 (2) [~~The vehicle license and registration fee and weight~~
13 ~~taxes, prorated at 1/365th of the annual vehicle~~
14 ~~license and registration fee and weight taxes actually~~
15 ~~paid on the particular vehicle being rented for each~~
16 ~~full or partial twenty four hour rental day that the~~
17 ~~vehicle is rented; provided the total of all vehicle~~
18 ~~license and registration fees charged to all lessees~~
19 ~~shall not exceed the annual vehicle license and~~
20 ~~registration fee actually paid for the particular~~
21 ~~vehicle rented;] The government assessed vehicle fees~~



1 paid by the lessor; calculated by totaling the
2 aggregate government assessed vehicle fees paid
3 annually and dividing that amount by the anticipated
4 number of annual rental days of the vehicle; provided
5 that the aggregate fee charged pursuant to this
6 paragraph to all vehicle lessees annually shall not
7 exceed the total fees actually paid in the same year;
8 provided further that:

9 (A) If the aggregate amount of the government
10 assessed vehicle fees collected from lessees
11 under this paragraph in a particular year exceeds
12 the aggregate amount of government assessed
13 vehicle fees paid by the lessor in the same year,
14 the lessor shall retain the excess amount of fees
15 collected and reduce the amount of government
16 assessed vehicle fees charged to lessees the
17 following year by the corresponding amount; and

18 (B) The lessor shall submit annually to the office of
19 consumer protection a statement, verified by a
20 third party certified public accountant as
21 correct, that reports the total amount of the



1 annual government assessed vehicle fees actually
2 paid by the lessor in a particular year and the
3 total amount of the annual government assessed
4 vehicle fees collected from lessees in the same
5 year;

- 6 (3) The surcharge taxes imposed in chapter 251
7 attributable to the transaction;
- 8 (4) The county surcharge on state tax under section 46-
9 16.8; provided that the lessor itemizes the tax for
10 the lessee; and
- 11 (5) The rents or fees paid to the department of
12 transportation under concession contracts negotiated
13 pursuant to chapter 102, service permits granted
14 pursuant to title 19, Hawaii Administrative Rules, or
15 rental motor vehicle customer facility charges
16 established pursuant to section 261-7; provided that:
- 17 (A) The rents or fees are limited to amounts that can
18 be attributed to the proceeds of the particular
19 transaction;



- 1 (B) The rents or fees shall not exceed the lessor's
2 net payments to the department of transportation
3 made under concession contract or service permit;
- 4 (C) The lessor submits to the department of
5 transportation and the department of commerce and
6 consumer affairs a statement, verified by a
7 certified public accountant as correct, that
8 reports the amounts of the rents or fees paid to
9 the department of transportation pursuant to the
10 applicable concession contract or service permit:
11 (i) For all airport locations; and
12 (ii) For each airport location;
- 13 (D) The lessor submits to the department of
14 transportation and the department of commerce and
15 consumer affairs a statement, verified by a
16 certified public accountant as correct, that
17 reports the amounts charged to lessees:
18 (i) For all airport locations;
19 (ii) For each airport location; and
20 (iii) For each lessee;



1 (E) The lessor includes in these reports the
2 methodology used to determine the amount of fees
3 charged to each lessee; and

4 (F) The lessor submits the above information to the
5 department of transportation and the department
6 of commerce and consumer affairs within three
7 months of the end of the preceding annual
8 accounting period or contract year as determined
9 by the applicable concession agreement or service
10 permit.

11 The respective departments, in their sole discretion,
12 may extend the time to submit the statement required
13 in this subsection. If the director determines that
14 an examination of the lessor's information is
15 inappropriate under this subsection and the lessor
16 fails to correct the matter within ninety days, the
17 director may conduct an examination and charge a
18 lessor an examination fee based upon the cost per hour
19 per examiner for evaluating, investigating, and
20 verifying compliance with this subsection, as well as
21 additional amounts for travel, per diem, mileage, and



1 other reasonable expenses incurred in connection with
2 the examination, which shall relate solely to the
3 requirements of this subsection, and which shall be
4 billed by the departments as soon as feasible after
5 the close of the examination. The cost per hour shall
6 be \$40 or as may be established by rules adopted by
7 the director. The lessor shall pay the amounts billed
8 within thirty days following the billing. All moneys
9 collected by the director shall be credited to the
10 compliance resolution fund."

11 SECTION 4. Act 240, Session Laws of Hawaii 2015, is
12 amended by amending section 7 to read as follows:

13 "SECTION 7. Act 247, Session Laws of Hawaii 2005, is
14 amended by amending section 9 to read as follows:

15 "SECTION 9. This Act shall take effect upon its approval;
16 provided that:

17 (1) If none of the counties of the State adopt an
18 ordinance to levy a county surcharge on state tax by
19 December 31, 2005, this Act shall be repealed and
20 section 437D-8.4, Hawaii Revised Statutes, shall be



1 reenacted in the form in which it read on the day
2 prior to the effective date of this Act;

3 (2) If any county does not adopt an ordinance to levy a
4 county surcharge on state tax by December 31, 2005, it
5 shall be prohibited from adopting such an ordinance
6 pursuant to this Act, unless otherwise authorized by
7 the legislature through a separate legislative act;
8 and

9 (3) If an ordinance to levy a county surcharge on state
10 tax is adopted by December 31, 2005:

11 (A) The ordinance shall be repealed on December 31,
12 2022; provided that the repeal of the ordinance
13 shall not affect the validity or effect of an
14 ordinance to extend a surcharge on state tax
15 adopted pursuant to Act 240, Session Laws of
16 Hawaii 2015;

17 (B) This Act shall be repealed on December 31, 2027;
18 and

19 (C) Section 437D-8.4, Hawaii Revised Statutes, shall
20 be reenacted in the form in which it read on the
21 day prior to the effective date of this Act;



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1 provided that the amendments made to section
 2 437D-8.4, Hawaii Revised Statutes, by Act 226,
 3 Session Laws of Hawaii 2008, as amended by Act
 4 11, Session Laws of Hawaii 2009, [~~and~~] Act 110,
 5 Session Laws of Hawaii 2014, and Act _____, Session
 6 Laws of Hawaii 2017, shall not be repealed."

7 SECTION 5. Statutory material to be repealed is bracketed
 8 and stricken. New statutory material is underscored.

9 SECTION 6. This Act shall take effect upon its approval.

10

INTRODUCED BY:



JAN 20 2017



H.B. NO. 735

Report Title:

Motor Vehicle Rental Industry; Fees

Description:

Allows lessors of rental motor vehicles to pass on to lessees a government assessed fee. Defines government assessed vehicle fee.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

