S.B. NO. 23

JAN 2 1 2021

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. Act 137, Session Laws of Hawaii 2017, 2 established vehicle license recovery fees, which allow lessors 3 of rental vehicles to pass vehicle license recovery fees on to lessees. Vehicle license recovery fees impose an additional fee 4 5 upon lessees by passing on motor vehicle weight taxes; fees 6 connected with the registration of specially constructed, reconstructed, or rebuilt vehicles; special interest vehicles, 7 8 or imported vehicles, license plate and emblem fees; inspection 9 fees; highway beautification fees; and any use tax.

10 The vehicle license recovery fees are in addition to 11 existing law that allows for visibly passing on to lessees 12 general excise taxes attributable to the transaction such as 13 rental motor vehicle, tour vehicle, and car-sharing vehicle 14 surcharge taxes; county surcharge on state tax; and rents or 15 fees paid to the department of transportation.

16 Allowing the passing on of fixed, one-time costs of doing17 business, such as license plate fees and use taxes, is a

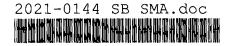


departure from statutory policy favoring the visible pass on of
 only recurring government fees and taxes.

In addition, vehicle license recovery fees create an unfair 3 method for calculating the passed-on costs. Previously, the law 4 authorized the pass on of fees and taxes prorated at 1/365th of 5 6 the annual fees and taxes actually paid on the particular motor vehicle being rented. Thus, the lessee was charged only the 7 8 amount of fees and taxes directly attributable to their use of the vehicle. Vehicle license recovery fees increase the 9 10 prorated rate to 1/292nd, resulting in overpayment by individual 11 lessees.

12 The legislature further finds that vehicle license recovery 13 fees are an attempt by rental car companies to advertise low 14 base rates but subtly increase the actual per day rental rate by 15 greatly increasing the applicable taxes and fees passed on to 16 lessees, which may be detrimental to Hawaii's tourism industry. 17 The purpose of this Act is to repeal vehicle license 18 recovery fees.

19 SECTION 2. Section 437D-3, Hawaii Revised Statutes, is
20 amended by deleting the definition of "vehicle license recovery
21 fees".



1	[" "Ve	hicle-license-recovery-fees" includes motor vehicle
2	weight-tax	es under section 249-2; fees connected with the
3	registrati	on of-specially-constructed, reconstructed, or rebuilt
4	vehicles,-	special-interest vehicles, or imported vehicles as
5	referenced	in-section-286-41(c); license plate and emblem fees
6	under-sect	ion 249-7(b); inspection fees as referenced in section
7	286-26;-hi	ghway beautification fees as referenced in section
8	286-51(b)(1); and any use tax under chapter 238."]
9	SECTI	ON 3. Section 437D-8.4, Hawaii Revised Statutes, is
10	amended by	amending subsection (a) to read as follows:
11	"(a)	Notwithstanding any law to the contrary, a lessor may
12	visibly pa	ss on to a lessee:
13	(1)	The general excise tax attributable to the
14		transaction;
15	(2)	The vehicle license [recovery fees,] and registration
16		fee and weight taxes, prorated at [1/292nd] 1/365th of
17		the annual vehicle license [recovery fees] <u>and</u>
18		registration fee and weight taxes actually paid on the
19		particular vehicle being rented for each full or
20		partial twenty-four-hour rental day that the vehicle
21		is rented; provided the total of all vehicle license

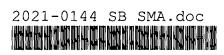


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1		[recovery] and registration fees charged to all
2		lessees shall not exceed the annual vehicle license
3		[recovery fees] and registration fee actually paid for
4		the particular vehicle rented;
5	(3)	The surcharge taxes imposed in chapter 251
6		attributable to the transaction;
7	(4)	The county surcharge on state tax under section
8		46-16.8; provided that the lessor itemizes the tax for
9		the lessee; and
10	(5)	The rents or fees paid to the department of
11		transportation under concession contracts negotiated
12		pursuant to chapter 102, service permits granted
13		pursuant to title 19, Hawaii Administrative Rules, or
14		rental motor vehicle customer facility charges
15		established pursuant to section 261-7; provided that:
16		(A) The rents or fees are limited to amounts that can
17		be attributed to the proceeds of the particular
18		transaction;
19		(B) The rents or fees shall not exceed the lessor's
20		net payments to the department of transportation
21		made under concession contract or service permit;

1	(C) The lessor submits to the department of
2	transportation and the department of commerce and
3	consumer affairs a statement, verified by a
4	certified public accountant as correct, that
5	reports the amounts of the rents or fees paid to
6	the department of transportation pursuant to the
7	applicable concession contract or service permit:
8	(i) For all airport locations; and
9	(ii) For each airport location;
10	(D) The lessor submits to the department of
11	transportation and the department of commerce and
12	consumer affairs a statement, verified by a
13	certified public accountant as correct, that
14	reports the amounts charged to lessees:
15	(i) For all airport locations;
16	(ii) For each airport location; and
17	(iii) For each lessee;
18	(E) The lessor includes in these reports the
19	methodology used to determine the amount of fees
20	charged to each lessee; and



1 (F) The lessor submits the above information to the 2 department of transportation and the department 3 of commerce and consumer affairs within three 4 months of the end of the preceding annual 5 accounting period or contract year as determined 6 by the applicable concession agreement or service 7 permit. The respective departments, in their sole discretion, 8 9 may extend the time to submit the statement required 10 in this subsection. If the director determines that an examination of the lessor's information is 11 12 inappropriate under this subsection and the lessor 13 fails to correct the matter within ninety days, the 14 director may conduct an examination and charge a 15 lessor an examination fee based upon the cost per hour 16 per examiner for evaluating, investigating, and 17 verifying compliance with this subsection, as well as 18 additional amounts for travel, per diem, mileage, and 19 other reasonable expenses incurred in connection with 20 the examination, which shall relate solely to the 21 requirements of this subsection, and which shall be



1 billed by the departments as soon as feasible after 2 the close of the examination. The cost per hour shall 3 be \$40 or as may be established by rules adopted by 4 the director. The lessor shall pay the amounts billed 5 within thirty days following the billing. All moneys 6 collected by the director shall be credited to the 7 compliance resolution fund." 8 SECTION 4. Section 5 of Act 137, Session Laws of Hawaii 9 2017, is repealed. 10 SECTION 5. Statutory material to be repealed is bracketed 11 and stricken. New statutory material is underscored. 12 SECTION 6. This Act shall take effect on July 1, 2021; 13 provided that the amendments made to section 437D-8.4(a), Hawaii 14 Revised Statutes, by section 3 of this Act shall not be repealed 15 when that section is reenacted on December 31, 2030, pursuant to 16 section 9 of Act 247, Session Laws of Hawaii 2005, as amended by 17 section 7 of Act 240, Session Laws of Hawaii 2015, as amended by 18 section 6 of Act 1, Special Session Laws of Hawaii 2017.

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INTRODUCED BY: ______



Report Title:

Motor Vehicle Rental Industry; License Recovery Fees; Repeal

Description:

Repeals vehicle license recovery fees.

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

