

JAN 20 2017

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 vibrant is
5 important, the legislature also finds that rental car customers,
6 who are predominantly tourists, should be made fully aware of
7 all of the mandatory government taxes that are assessed on each
8 rental car.

9 Hawaii is currently the only state where the existing law
10 virtually ensures that the rental car industry cannot fully
11 recover the license and registration fees on the particular
12 vehicle being rented. Thirty-eight states currently permit
13 rental car companies to fully recover all government fees
14 assessed upon a rental car. Rental car companies incur a
15 shortfall in collections under current law, which hinders their
16 ability to provide a selection of rental cars to customers, many



1 of which are tourists who want to explore areas of the State
2 that require a rental car.

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

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

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

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

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

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



1 (2) ~~The [vehicle license and registration fee and weight~~
2 ~~taxes, prorated at 1/365th of the annual vehicle~~
3 ~~license and registration fee and weight taxes actually~~
4 ~~paid on the particular vehicle being rented for each~~
5 ~~full or partial twenty four hour rental day that the~~
6 ~~vehicle is rented; provided the total of all vehicle~~
7 ~~license and registration fees charged to all lessees~~
8 ~~shall not exceed the annual vehicle license and~~
9 ~~registration fee actually paid for the particular~~
10 ~~vehicle rented;]~~ government assessed vehicle fees,
11 which shall be calculated by totaling the aggregate
12 government assessed vehicle fees paid annually and
13 dividing that amount by the anticipated number of
14 annual rental days of the vehicle; provided that the
15 aggregate fee charged to all vehicle lessees annually
16 shall not exceed the total fees annually paid in the
17 same year; provided further that:
18 (A) If the aggregate amount of government assessed
19 vehicle fees collected from lessees under this
20 section in a particular year exceeds the
21 aggregate amount of government assessed vehicle



1 fees paid by the lessor in the same year, the
2 lessor shall retain the excess amount of fees
3 collected and reduce the amount of government
4 assessed fees charged to lessees the following
5 year by the corresponding amount; and

6 (B) The lessor shall submit annually to the director
7 and the director of the office of consumer
8 protection a statement verified by a third party
9 certified public accountant as accurate, that
10 reports the total amount of the government
11 assessed vehicle fees paid by the lessor in a
12 particular year, and the total amount of the
13 annual government assessed vehicle fees collected
14 from lessees in the same year;

15 (3) The surcharge taxes imposed in chapter 251
16 attributable to the transaction;

17 (4) The county surcharge on state tax under section 46-
18 16.8; provided that the lessor itemizes the tax for
19 the lessee; and

20 (5) The rents or fees paid to the department of
21 transportation under concession contracts negotiated



1 pursuant to chapter 102, service permits granted
2 pursuant to title 19, Hawaii Administrative Rules, or
3 rental motor vehicle customer facility charges
4 established pursuant to section 261-7; provided that:

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

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

11 (C) The lessor submits to the department of
12 transportation and the department of commerce and
13 consumer affairs a statement, verified by a
14 certified public accountant as correct, that
15 reports the amounts of the rents or fees paid to
16 the department of transportation pursuant to the
17 applicable concession contract or service permit:

18 (i) For all airport locations; and

19 (ii) For each airport location;

20 (D) The lessor submits to the department of
21 transportation and the department of commerce and



1 consumer affairs a statement, verified by a
2 certified public accountant as correct, that
3 reports the amounts charged to lessees:
4 (i) For all airport locations;
5 (ii) For each airport location; and
6 (iii) For each lessee;
7 (E) The lessor includes in these reports the
8 methodology used to determine the amount of fees
9 charged to each lessee; and
10 (F) The lessor submits the above information to the
11 department of transportation and the department
12 of commerce and consumer affairs within three
13 months of the end of the preceding annual
14 accounting period or contract year as determined
15 by the applicable concession agreement or service
16 permit.
17 The respective departments, in their sole discretion,
18 may extend the time to submit the statement required
19 in this subsection. If the director determines that
20 an examination of the lessor's information is
21 inappropriate under this subsection and the lessor



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

17 SECTION 4. Statutory material to be repealed is bracketed
18 and stricken. New statutory material is underscored.

19 SECTION 5. This Act shall take effect upon its approval;
20 provided that the amendments made to section 437D-8.4(a), Hawaii
21 Revised Statutes, by section 3 of this Act shall not be repealed



1 when that section is reenacted on December 31, 2027, pursuant to
2 section 9 of Act 247, Session Laws of Hawaii 2005, as amended by
3 section 7 of Act 240, Session Laws of Hawaii 2015.

4

INTRODUCED BY: *Maui G. Inoué*
by
J. J. Kelly

Ronald H. Baker



Report Title:

Motor Vehicle Rentals; Pass-On Costs

Description:

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.

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

