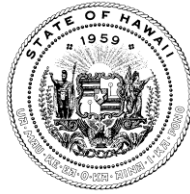


SB 657

RELATING TO MOTOR VEHICLE RENTAL INDUSTRY.

Amends government assessed vehicle fees that dealers may pass on to customers. Defines government assessed vehicle fees as motor vehicle weight taxes; fees connected with registration of specially constructed, reconstructed, or rebuilt vehicles; fees connected with registration of special interest vehicles; fees connected with registration of imported vehicles; license plate fees; and any use taxes.



DAVID Y. IGE
GOVERNOR
SHAN S. TSUTSUI
LT. GOVERNOR

STATE OF HAWAII
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DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
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CATHERINE P. AWAKUNI COLÓN
DIRECTOR
JO ANN M. UCHIDA TAKEUCHI
DEPUTY DIRECTOR

PRESENTATION OF THE
OFFICE OF CONSUMER PROTECTION

TO THE SENATE COMMITTEE ON TRANSPORTATION AND ENERGY
AND
TO THE SENATE COMMITTEE ON
COMMERCE, CONSUMER PROTECTION, AND HEALTH

THE TWENTY-NINTH LEGISLATURE
Regular Session of 2017
Monday, February 13, 2017
1:20 p.m.

TESTIMONY ON SENATE BILL NO. 657, RELATING TO MOTOR VEHICLE RENTAL
INDUSTRY.

TO THE HONORABLE LORRAINE R. INOUE, CHAIR,
TO THE HONORABLE ROSALYN H. BAKER, CHAIR,
AND MEMBERS OF THE COMMITTEES:

The Department of Commerce and Consumer Affairs (“DCCA”), Office of
Consumer Protection (“OCP”) opposes Senate Bill No. 657, Relating to Motor Vehicle
Rental Industry. My name is Stephen Levins and I am the Executive Director of the
OCP.

Senate Bill No. 657 seeks to amend Hawaii’s Motor Vehicle Rental law, Chapter
437D of the Hawaii Revised Statutes, in two significant ways. It adds license plate fees

and use taxes to the litany of fees that car rental companies are authorized to visibly pass on to consumers and it creates a new unfair method for calculating the visible pass on.

The addition of “license plate fees” and “use taxes” to the list of taxes and fees would appear to be inconsistent with existing law governing visible pass on in car rental transactions. Under current law the car rental industry is only allowed to visibly pass on recurring costs, such as, general excise taxes, license and registration fees, surcharge taxes, and rents and fees payable to the State Department of Transportation. They are not allowed to visibly pass on fixed one-time costs of doing business, such as, use taxes attributable to the importation of motor vehicles to the state, and license plate fees. In this regard, authorizing the fees would be a significant departure from the existing statutory policy favoring the visible pass on of only recurring government fees and taxes.

Currently, the Motor Vehicle Rental law authorizes a visible “pass on” to consumers only if it is prorated at 1/365th of the annual fees and taxes actually paid on the particular vehicle being rented. What this means is that a consumer is charged for the amount of fees and taxes that is directly attributable to their use of the vehicle. It is a logical and fair method of “passing on” these costs.

The Department is opposed to Senate Bill No. 657 because it will be unfair to certain consumers by creating a state of affairs in which they may be charged an excessive amount for fees and taxes.

This amendment unnecessarily complicates the calculation of the pass on. Under the current system, rental car companies are able to recoup from their customers the actual fees and taxes attributable to the rental of the vehicle on a specific day. The consumer pays the car rental company the exact amount that they should, neither more nor less.

Although Senate Bill No. 657 attempts to rectify overpayments by mandating that excessive amounts collected from consumers during a particular year must be applied to the following year's receipts, the reconciliation process will still not prevent an overpayment by individual consumers. The inherent fairness of current law is that no renter will be subject to an overpayment.

Thank you for providing me with the opportunity to testify in opposition of Senate Bill No. 657. I will be happy to answer any questions that the Committees may have.

TESTIMONY OF JERRY GIBSON
AREA VICE PRESIDENT, HILTON HAWAII
February 13, 2017
RE: SB 657 Relating to Rental Car Companies

The rental car industry is a vital part of Hawaii's tourism industry. Keeping Hawaii's rental car companies healthy is important so that they can continue to be a key strategic partner in the tourism industry. As part of their overall health, car rental companies must maintain a quality fleet of vehicles in excellent condition and in good repair, as this creates an overall positive first impression for tourists renting cars on arrival and ensure a great customer experience.

- Rental car companies now maintain an inventory of many more vehicles than 10-20 years ago. Today's tourists seek new adventures, often venturing outside of traditional tourist areas to "undiscovered" locations which require a rental car to access. Tourists seek flexibility and independence while on vacation, and rent cars in order to customize their visitor experience.
- To meet these needs, rental car companies provide a large selection of vehicles to customers to ensure a vehicle is available for rent that matches their needs (passenger and luggage capacity, Bluetooth technology, color, convertible, 4-wheel drive, SUV, etc.).

S.B. 657 seeks to modernize Hawaii's vehicle license fee recovery law so that it is in line with 38 other states that allow rental car companies to fully pass on the government fees they pay to rental car customers. The change being proposed would allow rental car companies to recover all of the government fees they pay for their cars, rather than the fraction of the fees that they are currently collecting under the existing law. While this would result in a very modest increase (less than 50 cents per day per vehicle) in the overall fee paid by customers, it would also mean that the companies will be able to reinvest the recovered fees back into the business to further enhance the customer's experience while in Hawaii.

Generally, businesses are able to pass on the basic costs of conducting business, but in this case, the current law essentially prevents rental car companies from recovering their costs of bringing vehicles into the State. For rental car companies, the deficit between the government fees they pay and what they collect continues to grow, putting continued pressure on the rental car industry's overall business operations.

- The current law only allows a 1/365th per day recovery for certain government fees but not others.
- Rental car companies essentially lose money under the current law because vehicles are only "on rent" and recovering fees on average for 80% each calendar year. Rental car companies also take rental cars out of service regularly for cleaning, preventative maintenance, and to handle recalls.

As a partner to the rental car industry, I respectfully ask for your support for this proposed legislation. We believe that modernizing Hawaii's law will help keep the rental car companies in the best position to continue providing quality services and support the tourism market as a whole.

Mahalo.

Testimony of
Garrick Higuchi
Zone Vice President – Hawaiian Islands
On behalf of
Hertz Global

DATE: February 13, 2017

TO: Chair Rosalyn Baker
Senate Committee on Commerce, Consumer Protection and Health
Chair Lorraine Inouye
Senate Committee on Transportation and Energy

RE: Senate Bill 657

Dear Chair Baker and Chair Inouye, and Members of the Senate Committee on Commerce, Consumer Protection and Health, and the Committee on Transportation and Energy:

We submit these comments on behalf of Hertz Global, which includes Dollar Rental A Car and Thrifty Car Rental.

Hertz is a strong supporter of Senate Bill 657. These amendments will modernize the Hawaii vehicle license fee law so that it is in line with 38 other states that allow rental car companies to pass on to rental car customers the government fees that are assessed on each vehicle.

Currently, the law uses a formula that does not permit a complete recovery of vehicle licensing fees. The current law states that car rental companies operating in Hawaii may only recoup from their customers 1/365th per day of certain government fees paid on a vehicle. This formula creates a shortfall as rental car companies do not recover vehicle licensing fees on every vehicle every day. As the shortfall between what is paid and collected continues to grow, the rental car industry faces increased pressure on business operations.

Senate Bill 657 provide a more reasonable formula and would enable rental car companies to recover closer to all of its vehicle license costs.

The State will not recover any less fees from rental car companies with the passage of this legislation.

Hertz and its Dollar and Thrifty brands are long time employers on the Islands and pride themselves on the significant contributions they have made to Hawaii's community and economy. A healthy and robust rental car industry is vital to Hawaii's tourism economy.

Hertz also joins the other rental car companies in suggesting the attached clarifying amendments to the bill add a definition for "vehicle license recovery fee." These amendments would put Hawaii in line with the majority of states that permit a complete pass through and recovery of vehicle licensing fees.

Hertz strongly supports these measures and urges the committee to pass the bill with amendments.

Thank you for the opportunity to submit this testimony.

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

"Government assessed vehicle fees" includes motor vehicle weight taxes under section 249-2; fees connected with the registration of specially constructed, reconstructed, or rebuilt vehicles, special interest vehicles, or imported vehicles as referenced in section 286-41(c); license plate fees under section 249-7(b); and any use tax under chapter 238."

"Vehicle license recovery fee" means a charge that seeks to recover the amount of any government assessed vehicle fees paid by a rental company."

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

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

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

(2) ~~The [vehicle license and registration fee and weight taxes, prorated at 1/365th of the annual vehicle license and registration fee and weight taxes actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license and registration fees charged to all lessees shall not exceed the annual vehicle license and registration fee actually paid for the particular vehicle rented;]~~ -government assessed vehicle fees vehicle license recovery fee, which shall be calculated by totaling the aggregate government assessed vehicle fees paid annually and dividing that amount by the anticipated number of annual rental days of the vehicle; provided that the aggregate fee charged to all vehicle lessees annually shall not exceed the total fees annually paid in the same year; provided further that:

- (A) If the aggregate amount of ~~government assessed vehicle fees~~ vehicle license recovery fees collected from lessees under this section in a particular year exceeds the aggregate amount of government assessed vehicle fees paid by the lessor in the same year, the lessor shall retain the excess amount of fees collected and reduce the amount of ~~government assessed vehicle fees~~ vehicle license recovery fees charged to lessees the following year by the corresponding amount; and
- (B) The lessor shall submit annually to the director and the director of the office of consumer protection a statement verified by a third party certified public accountant as accurate, that reports the total amount of the government assessed vehicle fees paid by the lessor in a particular year, and the total amount of the annual ~~government assessed vehicle fees~~ vehicle license recovery fees collected from lessees in the same year;



Senator Lorraine Inouye, Chair
Senator Donovan Dela Cruz, Vice Chair
Senate Committee on Transportation and Energy

Senator Rosalyn Baker, Chair
Senator Clarence Nishihara, Vice Chair
Senate Committee on Commerce, Consumer Protection and Health

February 13, 2017; 1:20 PM
Hawaii State Capitol; Conference Room 225

RE: SB 657 – Relating to Motor Vehicle Rental Industry – IN SUPPORT, SUGGEST AMENDMENT

Aloha Chairs Inouye and Baker, Vice Chairs Dela Cruz and Nishihara and Members of the Committees:

My name is Michael Luedtke, Hawaii Regional Manager for Avis Budget Group. Thank you for the opportunity to offer testimony in support of SB 657, which amends government assessed vehicle fees that dealers may pass on to customers and defines the fees.

This bill will update Hawaii's rental motor vehicle law and put Hawaii in line with the other states that allow for the full pass through and recovery of government assessed vehicle fees.

Vehicles are not rented every day of the year due to down time for maintenance. The average vehicle is rented 20 – 25 days per month. Therefore, the current 1/365 methodology results in a shortfall and adds up to a significant amount. SB 657, if passed, will allow rental car companies to recover all of the government assessed fees that are paid on our vehicles. The current law does not permit the recovery of beautification fees, initial plate fees, safety inspection fees and use tax paid when vehicles are registered.

Visitors represent approximately 90% of our market. The price increase would be minimal (less than \$.50 per vehicle per day) and would allow us to reinvest to enrich the visitor experience.

We would like to suggest an amendment to add a definition for "vehicle license recovery fee" to be consistent with terminology used in 38 other states:

"Vehicle license recovery fee" means a charge that seeks to recover the amount of any government assessed vehicle fees paid by a rental company.

Thank you again and we ask for your favorable consideration of this measure.



P.O. Box 584
Long Lake, NY 12847

sfaulkner@acraorg.com
888.200.2795 Toll-Free

www.acraorg.com

Support for S.B. 657 Vehicle License Fee Recovery

S.B. 657 will amend Hawaii's vehicle license fee recovery law to be more consistent with 38 other states in allowing rental car companies to fully pass on the government fees they pay. The proposed law will allow rental car companies to recover all of the government fees paid, rather than the fraction allowed under current law.

The rental car industry is critical to Hawaii's tourism industry and the state economy as a whole. By offering an ample and diverse fleet of vehicles in top condition and good repair, car rental companies contribute to the overall positive visitor experience for tourists visiting the island.

To meet a variety of rental needs, rental car companies keep a large selection to ensure a vehicle is available for customer requirements, including: number of passengers; luggage capacity, technology; color, convertibles, 4-wheel drive, SUV, etc.

Generally, businesses are able to pass on costs of doing business. But under current law, rental car companies are unable to recover costs of bringing vehicles into the State. For rental car companies, the deficit between the government fees paid and what they collect continues to grow, putting undue pressure on the rental car industry's overall business operations.

The current law only allows a 1/365th per day recovery for certain government fees but not others. Rental car companies essentially lose money under the current law because vehicles are only "on rent" and recovering fees on average for 80% each calendar year. Rental car companies also take rental cars out of service regularly for cleaning, preventative maintenance, and to handle recalls.

The American Car Rental Association respectfully asks for your support for this proposed legislation. We believe that modernizing Hawaii's law will help keep the rental car companies in the best position to continue providing quality services and support the tourism market as a whole.

Thank you again for permitting us to share our industry's perspective. Please feel free to contact me if you should have any questions or would like to discuss this matter further.

Sincerely,

A handwritten signature in black ink that reads "sharon faulkner".

Sharon Faulkner
Executive Director



HAWAI'I LODGING & TOURISM
A S S O C I A T I O N

Testimony of

Mufi Hannemann
President & CEO
Hawai'i Lodging & Tourism Association

Senate Committees on
Commerce, Consumer Protection, and Health
Transportation and Energy

Senate Bill 657, Related to Motor Vehicle Rental Industry

Chair Baker, Chair Inouye, and committee members:

Mahalo for the opportunity to testify. On behalf of the more than 700 members of the Hawai'i Lodging & Tourism Association, we support Senate Bill 657, which seeks to amend government assessed vehicle fees that dealers may pass on to customers. It further seeks to define government assessed vehicle fees as motor vehicle weight taxes; fees connected with registration of specially constructed, reconstructed, or rebuilt vehicles; fees connected with registration of special interest vehicles; fees connected with registration of imported vehicles; license plate fees; and any use taxes.

The rental car business plays a very large role in the hospitality industry and is a key component in ensuring that our visitors experience a standard of quality while visiting our state. In order to ensure this standard is met, our local rental car companies must not only maintain quantity within their vehicular fleet but quality as well. As you may already know keeping to this standard is no easy task, and the burden is further felt by our rental car companies as the gap between mandatory government fees and what the law allows them to collect from their customers in regard to these fees broadens.

To emphasize a point stated in the bill's preamble, thirty-eight states currently authorize rental car companies the ability to recover all license and registration fees in full on the vehicle being rented. It precedes this point by affirming that Hawaii is the only state where the current law exempts rental car companies from fully recovering these fees. This proposed measure would help Hawaii join these other states as well as ultimately allow our rental car companies to reinvest these recovered fees back into the business, ensuring a better overall product for our visitors and local residents. For these reasons we support this measure.

Mahalo for the opportunity to testify.

SanHi Government Strategies

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura

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DATE: February 13, 2017

TO: Senator Lorraine Inouye
Chair, Committee on Transportation and Energy

Senator Rosalyn Baker
Chair, Committee on Commerce, Consumer Protection and Health
Submitted Via Capitol Website

RE: **S.B. 675 – Relating to Motor Vehicle Rental Industry**
Hearing Date: Monday, February 13, 2017 at 1:20 p.m.
Conference Room: 225

Dear Chair Inouye, Chair Baker, and Members of the Joint Committees:

We submit this testimony on behalf of Enterprise Holdings in Hawaii, which operates Enterprise Rent-A-Car, Alamo Rent-A-Car, National Car Rental, Enterprise CarShare and Enterprise Rideshare (Van Pool).

Enterprise **strongly supports** S.B. 657, which modernizes the vehicle license fee law to be in line with 38 other states that allow rental car companies to pass on to customers the government fees that are assessed on each vehicle.

This bill seeks to address a shortcoming in the law that regulates the rental car industry. Chapter 437D, which imposes regulatory requirements over rental car companies, was enacted to ensure that each rental transaction to customers was done in a fair and transparent manner. As part of this transparency, the law requires that rental car companies must visibly list on its rental car contracts the fees and taxes that they incur. Although this law was aimed at making sure those fees were disclosed to the customer, it fails to include all of the fees the companies pay to make vehicles road ready.

Gary M. Slovin
Mihoko E. Ito
R. Brian Tsujimura
C. Mike Kido
Tiffany N. Yajima
Matthew W. Tsujimura

Specifically, the law includes some fees that the companies pay to make the vehicle ready to rent (registration and weight tax), but not others (license plate fees, GET, and beautification fees). In addition, due to a formula in the law for calculating the fees, currently, car rental companies may only recover from their customers 1/365th per day of the fees paid.

The current law virtually ensures that car rental companies in Hawaii under-collect government taxes and fees. Rental cars are only rented on average 80% of the calendar year. Vehicles are routinely grounded for routine maintenance and cleaning, repair, or recall. When cars are grounded, vehicles cannot be rented and fees go uncollected. As the deficit between what is paid and collected continues to grow, the rental car industry faces increased pressure on business operations.

This bill would allow car rental companies to recover all of the government assessed fees that are paid on these vehicles. This modest increase in price amounts to less than 50 cents per vehicle per day and is assessed on rental car customers, who are predominantly tourists. This would allow car rental companies to reinvest the recovered fees back into their businesses to further enhance the visitor experience by ensuring a wide variety and selection of vehicles are available for rent to match customer needs.

Enterprise Holdings provides over 1000 jobs locally throughout the state, and prides itself on the significant contributions it has made to Hawaii's community. A healthy and robust rental car industry is vital to Hawaii's tourism economy. This measure will ensure that Enterprise's operations in Hawaii are in-line with 38 other states where recovery is allowed, and can continue to provide quality services that support the tourism industry and local rental market.

Enterprise would like to suggest the clarifying amendments below to the bill, which would

1) Add a definition for "vehicle license recovery fee." This amendment would reflect how 38 other states have termed the fees, and would provide consistency in terminology across the states.

2) Clarify the preamble at page 1, line 11 - change "license and registration fees" to "plate fees, inspection fees, and general excise tax." This would more accurately reflect the changes the bill is proposing.

For the above reasons, we strongly support this measure and urge the committee to pass the bill with amendments. Thank you for the opportunity to submit testimony in strong support of this measure.

Proposed Amendments to S.B. 657

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

Hawaii is currently the only state where the existing law virtually ensures that the rental car industry cannot fully recover the ~~license and registration fees~~ plate fees, inspection fees, and general excise tax on the particular vehicle being rented. Thirty-eight states currently permit rental car companies to fully recover all government fees assessed upon a rental car. Rental car companies incur a shortfall in collections under current law, which hinders their ability to provide a selection of rental cars to customers, many of which are tourists who want to explore areas of the State that require a rental car.

The purpose of this Act is to allow rental car companies to collect from customers mandated government fees and amend the formula upon which those fees are assessed.

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

"Government assessed vehicle fees" includes motor vehicle weight taxes under section 249-2; fees connected with the registration of specially constructed, reconstructed, or rebuilt vehicles, special interest vehicles, or imported vehicles as referenced in section 286-41(c); license plate fees under section 249-7(b); and any use tax under chapter 238."

"Vehicle license recovery fee" means a charge that seeks to recover the amount of any government assessed vehicle fees paid by a rental company."

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

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

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

(2) ~~The [vehicle license and registration fee and weight taxes, prorated at 1/365th of the annual vehicle license and registration fee and weight taxes actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license and registration fees charged to all lessees shall not exceed the annual vehicle license and registration fee actually paid for the particular vehicle rented;]~~ government assessed vehicle fees The vehicle license recovery fee, which shall be calculated by totaling the aggregate government assessed vehicle fees paid annually and dividing that amount by the anticipated number of annual rental days of the vehicle; provided that the aggregate fee charged to all vehicle lessees annually shall not exceed the total fees annually paid in the same year; provided further that:

(A) If the aggregate amount of government assessed vehicle fees vehicle license recovery fees

collected from lessees under this section in a particular year exceeds the aggregate amount of government assessed vehicle fees paid by the lessor in the same year, the lessor shall retain the excess amount of fees collected and reduce the amount of ~~government assessed vehicle fees~~ vehicle license recovery fees charged to lessees the following year by the corresponding amount; and

(B) The lessor shall submit annually to the director and the director of the office of consumer protection a statement verified by a third party certified public accountant as accurate, that reports the total amount of the government assessed vehicle fees paid by the lessor in a particular year, and the total amount of the annual ~~government assessed vehicle fees~~ vehicle license recovery fees collected from lessees in the same year;

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, February 7, 2017 10:50 AM
To: TRE Testimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB657 on Feb 13, 2017 13:20PM*

SB657

Submitted on: 2/7/2017

Testimony for TRE/CPH on Feb 13, 2017 13:20PM in Conference Room 225

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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