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AB-2051 Rental passenger vehicles. (2015-2016)

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Assembly Bill No. 2051

CHAPTER 183

An act to add Chapter 1.5 (commencing with Section 1939.01) to Title 5 of Part 4 of Division 3 of, and to repeal Sections 1936, 1936.05, 1936.1, and 1936.5 of, the Civil Code, and to amend Section 50474.1 of, and to add Sections 50474.21 and 50474.3 to, the Government Code, relating to rental passenger vehicles.

[Approved by Governor August 25, 2016. Filed with Secretary of State August 25, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2051, O'Donnell. Rental passenger vehicles.

(1) Existing law generally governs the transactions between a rental car company, also referred to as a rental company, and its customers, including, among other provisions, required disclosures by a rental company, mandatory contract provisions for a vehicle rental agreement, restrictions on a rental company's use of electronic surveillance technology, and authorization for a rental company to collect specific types of fees and charges from its customers. Existing law defines terms for its purposes.

This bill, among other things, would recast and reorganize these provisions, would modify definitions and terms for uniformity, and would make conforming changes.

(2) Existing law, as part of the required disclosures referenced above, requires a rental company's rental rate advertisements to include a clearly readable statement of the charge for a damage waiver, a statement that a damage waiver is optional, and a specific disclaimer regarding additional mandatory charges. Existing law also provides that a rental company's disclosure requirements are satisfied for renters enrolled in the rental company's membership program if certain conditions are met.

This bill would revise the definition of membership program to include the ability to select an alternative vehicle. The bill would require a rental rate advertisement to instead include a statement that additional charges may apply if an optional good or service, such as a damage waiver, is purchased, and to comply with a revised disclaimer requirement regarding additional mandatory charges. The bill would require a person or entity, that is not a rental company, that advertises a vehicle rental rate that includes additional mandatory charges, to clearly disclose the charges. The bill would provide that a rental company that provides a person or entity with information on the charges and rental rate is not responsible for the person's or entity's failure to comply with this requirement.

(3) Existing law authorizes airports to require rental companies to collect a customer facility charge for specified purposes and requires airports to provide certain audits and reports regarding those fees to specified committees of the Legislature.

This bill also would recast and reorganize these provisions.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1936 of the Civil Code is repealed.

SEC. 2. Section 1936.05 of the Civil Code is repealed.

SEC. 3. Section 1936.1 of the Civil Code is repealed.

SEC. 4. Section 1936.5 of the Civil Code is repealed.

SEC. 5. Chapter 1.5 (commencing with Section 1939.01) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

CHAPTER 1.5. Rental Passenger Vehicle Transactions

1939.01. For the purpose of this chapter, the following definitions shall apply:

(a) "Rental company" means a person or entity in the business of renting passenger vehicles to the public.

(b) "Renter" means any person in a manner obligated under a contract for the lease or hire of a passenger vehicle from a rental company for a period of less than 30 days.

(c) "Additional mandatory charges" means any separately stated charges that the rental company requires the renter to pay to hire or lease the vehicle for the period of time to which the rental rate applies, which are imposed by a governmental entity and specifically relate to the operation of a rental vehicle business, including, but not limited to, a customer facility charge, airport concession fee, tourism commission assessment, vehicle license recovery fee, or other government-imposed taxes or fees.

(d) "Airport concession fee" means a charge collected by a rental company from a renter that is the renter's proportionate share of the amount paid by the rental company to the owner or operator of an airport for the right or privilege of conducting a vehicle rental business on the airport's premises.

(e) "Authorized driver" means all of the following:

(1) The renter.

(2) The renter's spouse, if that person is a licensed driver and satisfies the rental company's minimum age requirement.

(3) The renter's employer or coworker, if he or she is engaged in business activity with the renter, is a licensed driver, and satisfies the rental company's minimum age requirement.

(4) A person expressly listed by the rental company on that renter's contract as an authorized driver.

(f) "Customer facility charge" means any fee, including an alternative fee, required by an airport to be collected by a rental company from a renter pursuant to Section 50474.21 of the Government Code.

(g) "Damage waiver" means a rental company's agreement not to hold a renter liable for all or any portion of any damage or loss related to the rented vehicle, any loss of use of the rented vehicle, or any storage, impound, towing, or administrative charges.

(h) "Electronic surveillance technology" means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. "Electronic surveillance technology" does not include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used either:

(1) For the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the rental vehicle.

(2) As part of the vehicle's airbag sensing and diagnostic system in order to capture safety systems-related data for retrieval after a crash has occurred or in the event that the collision sensors are activated to prepare the decisionmaking computer to make the determination to deploy or not to deploy the airbag.

(i) "Estimated time for replacement" means the number of hours of labor, or fraction thereof, needed to replace damaged vehicle parts as set forth in collision damage estimating guides generally used in the vehicle repair business and commonly known as "crash books."

(j) "Estimated time for repair" means a good faith estimate of the reasonable number of hours of labor, or fraction thereof, needed to repair damaged vehicle parts.

(k) "Membership program" means a service offered by a rental company that permits customers to bypass the rental counter and go directly to the vehicle previously reserved or select an alternate vehicle. A membership program shall meet all of the following requirements:

(1) The renter initiates enrollment by completing an application on which the renter can specify a preference for type of vehicle and acceptance or declination of optional services.

(2) The rental company fully discloses, prior to the enrollee's first rental as a participant in the program, all terms and conditions of the rental agreement as well as all required disclosures.

(3) The renter may terminate enrollment at any time.

(4) The rental company fully explains to the renter that designated preferences, as well as acceptance or declination of optional services, may be changed by the renter at any time for the next and future rentals.

(5) An employee is available at the lot where the renter takes possession of the vehicle, to receive any change in the rental agreement from the renter.

(l) "Passenger vehicle" or "vehicle" means a "passenger vehicle" as defined in Section 465 of the Vehicle Code.

(m) "Quote" means an estimated cost of rental provided by a rental company or a third party to a potential customer that is based on information provided by the potential customer and used to generate an estimated cost of rental, including, but not limited to, potential dates of rental, locations, or classes of vehicle.

(n) "Tourism commission assessment" means the charge collected by a rental company from a renter that has been established by the California Travel and Tourism Commission pursuant to Section 13995.65 of the Government Code.

(o) "Vehicle license fee" means the tax imposed pursuant to the Vehicle License Fee Law (Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code).

(p) "Vehicle registration fee" means any fee imposed pursuant to any provision of Chapter 6 (commencing with Section 9101) of Division 3 of the Vehicle Code or any other law that imposes a fee upon the registration of vehicles in this state.

(q) "Vehicle license recovery fee" means a charge that seeks to recover the amount of any vehicle license fee and vehicle registration fee paid by a rental company for the particular class of vehicle being rented. If imposed, the vehicle license recovery fee shall be separately stated as a single charge in the quote and rental contract.

1939.03. Except as limited by Section 1939.05, a rental company and a renter may agree that the renter will be responsible for no more than all of the following:

(a) Physical or mechanical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from collision regardless of the cause of the damage.

(b) Loss due to theft of the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, provided that the rental company establishes by clear and convincing evidence that the renter or the authorized driver failed to exercise ordinary care while in possession of the vehicle. In addition, the renter shall be presumed to have no liability for any loss due to theft if (1) an authorized driver has possession of the ignition key furnished by the rental company or an authorized driver establishes that the ignition key furnished by the rental company was not in the vehicle at the time of the theft, and (2) an authorized driver files an official report of the theft with the police or other law enforcement agency within 24 hours of learning of the theft and reasonably cooperates with the rental company and the police or other law enforcement agency in providing information concerning the theft. The presumption set forth in this subdivision is a presumption affecting the burden of proof which the rental company may rebut by establishing that an authorized driver committed, or aided and abetted the commission of, the theft.

(c) Physical damage to the rented vehicle up to its fair market value, as determined in the customary market for the sale of that vehicle, resulting from vandalism occurring after, or in connection with, the theft of the rented vehicle. However, the renter shall have no liability for any damage due to vandalism if the renter would have no liability for theft pursuant to subdivision (b).

(d) Physical damage to the rented vehicle up to a total of five hundred dollars (\$500) resulting from vandalism unrelated to the theft of the rented vehicle.

(e) Actual charges for towing, storage, and impound fees paid by the rental company if the renter is liable for damage or loss.

(f) An administrative charge, which shall include the cost of appraisal and all other costs and expenses incident to the damage, loss, repair, or replacement of the rented vehicle.

1939.05. (a) The total amount of the renter's liability to the rental company resulting from damage to the rented vehicle shall not exceed the sum of the following:

(1) The estimated cost of parts which the rental company would have to pay to replace damaged vehicle parts.

(2) The estimated cost of labor to replace damaged vehicle parts, which shall not exceed the product of (A) the rate for labor usually paid by the rental company to replace vehicle parts of the type that were damaged and (B) the estimated time for replacement.

(3) The estimated cost of labor to repair damaged vehicle parts, which shall not exceed the lesser of the following:

(A) The product of the rate for labor usually paid by the rental company to repair vehicle parts of the type that were damaged and the estimated time for repair.

(B) The sum of the estimated labor and parts costs determined under paragraphs (1) and (2) to replace the same vehicle parts.

(4) Actual charges for towing, storage, and impound fees paid by the rental company.

(b) For purposes of subdivision (a), all discounts and price reductions or adjustments that are or will be received by the rental company shall be subtracted from the estimate to the extent not already incorporated in the estimate, or otherwise promptly credited or refunded to the renter.

(c) For the purpose of converting the estimated time for repair into the same units of time in which the rental rate is expressed, a day shall be deemed to consist of eight hours.

(d) The administrative charge described in subdivision (f) of Section 1939.03 shall not exceed (1) fifty dollars (\$50) if the total estimated cost for parts and labor is more than one hundred dollars (\$100) up to and including five hundred dollars (\$500), (2) one hundred dollars (\$100) if the total estimated cost for parts and labor exceeds five hundred dollars (\$500) up to and including one thousand five hundred dollars (\$1,500), or (3) one hundred fifty dollars (\$150) if the total estimated cost for parts and labor exceeds one thousand five hundred dollars (\$1,500). An administrative charge shall not be imposed if the total estimated cost of parts and labor is one hundred dollars (\$100) or less.

(e) The total amount of an authorized driver's liability to the rental company, if any, for damage occurring during the authorized driver's operation of the rented vehicle shall not exceed the amount of the renter's liability under this section.

(f) A rental company shall not recover from an authorized driver an amount exceeding the renter's liability under this section.

1939.07. (a) A claim against a renter resulting from damage or loss, excluding loss of use, to a rental vehicle shall be reasonably and rationally related to the actual loss incurred. A rental company shall mitigate damages where possible and shall not assert or collect a claim for physical damage which exceeds the actual costs of the repairs performed or the estimated cost of repairs, if the rental company chooses not to repair the vehicle, including all discounts and price reductions. However, if the vehicle is a total loss vehicle, the claim shall not exceed the total loss vehicle value established in accordance with procedures that are customarily used by insurance companies when paying claims on total loss vehicles, less the proceeds from salvaging the vehicle, if those proceeds are retained by the rental company.

(b) If insurance coverage exists under the renter's applicable personal or business insurance policy and the coverage is confirmed during regular business hours, the renter may require that the rental company submit any claims to the renter's applicable personal or business insurance carrier. The rental company shall not make any written or oral representations that it will not present claims or negotiate with the renter's insurance carrier. For purposes of this subdivision, confirmation of coverage includes telephone confirmation from insurance company representatives during regular business hours. Upon request of the renter and after confirmation of coverage, the amount of claim shall be resolved between the insurance carrier and the rental company. The renter shall remain responsible for payment to the rental company for any loss sustained that the renter's applicable personal or business insurance policy does not cover.

(c) A rental company shall not recover from an authorized driver for an item described in Section 1939.03 to the extent the rental company obtains recovery from another person.

(d) This chapter applies only to the maximum liability of an authorized driver to the rental company resulting from damage to the rented vehicle and not to the liability of another person.

1939.09. (a) (1) Except as provided in subdivision (b), a damage waiver shall provide or, if not expressly stated in writing, shall be deemed to provide that the renter has no liability for damage, loss, loss of use, or a cost or expense incident thereto.

(2) Except as provided in subdivision (b), every limitation, exception, or exclusion to a damage waiver is void and unenforceable.

(b) A rental company may provide in the rental contract that a damage waiver does not apply under any of the following circumstances:

(1) Damage or loss results from an authorized driver's (A) intentional, willful, wanton, or reckless conduct, (B) operation of the vehicle under the influence of drugs or alcohol in violation of Section 23152 of the Vehicle Code, (C) towing or pushing anything, or (D) operation of the vehicle on an unpaved road if the damage or loss is a direct result of the road or driving conditions.

(2) Damage or loss occurs while the vehicle is (A) used for commercial hire, (B) used in connection with conduct that could be properly charged as a felony, (C) involved in a speed test or contest or in driver training activity, (D) operated by a person other than an authorized driver, or (E) operated outside the United States.

(3) An authorized driver who has (A) provided fraudulent information to the rental company, or (B) provided false information and the rental company would not have rented the vehicle if it had instead received true information.

(c) (1) A rental company that offers or provides a damage waiver for any consideration in addition to the rental rate shall clearly and conspicuously disclose the following information in the rental contract or holder in which the contract is placed and, also, in signs posted at the location where the renter signs the rental contract, and, for renters who are enrolled in the rental company's membership program, in a sign that shall be posted in a location clearly visible to those renters as they enter the location where their reserved rental vehicles are parked or near the exit of the bus or other conveyance that transports the enrollee to a reserved vehicle: (A) the nature of the renter's liability, such as liability for all collision damage regardless of cause, (B) the extent of the renter's liability, such as liability for damage or loss up to a specified amount, (C) the renter's personal insurance policy or the credit card used to pay for the vehicle rental transaction may provide coverage for all or a portion of the renter's potential liability, (D) the renter should consult with his or her insurer to determine the scope of insurance coverage, including the amount of the deductible, if any, for which the renter is obligated, (E) the renter may purchase an optional damage waiver to cover all liability, subject to whatever exceptions the rental company expressly lists that are permitted under subdivision (b), and (F) the range of charges for the damage waiver.

(2) In addition to the requirements of paragraph (1), a rental company that offers or provides a damage waiver shall orally disclose to all renters, except those who are participants in the rental company's membership program, that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. The renter shall acknowledge receipt of the oral disclosure near that part of the contract where the renter indicates, by the renter's own initials, his or her acceptance or declination of the damage waiver. Adjacent to that same part, the contract also shall state that the damage waiver is optional. Further, the contract for these renters shall include a clear and conspicuous written disclosure that the damage waiver may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance.

(3) (A) The following is an example, for purposes of illustration and not limitation, of a notice fulfilling the requirements of paragraph (1) for a rental company that imposes liability on the renter for collision damage to the full value of the vehicle:

"NOTICE ABOUT YOUR FINANCIAL RESPONSIBILITY AND OPTIONAL DAMAGE WAIVER

You are responsible for all collision damage to the rented vehicle even if someone else caused it or the cause is unknown. You are responsible for the cost of repair up to the value of the vehicle, and towing, storage, and impound fees.

Your own insurance, or the issuer of the credit card you use to pay for the vehicle rental transaction, may cover all or part of your financial responsibility for the rented vehicle. You should check with your insurance company, or credit card issuer, to find out about your coverage and the amount of the deductible, if any, for which you may be liable.

Further, if you use a credit card that provides coverage for your potential liability, you should check with the issuer to determine if you must first exhaust the coverage limits of your own insurance before the credit card coverage applies.

The rental company will not hold you responsible if you buy a damage waiver. But a damage waiver will not protect you if (list exceptions)."

(B) When the notice in subparagraph (A) is printed in the rental contract or holder in which the contract is placed, the following shall be printed immediately following the notice:

"The cost of an optional damage waiver is \$_____ for every (day or week)."

(C) When the notice in subparagraph (A) appears on a sign, the following shall appear immediately adjacent to the notice:

"The cost of an optional damage waiver is \$_____ to \$_____ for every (day or week), depending upon the vehicle rented."

(d) Notwithstanding any other law, a rental company may sell a damage waiver subject to the following rate limitations for each full or partial 24-hour rental day for the damage waiver:

(1) For rental vehicles that the rental company designates as an "economy car," "compact car," or another term having similar meaning to the two smallest body-size categories of vehicles established by the Association of Car Rental Industry Systems Standards for North America, as of January 1, 2014, when offered for rental, the rate shall not exceed eleven dollars (\$11).

(2) For rental vehicles that the rental company designates as an "intermediate car," "standard car," or "full-size car," or another term having similar meaning to the next three body-size categories of vehicles established by the Association of Car Rental Industry Systems Standards for North America, as of January 1, 2014, and that are also either vehicles of the next model-year, or not older than the previous year's model, when offered for rental, the rate shall not exceed seventeen dollars (\$17). For rental vehicles that are older than the previous year's model-year, the rate shall not exceed eleven dollars (\$11).

1939.13. (a) A rental company shall not require the purchase of a damage waiver, optional insurance, or another optional good or service.

(b) A rental company shall not engage in any unfair, deceptive, or coercive conduct to induce a renter to purchase the damage waiver, optional insurance, or another optional good or service, including conduct such as, but not limited to, refusing to honor the renter's reservation, limiting the availability of vehicles, requiring a deposit, or debiting or blocking the renter's credit card account for a sum equivalent to a deposit if the renter declines to purchase the damage waiver, optional insurance, or another optional good or service.

1939.15. (a) In the absence of express permission granted by the renter subsequent to damage to, or loss of, the rented vehicle, a rental company shall not seek to recover any portion of a claim arising out of damage to, or loss of, the vehicle by processing a credit card charge or causing a debit or block to be placed on the renter's credit card account.

(b) A rental company shall not engage in any unfair, deceptive, or coercive tactics in attempting to recover or in recovering on any claim arising out of damage to, or loss of, the rented vehicle.

1939.17. A customer facility charge or alternative customer facility charge may be collected by a rental company pursuant to Section 50474.3 of the Government Code.

1939.19. (a) When providing a quote, or imposing charges for a rental, the rental company may separately state the rental rate, additional mandatory charges, if any, and a mileage charge, if any, that a renter must pay to hire or lease the vehicle for the period of time to which the rental rate applies. A rental company shall not charge in addition to the rental rate, additional mandatory charges, or a mileage charge, as those may be applicable, any other fee that is required to be paid by the renter as a condition of hiring or leasing the vehicle.

(b) If additional mandatory charges are imposed, the rental company shall do each of the following:

(1) At the time the quote is given, provide the person receiving the quote with a good faith estimate of the rental rate and all additional mandatory charges, as well as the total charges for the entire rental. The total charges, if provided on an Internet Web site page, shall be displayed in a typeface at least as large as any rental rate disclosed on that page and shall be provided on a page that the person receiving the quote may reach by following a link directly from the page on which the rental rate is first provided. The good faith estimate may exclude mileage charges and charges for optional items that cannot be determined prior to completing the reservation based upon the information provided by the person.

(2) At the time and place the rental commences, clearly and conspicuously disclose in the rental contract, or that portion of the contract that is provided to the renter, the total of the rental rate and additional mandatory charges, for the entire rental, exclusive of charges that cannot be determined at the time the rental commences. Charges imposed pursuant to this paragraph shall be no more than the amount of the quote provided in a confirmed reservation, unless the person changes the terms of the rental contract subsequent to making the reservation.

(3) Provide each person, other than those persons within the rental company, offering quotes to actual or prospective customers access to information about additional mandatory charges, as well as access to information about when those charges apply. Any person providing quotes to actual or prospective customers for the hire or lease of a vehicle from a rental company shall provide the quotes in the manner described in paragraph (1).

(c) In addition to the rental rate, taxes, additional mandatory charges, if any, and mileage charges, if any, a rental company may charge for an item or service provided in connection with a particular rental transaction if the renter could have avoided incurring the charge by choosing not to obtain or utilize the optional item or service. Items and services for which the rental company may impose an additional charge include, but are not limited to, optional insurance and accessories requested by the renter, service charges incident to the renter's optional return of the vehicle to a location other than the location where the vehicle was hired or leased, and charges for refueling the vehicle at the conclusion of the rental transaction in the event the renter did not return the vehicle with as much fuel as was in the fuel tank at the beginning of the rental. A rental company also may impose an additional charge based on reasonable age criteria established by the rental company.

(d) A rental company shall not charge a fee for authorized drivers in addition to the rental charge for an individual renter.

(e) If a rental company states a rental rate in print advertisement or in a quotation, the rental company shall disclose clearly in that advertisement or quotation the terms of mileage conditions relating to the advertised or quoted rental rate, including, but not limited to, to the extent applicable, the amount of mileage and gas charges, the number of miles for which no charges will be imposed, and a description of geographic driving limitations within the United States and Canada.

(f) All rate advertisements shall include a disclaimer, which shall be prominently displayed, providing that additional mandatory charges may be imposed, including, but not limited to, airport fees, tourism fees, vehicle license recovery fees, or other government imposed taxes or fees, and indicating that this information, including an estimate of the total rental cost, is displayed on the rental company's Internet Web site. All rate advertisements shall also include a statement that additional charges may apply if an optional good or service, such as a damage waiver, is purchased.

(g) If any person or entity other than a rental company, including a passenger carrier or a seller of travel services, advertises a rental rate for a vehicle rental that includes additional mandatory charges, that person or entity shall clearly disclose the existence and amount of the charges. If a rental company provides the person or entity with rental rate and additional mandatory charges information, the rental car company is not responsible for the failure of that person or entity to comply with this subdivision.

(h) If a rental company delivers a vehicle to a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period before the delivery of the vehicle. If a rental company picks up a rented vehicle from a renter at a location other than the location where the rental company normally carries on its business, the rental company shall not charge the renter an amount for the rental for the period after the renter notifies the rental company to pick up the vehicle.

(i) Except as otherwise permitted pursuant to the customer facility charge, a rental company shall not separately charge, in addition to the rental rate, a fee for transporting the renter to a location where the rented vehicle will be delivered to the renter.

1939.21. (a) For purposes of this section:

(1) "Additional charges" means charges other than a per period base rental rate established by the business program.

(2) "Business program" means either of the following:

(A) A contract between a rental company and a business program sponsor that has established the per period base rental rate, and any other material terms relating to additional charges, on which the rental company will rent passenger vehicles to persons authorized by the sponsor.

(B) A plan, program, or other arrangement established by a rental company at the request of, or with the consent of, a business program sponsor under which the rental company offers to rent passenger vehicles to persons authorized by the sponsor at per period base rental rates, and any other material terms relating to additional charges, that are not the same as those generally offered by the rental company to the public.

(3) "Business program sponsor" means a legal entity, other than a natural person, that is a corporation, limited liability company, or partnership.

(4) "Business renter" means, for any business program sponsor, a person who is authorized by the sponsor, through the use of an identifying number or program name or code, to enter into a rental contract under the sponsor's business program. In no case shall the term "business renter" include a person renting as any of the following:

(A) A nonemployee member of a not-for-profit organization.

(B) The purchaser of a voucher or other prepaid rental arrangement from a person, including a tour operator, engaged in the business of reselling those vouchers or prepaid rental arrangements to the general public.

(C) An individual whose vehicle rental is eligible for reimbursement in whole or in part as a result of the person being insured or provided coverage under a policy of insurance issued by an insurance company.

(D) An individual whose vehicle rental is eligible for reimbursement in whole or in part as a result of the person purchasing passenger vehicle repair services from a person licensed to perform such services.

(5) "Qualified business rental" under a business program established for a business program sponsor by a rental company means the rental of a passenger vehicle under the business program if either: (A) in the 12-month period ending on the date of the rental or in the calendar year immediately preceding the year in which the rental occurs, the rentals under all business programs established by the rental company for the business program sponsor and its affiliates produced gross rental revenues in excess of twenty-five thousand dollars (\$25,000) or (B) the rental company in good faith estimates that rentals under all the business programs established by the rental company for the business program sponsor and its affiliates will produce gross rental revenues in excess of twenty-five thousand dollars (\$25,000) in the 12-month period commencing with the date of the rental or in the calendar year in which the rental occurs. The rental company has the burden of establishing by objectively verifiable evidence that the rental was a qualified business rental.

(6) "Quote" means telephonic, in-person, and computer-transmitted quotations.

(b) Notwithstanding any provision to the contrary contained in Section 1939.19 or 1939.23, a rental company may, in connection with the qualified business rental of a passenger vehicle to a business renter of a business program sponsor under the sponsor's business program, do both of the following:

(1) Separately quote additional charges for the rental if, at the time the quote is provided, the person receiving the quote is also provided a good faith estimate of the total of all the charges for the entire rental. The estimate may exclude mileage charges and charges for optional items and services that cannot be determined prior to completing the reservation based upon the information provided by the renter.

(2) Separately impose additional charges for the rental, if the rental contract, or another document provided to the business renter at the time and place the rental commences, clearly and conspicuously discloses the total of all the charges for the entire rental, exclusive of charges that cannot be determined at the time the rental commences.

(c) A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this section. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

(d) Any waiver of any of the provisions of this section shall be void and unenforceable as contrary to public policy.

(e) This section shall not be interpreted to mean that a rental company is not required to comply with the requirements of subdivisions (c) to (h), inclusive, of Section 1939.19.

1939.23. (a) A rental company shall not use, access, or obtain any information relating to the renter's use of the rental vehicle that was obtained using electronic surveillance technology, except in the following circumstances:

(1) (A) When the equipment is used by the rental company only for the purpose of locating a stolen, abandoned, or missing rental vehicle after one of the following:

(i) The renter or law enforcement has informed the rental company that the vehicle is missing or has been stolen or abandoned.

(ii) The rental vehicle has not been returned following one week after the contracted return date or by one week following the end of an extension of that return date.

(iii) The rental company discovers the rental vehicle has been stolen or abandoned, and, if stolen, the rental company shall report the vehicle stolen to law enforcement by filing a stolen vehicle report, unless law enforcement has already informed the rental company that the vehicle is missing or has been stolen or abandoned.

(B) If electronic surveillance technology is activated pursuant to subparagraph (A), a rental company shall maintain a record, in either electronic or written form, of information relevant to the activation of that technology. That information shall include the rental agreement, including the return date, and the date and time the electronic surveillance technology was activated. The record shall also include, if relevant, a record of written or other communication with the renter, including communications regarding extensions of the rental, police reports, or other written communication with law enforcement officials. The record shall be maintained for a period of at least 12 months from the time the record is created and shall be

made available upon the renter's request. The rental company shall maintain and furnish explanatory codes necessary to read the record. A rental company shall not be required to maintain a record if electronic surveillance technology is activated to recover a rental vehicle that is stolen or missing at a time other than during a rental period.

(2) In response to a specific request from law enforcement pursuant to a subpoena or search warrant.

(b) Subdivision (a) does not prohibit a rental company from equipping rental vehicles with any of the following:

(1) GPS-based technology that provides navigation assistance to the occupants of the rental vehicle, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except for the purposes of discovering or repairing a defect in the technology and the information may then be used only for that purpose.

(2) Electronic surveillance technology that allows for the remote locking or unlocking of the vehicle at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology, except as necessary to lock or unlock the vehicle.

(3) Electronic surveillance technology that allows the company to provide roadside assistance, such as towing, flat tire, or fuel services, at the request of the renter, if the rental company does not use, access, or obtain information relating to the renter's use of the rental vehicle that was obtained using that technology except as necessary to provide the requested roadside assistance.

(c) Subdivision (a) does not prohibit a rental company from obtaining, accessing, or using information from electronic surveillance technology for the sole purpose of determining the date and time the vehicle departs from and is returned to the rental company, and the total mileage driven and the vehicle fuel level of the returned vehicle. The information obtained or accessed from this electronic surveillance technology shall only be used for the purpose described in this subdivision.

(d) A rental company shall not use electronic surveillance technology to track a renter in order to impose fines or surcharges relating to the renter's use of the rental vehicle.

1939.25. A renter may bring an action against a rental company for the recovery of damages and appropriate equitable relief for a violation of this chapter, except for Sections 1939.21, 1939.35, and 1939.37. The prevailing party shall be entitled to recover reasonable attorney's fees and costs.

1939.27. A rental company that brings an action against a renter for loss due to theft of the vehicle shall bring the action in the county in which the renter resides or, if the renter is not a resident of this state, in the jurisdiction in which the renter resides.

1939.29. A waiver of any of the provisions of this chapter, except for Sections 1939.21, 1939.35, and 1939.37, shall be void and unenforceable as contrary to public policy.

1939.31. (a) A rental company's disclosure requirements shall be satisfied for renters who are enrolled in the rental company's membership program if all of the following conditions are met:

(1) Prior to the enrollee's first rental as a participant in the program, the renter receives, in writing, the following:

(A) All of the disclosures required by paragraph (1) of subdivision (c) of Section 1939.09, including the terms and conditions of the rental agreement then in effect.

(B) An Internet Web site address, as well as a contact number or address, where the enrollee can learn of changes to the rental agreement or to the laws of this state governing rental agreements since the effective date of the rental company's most recent restatement of the rental agreement and distribution of that restatement to its members.

(2) At the commencement of each rental period, the renter is provided, on the rental record or the folder in which it is inserted, with a printed notice stating that he or she had either previously selected or declined an optional damage waiver and that the renter has the right to change preferences.

(3) (A) At the commencement of each rental period, the rental company provides, on the rearview mirror, a hanger on which a statement is printed, in a box, in at least 12-point boldface type, notifying the renter that the collision damage waiver offered by the rental company may be duplicative of coverage that the customer maintains under his or her own policy of motor vehicle insurance. If it is not feasible to hang the statement from the rearview mirror, it shall be hung from the steering wheel.

(B) The hanger shall provide the renter a box to initial if he or she, but not his or her employer, has previously accepted or declined the collision damage waiver and that he or she now wishes to change his or her decision to accept or decline the

collision damage waiver, as follows:

"If I previously accepted the collision damage waiver, I now decline it.

"If I previously declined the collision damage waiver, I now accept it."

(C) The hanger shall also provide a box for the enrollee to indicate whether this change applies to this rental transaction only or to all future rental transactions. The hanger shall also notify the renter that he or she may make that change, prior to leaving the lot, by returning the form to an employee designated to receive the form who is available at the lot where the renter takes possession of the car, to receive any change in the rental agreement from the renter.

(b) (1) This section is not effective unless an employee is available pursuant to paragraph (5) of subdivision (k) of Section 1939.01 is actually present at the required location.

(2) This section does not relieve the rental company from the disclosures required to be made within the text of a contract or holder in which the contract is placed; in or on an advertisement containing a rental rate; or in a telephonic, in-person, or computer-transmitted quotation or reservation.

1939.33. (a) When a rental company enters into a rental agreement in the state for the rental of a vehicle to any renter who is not a resident of this country and, as part of, or associated with, the rental agreement, the renter purchases liability insurance, as defined in subdivision (b) of Section 1758.85 of the Insurance Code, from the rental company in its capacity as a rental vehicle agent for an authorized insurer, the rental company shall be authorized to accept, and, if served as set forth in this section, shall accept, service of a summons and complaint and any other required documents against the foreign renter for any accident or collision resulting from the operation of the rental vehicle within the state during the rental period. If the rental company has a registered agent for service of process on file with the Secretary of State, process shall be served on the rental company's registered agent, either by first-class mail, return receipt requested, or by personal service.

(b) Within 30 days of acceptance of service of process, the rental company shall provide a copy of the summons and complaint and any other required documents served in accordance with this section to the foreign renter by first-class mail, return receipt requested.

(c) Any plaintiff, or his or her representative, who elects to serve the foreign renter by delivering a copy of the summons and complaint and any other required documents to the rental company pursuant to subdivision (a) shall agree to limit his or her recovery against the foreign renter and the rental company to the limits of the protection extended by the liability insurance.

(d) Notwithstanding the requirements of Sections 17450 to 17456, inclusive, of the Vehicle Code, service of process in compliance with subdivision (a) shall be deemed a valid and effective service.

(e) Notwithstanding any other law, the requirement that the rental company accept service of process pursuant to subdivision (a) shall not create any duty, obligation, or agency relationship other than that provided in subdivision (a).

1939.35. (a) (1) A rental company shall provide a renter of a 15-passenger van with a copy of the United States Department of Transportation, National Highway Traffic Safety Administration's consumer advisory for 15-passenger vans titled "Reducing the Risk of Rollover Crashes" or, if that advisory is updated, a copy of the updated advisory. The renter shall acknowledge receipt of that copy by signing an acknowledgment of receipt on the rental agreement or on an attached form.

(2) If the rental of that 15-passenger van is for a business purpose or use, the rental company shall also provide on the document described in paragraph (1) that only an employee with the proper licensing may drive that vehicle. The renter shall acknowledge the receipt thereof in the same manner as described in paragraph (1).

(b) (1) Except as provided in paragraph (2), for purposes of this section, a "15-passenger van" means any van manufactured to accommodate 15 passengers, including the driver, regardless of whether that van has been altered to accommodate fewer than 15 passengers.

(2) For purposes of this section, a "15-passenger van" does not mean a 15-passenger van with dual rear wheels that has a gross weight rating equal to, or greater than, 11,500 pounds.

1939.37. A rental company is not subject to the requirements of Section 14608 of the Vehicle Code if the rental is subject to the terms of a membership agreement that allows the renter to gain physical access to a vehicle without a key through use of a code, key card, or by other means that allow the vehicle to be accessed at a remote location, or at a business location of the rental company outside of that location's regular hours of operation.

SEC. 6. Section 50474.1 of the Government Code is amended to read:

50474.1. (a) An airport operated by a city and county may require a rental car company, in writing, to collect a fee from its customers on behalf of the airport for the use of an airport-mandated common use busing system or light rail transit system operated for the movement of passengers between the terminal and a consolidated on-airport rental car facility. If a rental car company is required pursuant to this section to collect a fee, the following conditions shall apply:

- (1) The fees shall be calculated on a per contract basis.
- (2) All fees collected for this purpose constitute debts owed to the airport by the collecting party. The debts are due and payable to the airport quarterly or at any other interval the airport may establish to facilitate collection and insure payment.
- (3) The fee is a user fee, not a tax.
- (4) Revenues collected from the fee may not exceed the reasonable costs of providing the busing and light rail transit service and shall not be used for any other purpose.

(b) Notwithstanding any other law, including, but not limited to, Chapter 1.5 (commencing with Section 1939.01) of Title 5 of Part 4 of Division 3 of the Civil Code, a rental car company that is required to collect fees under this section shall do all of the following:

- (1) Collect the fee from those of its customers subject to the fee as required in subdivision (a).
- (2) Clearly disclose the existence of the fee in any radio, television, or print advertisement that states a rental rate applicable to an airport at which the fee is to be imposed, and the amount of the fee at the airport where it is imposed, or a range of fees if the fee is imposed at more than one airport.
- (3) Clearly disclose the existence of the fee in a telephonic, in-person, or computer-transmitted quotation that states a rental rate applicable to an airport at which the fee is to be imposed and the amount of the fee at the airport where it is imposed.
- (4) Separately identify the fee on its rental agreement.

SEC. 7. Section 50474.21 is added to the Government Code, to read:

50474.21. (a) For purposes of this article, "customer facility charge" means any fee, including an alternative fee, required by an airport to be collected by a rental company from a renter for any of the following purposes:

- (1) To finance, design, and construct consolidated airport vehicle rental facilities.
- (2) To finance, design, construct, and operate common-use transportation systems that move passengers between airport terminals and those consolidated vehicle rental facilities, and acquire vehicles for use in that system.
- (3) To finance, design, and construct terminal modifications solely to accommodate and provide customer access to common-use transportation systems. The fees designated as a customer facility charge shall not otherwise be used to pay for terminal expansion, gate expansion, runway expansion, changes in hours of operation, or changes in the number of flights arriving or departing from the airport.

(b) The aggregate amount to be collected shall not exceed the reasonable costs, as determined by an audit by an independent auditor paid for by the airport, to finance, design, and construct those facilities. The auditor shall independently examine and substantiate the necessity for, and the amount of, the customer facility charge, including whether the airport's actual or projected costs are supported and justified, any steps the airport may take to limit costs, potential alternatives for meeting the airport's revenue needs other than the collection of the fee, and whether and to what extent rental companies or other businesses or individuals using the facility or common-use transportation system may pay for the costs associated with these facilities and systems apart from the fee from rental customers, or whether the airport did not comply with any provision of this section. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site. In the case of a customer facility charge for a common-use transportation system, the audit shall also consider the reasonable costs of providing the transit system or busing network pursuant to paragraph (1) of subdivision (a). Any audit required by this subdivision may be included as a part of an audit of an airport's finances.

(c) Except as provided in subdivision (d), the authorization given pursuant to this article for an airport to impose a customer facility charge shall become inoperative when the bonds used for financing are paid.

(d) If a bond or other form of indebtedness is not used for financing, or a bond or other form of indebtedness used for financing has been paid, the Oakland International Airport may require the collection of a customer facility charge for a period of up to 10

years from the imposition of the charge for the purposes allowed by, and subject to the conditions imposed by, this article.

SEC. 8. Section 50474.3 is added to the Government Code, to read:

50474.3. (a) A customer facility charge may be collected by a rental company under the following circumstances:

(1) Collection of the fee by the rental company is required by an airport operated by a city, a county, a city and county, a joint powers authority, a special district, or the San Diego County Regional Airport Authority formed pursuant to Division 17 (commencing with Section 170000) of the Public Utilities Code.

(2) The fee is calculated on a per contract basis or as provided in subdivision (b).

(3) The fee is a user fee, not a tax imposed upon real property or an incident of property ownership under Article XIII D of the California Constitution.

(4) Except as otherwise provided in paragraph (5), the fee shall be ten dollars (\$10) per contract or the amount provided in subdivision (b).

(5) The fee for a consolidated rental vehicle facility shall be collected only from customers of on-airport rental vehicle companies. If the fee imposed by the airport is for both a consolidated rental vehicle facility and a common-use transportation system, the fee collected from customers of on-airport rental vehicle companies shall be ten dollars (\$10) or the amount provided in subdivision (b), but the fee imposed on customers of off-airport rental vehicle companies who are transported on the common-use transportation system is only that amount that is proportionate to the costs of the common-use transportation system. The fee is uniformly applied to each class of on-airport or off-airport customers, provided that the airport requires off-airport customers to use the common-use transportation system. For purposes of this paragraph, "on-airport rental vehicle company" means a rental company operating under an airport property lease or an airport concession or license agreement whose customers use or will use the consolidated rental vehicle facility and the fee as to those customers is a user fee described in paragraph (3).

(6) Revenues collected from the fee do not exceed the reasonable costs of financing, designing, and constructing the facility and financing, designing, constructing, and operating any common-use transportation system, or acquiring vehicles for use in that system, and are not used for any other purpose.

(7) The fee is separately identified on the rental agreement.

(8) This subdivision does not apply to fees which are governed by Section 50474.1 or Section 57.5 of the San Diego Unified Port District Act (Chapter 67 of the First Extraordinary Session of the Statutes of 1962).

(b) Any airport may require rental companies to collect an alternative customer facility charge, as defined in Section 50474.21, under the following conditions:

(1) The airport first conducts a publicly noticed hearing pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2) to review the costs of financing the design and construction of a consolidated rental vehicle facility and the design, construction, and operation of any common-use transportation system in which all of the following occur:

(A) The airport establishes the amount of revenue necessary to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and to design, construct, and operate any common-use transportation system, or acquire vehicles for use in that system, based on evidence presented during the hearing.

(B) The airport finds, based on evidence presented during the hearing, that the fee authorized in subdivision (a) will not generate sufficient revenue to finance the reasonable costs of designing and constructing a consolidated rental vehicle facility and of designing, constructing, and operating any common-use transportation system, or acquire vehicles for use in that system.

(C) The airport finds that the reasonable cost of the project requires the additional amount of revenue that would be generated by the proposed daily rate, including any rate increase, authorized pursuant to this paragraph.

(D) The airport outlines each of the following:

(i) Steps it has taken to limit costs.

(ii) Other potential alternatives for meeting its revenue needs other than the collection of the fee.

(iii) The extent to which rental companies or other businesses or individuals using the facility or common-use transportation system will pay for the costs associated with these facilities and systems apart from the fee collected from

rental customers.

(2) The airport may not require the fee authorized in this subdivision to be collected at any time that the fee authorized in subdivision (a) is being collected.

(3) Pursuant to the procedure set forth in this subdivision, the fee may be collected at a rate charged on a per-day basis subject to the following conditions:

(A) Commencing January 1, 2011, the amount of the fee may not exceed six dollars (\$6) per day.

(B) Commencing January 1, 2014, the amount of the fee may not exceed seven dollars and fifty cents (\$7.50) per day.

(C) Commencing January 1, 2017, and thereafter, the amount of the fee may not exceed nine dollars (\$9) per day.

(D) At no time shall the fee authorized in this paragraph be collected from any customer for more than five days for each individual rental vehicle contract.

(E) An airport subject to this paragraph shall initiate the process for obtaining the authority to require or increase the alternative fee no later than January 1, 2018. Any airport that obtains the authority to require or increase an alternative fee shall be authorized to continue collecting that fee until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21.

(4) For any airport seeking to require rental companies to collect an alternative customer facility charge pursuant to this subdivision the following provisions apply:

(A) The airport shall provide reports on an annual basis to the Senate and Assembly Committees on Judiciary detailing all of the following:

(i) The total amount of the customer facility charge collected.

(ii) How the funds are being spent.

(iii) The amount of and reason for any changes in the airport's budget or financial needs for the facility or common-use transportation system.

(B) (i) The airport shall complete an independent audit as required by subdivision (b) of Section 50474.21 prior to the initial collection of the customer facility charge. Copies of the audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site.

(ii) Prior to any increase pursuant to subdivision (b), the airport shall update the information provided in the initial collection audit completed pursuant to clause (i). Copies of the updated audit shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing, and shall be posted on the airport's Internet Web site.

(iii) An audit shall be completed every three years after initial collection if the customer facility charge is collected for the purpose of operating a common-use transportation system or to acquire vehicles for use in the system pursuant to paragraph (2) of subdivision (a) of Section 50474.21. A regularly conducted audit of airport finances that includes the customer facility charge information, that satisfies the requirements of subdivision (b) of Section 50474.21, and is produced in accordance with the generally accepted accounting principles of the Government Accounting Standards Board, shall satisfy the requirements of this clause. This obligation shall continue until the fee authorization becomes inoperative pursuant to subdivision (c) of Section 50474.21. The information reported pursuant to this clause shall be compiled into one document, shall be provided to the Assembly and Senate Committees on Judiciary, the Assembly Committee on Transportation, and the Senate Committee on Transportation and Housing and shall be posted on the airport's Internet Web site accessible to the public. The information reported shall be contained within one easily accessible page contained within the airport's Internet Web site.

(iv) This section shall not be construed to require an airport to audit a common-use transportation system not financed by a customer facility charge and used for the purposes permitted pursuant to paragraph (2) of subdivision (a) of Section 50474.21.

(v) The airport shall post on the airport's Internet Web site copies of the completed audits required by this subparagraph for a period of six years following the audit's completion.

(C) Use of proceeds of any bonds backed by alternative customer facility charges shall be limited to construction and design of the consolidated rental vehicle facility, terminal modifications, and operating costs of the common-use transportation system, as specified in Section 50474.21.

(c) Notwithstanding any other provision of law, including, but not limited to, Part 1 (commencing with Section 6001) to Part 1.7 (commencing with Section 7280), inclusive, of Division 2 of the Revenue and Taxation Code, the fees collected pursuant to this section, or another law whereby a local agency operating an airport requires a rental car company to collect a facility financing fee from its customers, are not subject to sales, use, or transaction taxes.