

JAN 21 2022

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
4 lessees. Vehicle license recovery fees impose an additional fee
5 upon lessees by passing on motor vehicle weight taxes; fees
6 connected with the registration of specially constructed,
7 reconstructed, or rebuilt vehicles; special interest vehicles,
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 doing
17 business, such as license plate fees and use taxes, is a



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

3 In addition, vehicle license recovery fees create an unfair
4 method for calculating the passed-on costs. Previously, the law
5 authorized the pass on of fees and taxes prorated at 1/365th of
6 the annual fees and taxes actually paid on the particular motor
7 vehicle being rented. Thus, the lessee was charged only the
8 amount of fees and taxes directly attributable to their use of
9 the vehicle. Vehicle license recovery fees increase the
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 ~~["Vehicle license recovery fees" includes motor vehicle~~
2 ~~weight taxes under section 249-2; fees connected with the~~
3 ~~registration 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 section 249-7(b); inspection fees as referenced in section~~
7 ~~286-26; highway beautification fees as referenced in section~~
8 ~~286-51(b)(1); and any use tax under chapter 238-"]~~

9 SECTION 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 pass 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]~~ and
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



1 ~~[recovery fees]~~ and registration 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.

8 The respective departments, in their sole discretion,
9 may extend the time to submit the statement required
10 in this subsection. If the director determines that
11 an examination of the lessor's information is
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. Act 137, Session Laws of Hawaii 2017, is
9 amended by repealing section 5.

10 ~~["SECTION 5. Beginning March 1, 2019, all rental car~~
11 ~~companies shall submit an annual audit, to be conducted by a~~
12 ~~third party certified public accountant, to the office of~~
13 ~~consumer protection of the department of commerce and consumer~~
14 ~~affairs by July 1 of every year."]~~

15 SECTION 5. Statutory material to be repealed is bracketed
16 and stricken. New statutory material is underscored.

17 SECTION 6. This Act shall take effect on January 1, 2023;
18 provided that the amendments made to section 437D-8.4(a), Hawaii
19 Revised Statutes, by section 3 of this Act shall not be repealed
20 when that section is reenacted on December 31, 2030, pursuant to
21 section 9 of Act 247, Session Laws of Hawaii 2005, as amended by



1 section 7 of Act 240, Session Laws of Hawaii 2015, as amended by
2 section 6 of Act 1, Special Session Laws of Hawaii 2017.

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INTRODUCED BY:

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S.B. NO. 2491

Report Title:

Motor Vehicle Rental Industry; License Recovery Fees; Repeal

Description:

Repeals vehicle license recovery fees. Takes effect 1/1/2023.

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

