

ACT 223

H.B. NO. 765

A Bill for an Act Relating to Motor Vehicle Rental Industry.

Be It Enacted by the Legislature of the State of Hawaii:

PART I

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, 2007, 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 during the period September 1, 1999, to August 31, 2007, if:

- (1) The lessor is renting the vehicle to replace a vehicle of the lessee that is being repaired; and
- (2) The repair order for the vehicle is retained by the lessor for four years for verification purposes.”

PART II

SECTION 2. The purpose of this part is to promote the understandable and nondeceptive disclosure of airport concession rents and service permit fees paid to the department of transportation for access to public airports, while requiring U-drive lessors to provide annual reports showing how such expenses were computed and stating their total amounts.

SECTION 3. Section 437D-8.4, Hawaii Revised Statutes, is amended to read as follows:

“[[§437D-8.4]] License and registration fees. (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; [and]
- (3) The rental motor vehicle surcharge tax as provided in section 251-2 attributable to the transaction[.]; and
- (4) The rents or fees paid to the department of transportation under concession contracts, negotiated pursuant to chapter 102, or service permits, granted pursuant to title 19, Hawaii Administrative Rules, provided that:
 - (A) The rents or fees are limited to amounts that can be attributed to the proceeds of the particular transaction;
 - (B) The rents or fees shall not exceed the lessor’s net payments to the department of transportation made under concession contract or service permit;
 - (C) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts of the rents or fees paid to the department of transportation pursuant to the applicable concession contract or service permit:
 - (i) For all airport locations; and
 - (ii) For each airport location;
 - (D) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts charged to lessees:
 - (i) For all airport locations;
 - (ii) For each airport location; and
 - (iii) For each lessee;

- (E) The lessor includes in these reports the methodology used to determine the amount of fees charged to each lessee; and
- (F) The lessor submits the above information to the department of transportation and the department of commerce and consumer affairs within three months of the end of the preceding annual accounting period or contract year as determined by the applicable concession agreement or service permit.

The respective departments, in their sole discretion, may extend the time to submit the statement required in this subsection. If the director determines that an examination of the lessor's information is inappropriate under this subsection and the lessor fails to correct the matter within ninety days, the director may conduct an examination and charge a lessor an examination fee based upon the cost per hour per examiner for evaluating, investigating, and verifying compliance with this subsection, as well as additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination, which shall relate solely to the requirements of this subsection, and which shall be billed by the departments as soon as feasible after the close of the examination. The cost per hour shall be \$40 or as may be established by rules adopted by the director. The lessor shall pay the amounts billed within thirty days following the billing. All moneys collected by the director shall be credited to the compliance resolution fund.

(b) A representation by the lessor to the lessee which states that the visible pass on of the charges in [paragraphs (1) to (3)] this section is mandatory or that it is a government assessment upon the consumer shall be a per se violation of section 480-2."

PART III

SECTION 4. The legislature determines that there is in the state highway fund at least \$11,000,000 in excess of the requirements of the fund. There is hereby authorized and appropriated from the retained earnings in the state highway fund created by section 248-8, Hawaii Revised Statutes, the sum of \$11,000,000 for fiscal year 1999-2000 to be deposited into the general fund.

SECTION 5. The legislature determines that there is in the state highway fund at least \$11,000,000 in excess of the requirements of the fund. There is hereby authorized and appropriated from the retained earnings in the state highway fund created by section 248-8, Hawaii Revised Statutes, the sum of \$11,000,000 for fiscal year 2000-2001 to be deposited into the general fund.

PART IV

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. Statutory material to be repealed is bracketed. New statutory material is underscored.

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SECTION 8. This Act shall take effect upon its approval,
(Approved July 2, 1999.)