

JAN 15 2025

A BILL FOR AN ACT

RELATING TO THE 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 allowed motor
3 vehicle lessors 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.

10 Prior to Act 137, the motor vehicle rental industry was
11 only allowed to visibly pass on to lessees recurring costs,
12 including general excise taxes, license and registration fees,
13 surcharge taxes, and rents and fees payable to the department of
14 transportation. Act 137 allowed for the passing on of fixed,
15 one-time costs of doing business, including license plate fees
16 and use taxes, in a departure from prior statutory policy



1 favoring the visible pass-on of only recurring government fees
2 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, section 437D-8.4, Hawaii Revised Statutes,
6 authorized the pass-on of fees and taxes prorated at 1/365th of
7 the annual fees and taxes paid on the particular motor vehicle
8 being rented. Thus, the lessee was charged only the amount of
9 fees and taxes directly attributable to the lessee's use of the
10 vehicle. Act 137's increased prorated rate of 1/292nd of
11 vehicle license recovery fees has resulted in overpayments by
12 individual 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 Therefore, the purpose of this Act is to:

- 19 (1) Repeal the definition of "vehicle license recovery
20 fees";



1 (2) Repeal the amendments made to section 437D-8.4, Hawaii
2 Revised Statutes, by Act 137; and

3 (3) Repeal the requirement that rental car companies
4 submit annual audits to the office of consumer
5 protection of the department of commerce and consumer
6 affairs

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~~
16 ~~section 286-26; highway beautification fees as referenced in~~
17 ~~section 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~~] and registration fees charged to
11 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
17 46-16.8; 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 upon its approval;
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.

12

INTRODUCED BY:

 A handwritten signature in black ink, appearing to be 'B. S.', is written over a horizontal line.



S.B. NO. 29

Report Title:

Motor Vehicle Rental Industry; Vehicle License Recovery Fees; Fees; Weight Taxes

Description:

Repeals the definition of "vehicle license recovery fees". Limits to vehicle license and registration fees and weight taxes the fees and taxes that a motor vehicle lessor may pass on to a lessee. Amends the prorated amount of vehicle license and registration fees and weight taxes that a motor vehicle lessor may pass on to a lessee. Repeals the requirement that rental car companies submit annual audits to the Office of Consumer Protection of the Department of Commerce and Consumer Affairs.

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

