

JAN 19 2023

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 (Act 137),
2 established vehicle license recovery fees and allows the lessors
3 of rental vehicles to pass vehicle license recovery fees on to
4 lessees. Vehicle license recovery fees include motor vehicle
5 weight taxes; fees connected with the registration of specially
6 constructed, reconstructed, or rebuilt vehicles; special
7 interest vehicles or imported vehicles; license plate and emblem
8 fees; inspection fees; highway beautification fees; and any use
9 tax. As indicated above, vehicle license recovery fees often
10 include a lessor's fixed, one-time costs of doing business.

11 Prior to Act 137, the car rental industry was only allowed
12 to visibly pass on recurring costs, such as general excise
13 taxes, license and registration fees, surcharge taxes, and rents
14 and fees payable to the department of transportation. Thus,
15 allowing the passing on of fixed, one-time costs of doing
16 business, such as license plate fees and use taxes, is a



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

3 In addition, the establishment of vehicle license recovery
4 fees created an unfair method for calculating passed-on costs.
5 Prior to Act 137, the law authorized the pass on of fees and
6 taxes prorated at 1/365th of the annual fees and taxes actually
7 paid on the particular motor vehicle being rented. Thus, the
8 lessee was charged only the amount of fees and taxes directly
9 attributable to their use of the vehicle. Because Act 137
10 increased the prorated rate to 1/292nd of vehicle license
11 recovery fees, this has resulted in overpayments by individual
12 lessees.

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

18 The purpose of this Act is to:

19 (1) Repeal vehicle license recovery fees;



1 (2) Reinstatement recurring costs attributable to certain
2 governmental fees that may be passed on to lessees
3 that were allowed prior to Act 137; and

4 (3) Reinstatement the prorated amount of vehicle license and
5 registration fee and weight taxes that may be passed
6 on to lessees, as was allowed prior to Act 137.

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

10 ~~["Vehicle license recovery fees" includes motor vehicle
11 weight taxes under section 249-2; fees connected with the
12 registration of specially constructed, reconstructed, or rebuilt
13 vehicles, special interest vehicles, or imported vehicles as
14 referenced in section 286-41(c); license plate and emblem fees
15 under section 249-7(b); inspection fees as referenced in section
16 286-26; highway beautification fees as referenced in section
17 286-51(b)(1); and any use tax under chapter 238."]~~

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

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



- 1 (1) The general excise tax attributable to the
2 transaction;
- 3 (2) The vehicle license [~~recovery fees,~~] and registration
4 fee and weight taxes, prorated at [~~1/292nd~~] 1/365th of
5 the annual vehicle license [~~recovery fees~~] and
6 registration fee and weight taxes actually paid on the
7 particular vehicle being rented for each full or
8 partial twenty-four-hour rental day that the vehicle
9 is rented; provided that the total of all vehicle
10 license [~~recovery fees~~] and registration fees charged
11 to all lessees shall not exceed the annual vehicle
12 license [~~recovery fees~~] and registration fee actually
13 paid for the particular vehicle rented;
- 14 (3) The surcharge taxes imposed in chapter 251
15 attributable to the transaction;
- 16 (4) The county surcharge on state tax under section 46-
17 16.8; provided that the lessor itemizes the tax for
18 the lessee; and
- 19 (5) The rents or fees paid to the department of
20 transportation under concession contracts negotiated
21 pursuant to chapter 102, service permits granted



1 pursuant to title 19, Hawaii Administrative Rules, or
2 rental motor vehicle customer facility charges
3 established pursuant to section 261-7; provided that:

4 (A) The rents or fees are limited to amounts that can
5 be attributed to the proceeds of the particular
6 transaction;

7 (B) The rents or fees shall not exceed the lessor's
8 net payments to the department of transportation
9 made under concession contract or service permit;

10 (C) 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 of the rents or fees paid to
15 the department of transportation pursuant to the
16 applicable concession contract or service permit:

17 (i) For all airport locations; and

18 (ii) For each airport location;

19 (D) The lessor submits to the department of
20 transportation and the department of commerce and
21 consumer affairs a statement, verified by a



- 1 certified public accountant as correct, that
- 2 reports the amounts charged to lessees:
- 3 (i) For all airport locations;
- 4 (ii) For each airport location; and
- 5 (iii) For each lessee;
- 6 (E) The lessor includes in these reports the
- 7 methodology used to determine the amount of fees
- 8 charged to each lessee; and
- 9 (F) The lessor submits the above information to the
- 10 department of transportation and the department
- 11 of commerce and consumer affairs within three
- 12 months of the end of the preceding annual
- 13 accounting period or contract year as determined
- 14 by the applicable concession agreement or service
- 15 permit.

16 The respective departments, in their sole discretion,
17 may extend the time to submit the statement required
18 in this subsection. If the director determines that
19 an examination of the lessor's information is
20 inappropriate under this subsection and the lessor
21 fails to correct the matter within ninety days, the

1 director may conduct an examination and charge a
2 lessor an examination fee based upon the cost per hour
3 per examiner for evaluating, investigating, and
4 verifying compliance with this subsection, as well as
5 additional amounts for travel, per diem, mileage, and
6 other reasonable expenses incurred in connection with
7 the examination, which shall relate solely to the
8 requirements of this subsection, and which shall be
9 billed by the departments as soon as feasible after
10 the close of the examination. The cost per hour shall
11 be \$40 or as may be established by rules adopted by
12 the director. The lessor shall pay the amounts billed
13 within thirty days following the billing. All moneys
14 collected by the director shall be credited to the
15 compliance resolution fund."

16 SECTION 4. Act 137, Session Laws of Hawaii 2017, is
17 amended by repealing section 5.

18 ~~["SECTION 5. Beginning March 1, 2019, all rental car~~
19 ~~companies shall submit an annual audit, to be conducted by a~~
20 ~~third party certified public accountant, to the office of~~



1 ~~consumer protection of the department of commerce and consumer~~
2 ~~affairs by July 1 of every year."]~~

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on January 1, 2024;
6 provided that the amendments made to section 437D-8.4(a), Hawaii
7 Revised Statutes, by section 3 of this Act shall not be repealed
8 when that section is reenacted on December 31, 2030, pursuant to
9 section 9 of Act 247, Session Laws of Hawaii 2005, as amended by
10 section 7 of Act 240, Session Laws of Hawaii 2015, as amended by
11 section 6 of Act 1, Special Session Laws of Hawaii 2017.

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INTRODUCED BY:

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S.B. NO. 335

Report Title:

Motor Vehicle Rental Industry; License Recovery Fees; Repeal

Description:

Repeals vehicle license recovery fees. Takes effect 1/1/2024.

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

