

SENATE BILL NO. 234—COMMITTEE ON TAXATION

MARCH 13, 2009

Referred to Committee on Taxation

SUMMARY—Makes various changes concerning the short-term leasing of passenger cars. (BDR 43-33)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to motor vehicles; revising certain provisions governing the fees charged by a short-term lessor of passenger cars; revising certain provisions concerning the liability of such a lessor for damages caused by the short-term lessee of passenger cars under certain circumstances; increasing the governmental services fee on short-term leases of passenger cars; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Under existing law, a short-term lessor of passenger cars is required to collect
2 from its customers a governmental services fee of 6 percent and a recovery
3 surcharge fee of 4 percent of the adjusted total cost of leasing the car. The lessor is
4 allowed to retain a portion of the money from the recovery surcharge fee as
5 reimbursement of its costs to license and register its vehicles, and is required to
6 remit the remaining amount of that fee, and the full amount of the 6 percent
7 governmental services fee, to the State. (NRS 482.313) **Section 6** of this bill
8 increases the amount of the governmental services fee from 6 to 10 percent and
9 eliminates the 4 percent recovery surcharge fee. In place of that fee, **section 8** of
10 this bill authorizes a short-term lessor to impose an additional charge on each lease
11 to allow the lessor to recover the full amount of its vehicle licensing costs. **Section**
12 **8** also authorizes a short-term lessor to impose additional charges to recover other
13 costs that the lessor incurs as a condition of doing business, such as concession fees
14 that the lessor must pay to an airport or other facility for the privilege of operating
15 at the facility, and to recover the amount of any fees that the lessor pays on behalf
16 of the short-term lessee. **Section 8** also requires that the short-term lessor must
17 separately identify and clearly disclose the amount of each additional charge in the
18 quotation or other statement of estimated charges for the lease of the car and in the
19 lease agreement. (NRS 482.3158)



Section 4 of this bill provides that if a short-term lessor leases a passenger car to a short-term lessee for a specified period, and the lessee returns the car before the end of the period, the lessor is not allowed to charge the lessee for the full period, but only for the time that the lessee had possession of the passenger car.

Under existing law, persons injured as a result of the negligence of the short-term lessee of a passenger car or of another person driving the car with the lessee's permission are entitled to receive payment from the lessee or other driver for their actual damages up to at least the statutory minimum amount. If an injured person's actual damages exceed the amount of that coverage, he is also entitled to recover up to at least the statutory minimum amounts from the liability coverage that the short-term lessor of the passenger car is required to provide as a condition of registering the car. (NRS 482.295, 482.305; *Salas v. Allstate Rent-A-Car, Inc.*, 116 Nev. 1165 (2000), *Hall v. Enter. Leasing Co.-West*, 122 Nev. Adv. Op. 59, 137 P.3d 1104, (2006)) **Section 5** of this bill provides that the liability coverage or other form of financial responsibility provided by a short-term lessor may be used to satisfy a claim for damages caused by the negligence of the short-term lessee or his permittee in operating the vehicle only to a certain extent. **Section 5** also provides that a short-term lessor of a motor vehicle who provides the mandatory insurance or other financial security in the statutory minimum amounts is not liable for any damages caused by the negligence of the short-term lessee or his permittee in operating the rented vehicle if: (1) the short-term lessee or his permittee has liability coverage up to the statutory minimum amounts; (2) the injured person has uninsured vehicle coverage in amounts up to the statutory minimum amounts; or (3) the short-term lessee or his permittee violates a term or condition of the short-term lease agreement. (NRS 482.305) **Section 9** of this bill amends the definition of "uninsured motor vehicle" to include a leased passenger car for which the short-term lessor has provided liability coverage up to the statutory minimum amounts, but which is operated by a short-term lessee or other driver with his permission who does not have liability coverage in at least the statutory minimum statutory amounts. (NRS 690B.020)

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 482 of NRS is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this act.

Sec. 2. *"Vehicle licensing costs" has the meaning ascribed to it in NRS 482.313.*

Sec. 3. 1. *A short-term lessor that wishes to impose an additional charge pursuant to NRS 482.3158 to recover its vehicle licensing costs must, not less than annually, make good faith estimates of:*

(a) Its vehicle licensing costs for the calendar year; and

(b) The charge that must be imposed in each lease to recover those costs.

2. *If the amount of money collected by a short-term lessor for the recovery of vehicle licensing costs during a calendar year exceeds the amount of those costs for that year, the short-term lessor shall:*

(a) Retain the excess amount; and



1 (b) *Reduce its estimate of vehicle licensing costs for the*
2 *immediately following calendar year by the amount of the excess.*

3 3. *This section does not prevent a short-term lessor from*
4 *making adjustments in the amount of its charge to recover its*
5 *vehicle licensing costs during the calendar year.*

6 **Sec. 4.** 1. *Except as otherwise provided in this section, if a*
7 *short-term lessor leases a passenger car to a short-term lessee for*
8 *a specified period under a lease agreement that establishes a rate*
9 *for leasing the passenger car for the period and the lessee returns*
10 *the passenger car before the end of the period, the lessor:*

11 (a) *May not charge the lessee a fee for returning the passenger*
12 *car before the end of the period specified in the lease;*

13 (b) *Must charge the lessee only for the days or parts thereof*
14 *that the lessee was in possession of the passenger car; and*

15 (c) *Unless the lease agreement establishes a lower daily rate,*
16 *must charge the lessee a daily rate for leasing the passenger car*
17 *that is calculated by dividing the rate for the period set forth in the*
18 *lease agreement by the number of days in that period.*

19 2. *This section does not apply to the lease of a passenger car*
20 *for a period of 24 hours or less.*

21 **Sec. 5.** NRS 482.305 is hereby amended to read as follows:

22 482.305 1. The short-term lessor of a motor vehicle who
23 permits the short-term lessee to operate the vehicle upon the
24 highways, and who has not complied with NRS 482.295 insuring or
25 otherwise covering the short-term lessee against liability arising out
26 of his negligence in the operation of the rented vehicle in limits of
27 not less than \$15,000 for any one person injured or killed and
28 \$30,000 for any number more than one, injured or killed in any one
29 accident, and against liability of the short-term lessee for property
30 damage in the limit of not less than \$10,000 for one accident, is
31 jointly and severally liable with the short-term lessee for any
32 damages caused by the negligence of the latter in operating the
33 vehicle and for any damages caused by the negligence of any person
34 operating the vehicle by or with the permission of the short-term
35 lessee, except that the foregoing provisions do not confer any right
36 of action upon any passenger in the rented vehicle against the short-
37 term lessor. This section does not prevent the introduction as a
38 defense of contributory negligence to the extent to which this
39 defense is allowed in other cases.

40 2. *Notwithstanding the provisions of subsection 1, a short-*
41 *term lessor of a motor vehicle who complies with NRS 482.295 is*
42 *not liable for any damages caused by the negligence of the short-*
43 *term lessee or his permittee in operating the rented vehicle if:*

44 (a) *The short-term lessee or his permittee is insured or*
45 *otherwise covered by a policy of insurance against liability for*



1 *damages caused by negligence in the operation of the vehicle in*
2 *amounts that are not less than the amounts required pursuant to*
3 *NRS 485.185;*

4 (b) *A person whose damages are caused by the negligence of*
5 *the short-term lessee or his permittee in operating the vehicle has*
6 *uninsured vehicle coverage in amounts that are not less than the*
7 *amounts required pursuant to NRS 485.185; or*

8 (c) *The short-term lessee or his permittee violates a term or*
9 *condition of the short-term lease agreement.*

10 3. The policy of insurance, surety bond , or deposit of cash or
11 securities ~~inures to the benefit of any person operating the vehicle~~
12 ~~by or with the permission of the short-term lessee in the same~~
13 ~~manner, under the same conditions and to the same extent as to the~~
14 ~~short-term lessee.~~

15 ~~—3.1~~ , or other form of financial responsibility provided by a
16 short-term lessor as required by subsection 1 may be used to
17 satisfy a claim for damages caused by the negligence of the short-
18 term lessee or his permittee in operating the vehicle only to the
19 extent that no other insurance policy, surety bond, deposit of cash
20 or other securities, or other form of financial responsibility is
21 available to satisfy the claim in the amounts required pursuant to
22 NRS 485.185.

23 4. The insurance policy, surety bond , ~~for~~ deposit of cash or
24 securities , or other form of financial responsibility provided by a
25 short-term lessor as required by subsection 1 need not cover any
26 liability incurred by the short-term lessee of any vehicle to any
27 passenger in the vehicle , ~~for~~ but the short-term lessor , before
28 delivering the vehicle , shall give to the short-term lessee a written
29 notice of the fact that such a policy, bond or deposit does not cover
30 the liability which the short-term lessee may incur on account of his
31 negligence in the operation of the vehicle to any passenger in the
32 vehicle.

33 ~~4.1~~ 5. When any suit or action is brought against the short-
34 term lessor under this section, the judge before whom the case is
35 pending shall hold a preliminary hearing in the absence of the jury
36 to determine whether the short-term lessor has provided insurance or
37 a surety bond or deposit of cash or securities , or other form of
38 financial responsibility covering the short-term lessee as required
39 by subsection 1. Whenever it appears that the short-term lessor has
40 provided insurance or a surety bond or deposit of cash or securities ,
41 or other form of financial responsibility covering the short-term
42 lessee in the required amount, the judge shall dismiss as to the short-
43 term lessor the action brought under this section.

44 6. *This section does not:*



(a) Prevent a short-term lessor from providing in a short-term lease agreement that:

(1) The short-term lessor must satisfy any claim for damages caused by the negligence of the short-term lessee or his permittee in operating the vehicle up to the extent of any insurance policy, surety bond, deposit of cash or other securities, or other form of financial responsibility provided by the short-term lessee; and

(2) Any insurance policy, surety bond, deposit of cash or other securities, or other form of financial responsibility provided by the short-term lessee is primary.

(b) Affect the right of a short-term lessor to make a claim against a short-term lessee or his permittee for indemnity or contribution.

(c) Oblige a short-term lessor to provide a defense in any action brought against a short-term lessee or his permittee for damages caused by negligence in the operation of the rented vehicle.

7. As used in this section:

(a) "Permittee" means a person who operates a leased vehicle by or with the permission of the short-term lessee of the vehicle.

(b) "Uninsured vehicle coverage" has the meaning ascribed to it NRS 690B.020.

Sec. 6. NRS 482.313 is hereby amended to read as follows:

482.313 1. Upon the lease of a passenger car by a short-term lessor in this State, the short-term lessor shall charge and collect from the short-term lessee:

(a) A governmental services fee of ~~6~~ 10 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 7; and

(b) Any fee required pursuant to NRS 244A.810 or 244A.860 .
~~;~~ and

~~(c) A recovery surcharge fee of 4 percent of the total amount for which the passenger car was leased, excluding the items described in subsection 8, as reimbursement for vehicle licensing fees and taxes paid by the short term lessor.~~

➤ The amount of each fee charged pursuant to this subsection must be indicated in the lease agreement.

2. The fees due from a short-term lessor to the Department of Taxation pursuant to subsection 1 are due on the last day of each calendar quarter. On or before the last day of the month following each calendar quarter, the short-term lessor shall:

(a) File with the Department of Taxation, on a form prescribed by the Department of Taxation, a report indicating the total amount of:



(1) Each of the fees collected by the short-term lessor pursuant to subsection 1 during the immediately preceding calendar quarter; and

(2) Vehicle licensing ~~[fees and taxes]~~ *costs* paid by the short-term lessor pursuant to this chapter during the immediately preceding calendar quarter.

(b) Remit to the Department of Taxation ~~[-~~

~~— (1) The~~ *the* fees collected by the short-term lessor pursuant to ~~[paragraphs (a) and (b) of]~~ subsection 1 during the immediately preceding calendar quarter. ~~[- and~~

~~— (2) One quarter of the fees collected by the short-term lessor pursuant to paragraph (c) of subsection 1 during the immediately preceding calendar quarter.]~~

3. Except as otherwise provided in a contract made pursuant to NRS 244A.820 or 244A.870, the Department of Taxation shall deposit ~~[all]~~ :

(a) *All* money received from short-term lessors pursuant to the provisions of ~~[-~~

~~(a) Subparagraph (1) of]~~ paragraph (b) of subsection ~~[2]~~ *1* with the State Treasurer for credit to the State General Fund; ~~[and]~~

(b) ~~[Subparagraph (2) of]~~ *Nine-tenths of the money received from short-term lessors pursuant to the terms of paragraph (a) of subsection 1 with the State Treasurer for credit to the State General Fund; and*

(c) *One-tenth of the money received from short-term lessors pursuant to the terms of* paragraph ~~[(b)]~~ (a) of subsection ~~[2]~~ *1* with the State Treasurer for credit to the State Highway Fund for administration pursuant to subsection 8 of NRS 408.235.

4. To ensure compliance with this section, the Department of Taxation may audit the records of a short-term lessor.

5. The provisions of this section do not limit or affect the payment of any taxes or fees imposed pursuant to the provisions of this chapter.

6. The Department of Motor Vehicles shall, upon request, provide to the Department of Taxation any information in its records relating to a short-term lessor that the Department of Taxation considers necessary to collect the fees described in subsection 1.

7. For the purposes of charging and collecting the governmental services fee described in paragraph (a) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:

(a) The amount of ~~[the fees]~~ *any fee* charged and collected pursuant to ~~[paragraphs (b) and (c)]~~ *paragraph (b)* of subsection 1;

(b) The amount of any charge for fuel used to operate the passenger car;



(c) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;

(d) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property; and

(e) The amount of any charges assessed against a short-term lessee for damages for which the short-term lessee is held responsible.

8. ~~For the purposes of charging and collecting the recovery surcharge fee described in paragraph (c) of subsection 1, the following items must not be included in the total amount for which the passenger car was leased:~~

~~(a) The amount of the fees charged and collected pursuant to paragraphs (a) and (b) of subsection 1;~~

~~(b) The amount of any charge for a collision damage waiver or a similar instrument that acts as a waiver of the short term lessor's right to collect from the short term lessee for any damage to the passenger car;~~

~~(c) The amount of any charge for fuel used to operate the passenger car;~~

~~(d) The amount of any fee or charge for the delivery, transportation or other handling of the passenger car;~~

~~(e) The amount of any fee or charge for insurance, including, without limitation, personal accident insurance, extended coverage or insurance coverage for personal property;~~

~~(f) The amount of any charges assessed against a short term lessee for damages for which the short term lessee is held responsible; and~~

~~(g) The amount of any concession fee or charge that the short-term lessor:~~

~~(1) Is required to pay to do business at an airport, if applicable; and~~

~~(2) Passes on to the short term lessee of the passenger car.~~

~~9.]~~ The Executive Director of the Department of Taxation shall:

(a) Adopt such regulations as he determines are necessary to carry out the provisions of this section; and

(b) Upon the request of the Director of the Department of Motor Vehicles, provide to the Director of the Department of Motor Vehicles a copy of any record or report described in this section.

~~[10.]~~ 9. As used in this section, "vehicle licensing ~~fees and taxes~~" **costs** means:

(a) The fees paid by a short-term lessor for the registration of, and the issuance of certificates of title for, the passenger cars leased



1 by him ~~§~~, *including, without limitation, fees for license plates*
2 *and license plate decals, stickers and tabs, and inspection fees;* and

3 (b) The basic and supplemental governmental services taxes
4 paid by the short-term lessor with regard to those passenger cars.

5 **Sec. 7.** NRS 482.3151 is hereby amended to read as follows:

6 482.3151 As used in NRS 482.3151 to 482.3159, inclusive,
7 *and sections 2, 3 and 4 of this act*, unless the context otherwise
8 requires, the words and terms defined in NRS 482.31515 to
9 482.3153, inclusive, *and section 2 of this act* have the meanings
10 ascribed to them in those sections.

11 **Sec. 8.** NRS 482.3158 is hereby amended to read as follows:

12 482.3158 1. The short-term lessor of a passenger car may
13 impose an additional charge:

14 (a) Based on reasonable age criteria established by the lessor.

15 (b) For any item or a service provided if the short-term lessee
16 could have avoided incurring the charge by choosing not to obtain
17 or utilize the optional item or service.

18 (c) For insurance and accessories requested by the lessee.

19 (d) For service incident to the lessee's optional return of the
20 *passenger* car to a location other than the location where the
21 *passenger* car was leased.

22 (e) For refueling the *passenger* car at the conclusion of the lease
23 if the lessee did not return the *passenger* car with as much fuel as
24 was in the fuel tank at the beginning of the lease.

25 (f) For any authorized driver in addition to the short-term lessee
26 but shall not, except as otherwise provided in this paragraph, charge
27 more than \$10 per full or partial 24-hour period for such an
28 additional authorized driver. The monetary amount set forth in this
29 paragraph must be adjusted for each fiscal year that begins on or
30 after July 1, 2008, by adding to that amount the product of that
31 amount multiplied by the percentage increase in the Consumer Price
32 Index West Urban for All Urban Consumers (All Items) between the
33 calendar year ending on December 31, 2005, and the calendar year
34 immediately preceding the fiscal year for which the adjustment is
35 made. The Department shall, on or before March 1 of each year,
36 publish the adjusted amount for the next fiscal year on its website or
37 otherwise make that information available to short-term lessors.

38 (g) *To recover costs incurred by the short-term lessor as a*
39 *condition of doing business, including, without limitation:*

40 (1) *The short-term lessor's vehicle licensing costs; and*

41 (2) *Concession, access and other fees imposed on the short-*
42 *term lessor by an airport or other facility for the privilege of*
43 *operating at the facility.*

44 (h) *To recover any fees paid by the short-term lessor on behalf*
45 *of the short-term lessee, including, without limitation, a customer*



* S B 2 3 4 *

1 *facility charge imposed on the short-term lessee by an airport or*
2 *other facility for the privilege of using the facility.*

3 2. *The short-term lessor of a passenger car that wishes to*
4 *impose an additional charge pursuant to this section must*
5 *separately identify and clearly disclose the amount of the charge*
6 *in the quotation or other statement of estimated charges for the*
7 *lease of the passenger car and in the lease agreement. The short-*
8 *term lessor shall not collect from a short-term lessee the amount*
9 *of any additional charge that the lessor has failed to identify and*
10 *disclose as required pursuant to this section.*

11 3. A short-term lessor shall not charge a short-term lessee, as a
12 condition of leasing a passenger car, an additional fee for:

13 (a) Any surcharges required for fuel.

14 (b) Transporting the lessee to the location where the *passenger*
15 car will be delivered to the lessee.

16 ~~3.3~~ 4. If a short-term lessor:

17 (a) Delivers a passenger car to a short-term lessee at a location
18 other than the location where the lessor normally carries on its
19 business, the lessor shall not charge the lessee any amount for the
20 period before the delivery of the *passenger* car.

21 (b) Takes possession of a passenger car from a short-term lessee
22 at a location other than the location where the lessor normally
23 carries on its business, the lessor shall not charge the lessee any
24 amount for the period after the lessee notifies the lessor to take
25 possession of the *passenger* car.

26 **Sec. 9.** NRS 690B.020 is hereby amended to read as follows:

27 690B.020 1. Except as otherwise provided in this section and
28 NRS 690B.035, no policy insuring against liability arising out of the
29 ownership, maintenance or use of any motor vehicle may be
30 delivered or issued for delivery in this State unless coverage is
31 provided therein or supplemental thereto for the protection of
32 persons insured thereunder who are legally entitled to recover
33 damages, from owners or operators of uninsured or hit-and-run
34 motor vehicles, for bodily injury, sickness or disease, including
35 death, resulting from the ownership, maintenance or use of the
36 uninsured or hit-and-run motor vehicle. No such coverage is
37 required in or supplemental to a policy issued to the State of Nevada
38 or any political subdivision thereof, or where rejected in writing, on
39 a form furnished by the insurer describing the coverage being
40 rejected, by an insured named therein, or upon any renewal of such
41 a policy unless the coverage is then requested in writing by the
42 named insured. The coverage required in this section may be
43 referred to as "uninsured vehicle coverage."

44 2. The amount of coverage to be provided must be not less than
45 the minimum limits for liability insurance for bodily injury provided



1 for under chapter 485 of NRS, but may be in an amount not to
2 exceed the coverage for bodily injury purchased by the
3 policyholder.

4 3. For the purposes of this section, the term “uninsured motor
5 vehicle” means a motor vehicle:

6 (a) With respect to which there is not available at the
7 Department of Motor Vehicles evidence of financial responsibility
8 as required by chapter 485 of NRS;

9 (b) With respect to the ownership, maintenance or use of which
10 there is no liability insurance for bodily injury or bond applicable at
11 the time of the accident ~~or~~ or, to the extent of such deficiency, any
12 liability insurance for bodily injury or bond in force is less than the
13 amount required by NRS 485.210;

14 (c) With respect to the ownership, maintenance or use of which
15 the company writing any applicable liability insurance for bodily
16 injury or bond denies coverage or is insolvent;

17 (d) Used without the permission of its owner if there is no
18 liability insurance for bodily injury or bond applicable to the
19 operator;

20 (e) Used with the permission of its owner who has insurance
21 which does not provide coverage for the operation of the motor
22 vehicle by any person other than the owner if there is no liability
23 insurance for bodily injury or bond applicable to the operator; ~~or~~

24 (f) The owner or operator of which is unknown or after
25 reasonable diligence cannot be found if:

26 (1) The bodily injury or death has resulted from physical
27 contact of the automobile with the named insured or the person
28 claiming under him or with an automobile which the named insured
29 or such a person is occupying; and

30 (2) The named insured or someone on his behalf has reported
31 the accident within the time required by NRS 484.223, 484.225 or
32 484.227 to the police department of the city where it occurred ~~or~~ or,
33 if it occurred in an unincorporated area, to the sheriff of the county
34 or to the Nevada Highway Patrol ~~or~~; or

35 (g) *Used by a short-term lessee or a person by or with his
36 permission if:*

37 (1) *The short-term lessor has satisfied the requirements of*
38 *NRS 482.295 and subsection 1 of 482.305; and*

39 (2) *The short-term lessee or his permittee is not insured or*
40 *otherwise covered by a policy of insurance against liability for*
41 *damages caused by negligence in the operation of the vehicle in*
42 *amounts that are not less than the amounts required pursuant to*
43 *NRS 485.185.*



1 4. For the purposes of this section, the term “uninsured motor
2 vehicle” also includes, subject to the terms and conditions of
3 coverage, an insured other motor vehicle where:

4 (a) The liability insurer of the other motor vehicle is unable
5 because of its insolvency to make payment with respect to the legal
6 liability of its insured within the limits specified in its policy;

7 (b) The occurrence out of which legal liability arose took place
8 while the uninsured vehicle coverage required under paragraph (a)
9 was in effect; and

10 (c) The insolvency of the liability insurer of the other motor
11 vehicle existed at the time of, or within 2 years after, the occurrence.

12 ➤ Nothing contained in this subsection prevents any insurer from
13 providing protection from insolvency to its insureds under more
14 favorable terms.

15 5. If payment is made to any person under uninsured vehicle
16 coverage, and subject to the terms of the coverage, to the extent of
17 such payment the insurer is entitled to the proceeds of any
18 settlement or recovery from any person legally responsible for the
19 bodily injury as to which payment was made, and to amounts
20 recoverable from the assets of the insolvent insurer of the other
21 motor vehicle.

22 6. A vehicle involved in a collision which results in bodily
23 injury or death shall be presumed to be an uninsured motor vehicle
24 if no evidence of financial responsibility is supplied to the
25 Department of Motor Vehicles in the manner required by chapter
26 485 of NRS within 60 days after the collision occurs.

