

LAPLACA LAW, PC
LEGISLATIVE REPORT
MARCH 2, 2011

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This is a partial listing of state and federal legislative activity that we think is germane to the vehicle rental business. The report covers the past 12 months, and shows legislation passed during that period as well as legislation that remains pending as of this date.

1. VEHICLE LICENSE RECOVERY FEES

Passed Legislation

State: Alaska

Citation(s): 2010 AK. ALS 50; 2010 AK. Sess. Laws 50; 2010 AK. Ch. 50; 2009 AK. SB 272

Sponsor(s): Huggins

Last Action(s): Effective September 5, 2010

Synopsis: Rental companies must separately identify and charge vehicle licensing recovery fees and have to set the amount of the fee based on a good faith estimate of actual costs. If the fees exceed the actual costs, the company may keep the excess but adjust the fees accordingly in the next calendar year.

State: Idaho

Citation(s): 2010 ID H.B. 574, H0574 (ID state legislature website), Session Law Chapter 262

Sponsor(s): Mathews (House) and Winder (Senate)

Last Action(s): Signed by the Governor 4/1/2010 and became effective 7/1/2010

Synopsis: Imposes disclosure requirements on the collection of vehicle licensing fees and limits on the amount rental companies can charge for vehicle licensing fees.

Pending Legislation

State: Hawaii

Citation(s): 2011 HI H.B. 1240, 2011 HI S.B. 29

Sponsor(s): Souki and Ichiyama (House), Baker (Senate)

Last Action(s): Passed as amended by the House Committee on Transportation on 2/14/2011 and recommended referred to the House Committee on Finance on 2/18/2011. Referred to the Senate Committee on Transportation and International Affairs on 2/1/2011.

Synopsis: Rental companies can charge consumers a vehicle licensing recovery fee based on a good-faith estimate of their actual costs but must adjust their fees accordingly to match the costs and allows lessors of motor vehicles to adjust this fee at any time during the calendar year.

State: New Jersey

Citation(s): 2010 NJ A.B. 2087, A2087 and S1415 (NJ state legislature website)

Sponsor(s): Cryan and Diegnan

Last Action(s): Introduced and referred to Assembly Regulated Professions Committee 2/11/2010

Synopsis: Motor vehicle rental companies can recover certain costs of doing business through a vehicle registration recovery fee that must be separately stated in the rental agreement.

State: New York

Citation(s): 2009 NY A.B. 8841, 2011 NY A.B. 4708, A8841-A and S8267, A4708 and S2789 (NY state legislature website)

Sponsor(s): Pheffer (Assembly) and Klein (Senate)

Last Action(s): Referred to the Assembly's Committee on Rules 6/23/2010. Reintroduced and referred to the Assembly Committee on Consumer Affairs and Protection on 2/7/2011.

Synopsis: Rental vehicle licensing recovery fees must be the same amount as the rental company paid for vehicle licensing or be adjusted the following calendar year to correct the difference. This information must be posted on the rental company's website for customers to see annually beginning 2/28/2011.

State: Utah

Citation(s): 2011 UT S.B. 214

Sponsor(s): Adams

Last Action(s): Reported favorably as amended by the Senate Committee on Transportation and Public Utilities and Technology on 2/15/2011

Synopsis: Rental companies can charge vehicle licensing recovery fees based on a good-faith estimate of their actual costs. Additional fees and surcharges must be separately stated in the rental agreement and if the rental company charges vehicle licensing recovery fees in excess of actual costs, they must adjust their rates the following year to reflect actual costs.

State: Washington

Citation(s): 2009 WA H.B. 1779, SB 5509

Sponsor(s): Appleton

Last Action(s): Reintroduced and retained in its present status by the House Committee on Transportation 3/15/2010

Synopsis: Vehicle rental fees in addition to the rental rate and taxes need to be separately listed in the rental agreement. Rental companies must make a good faith effort to fairly calculate vehicle licensing cost recovery fees.

2. CUSTOMER FACILITY FEES

Passed Legislation

State: California

Citation(s): 2009 CA A.B. 1192

Sponsor(s): Oropeza

Last Action(s): Approved by the Governor and chaptered on 9/30/2010

Synopsis: Expands the definition of customer facility fees vehicle rental companies at airports are authorized to collect from customers as required by an airport for certain purposes to include the construction, use, and maintenance of a common-use transportation system.

State: Hawaii

Citation(s): 2009 HI S.B. 2461

Sponsor(s): English and Kokubun

Last Action(s): Became law without the Governor's signature on 7/7/2010

Synopsis: Raises the rented motor vehicle customer facility charge from \$1/day to \$4.50/day and appropriates funds out of the rented motor vehicle customer facility charge fund for multiple purposes.

Pending Legislation

None as of 3/2/11

3. ANTI-STEERING

Passed Legislation

State: New York

Citation(s): 2009 NY A.B. 4916, A4916 and S4651 (NY state legislature website)

Sponsor(s): Sampson (Senate) and Pheffer (Assembly)

Last Action(s): Signed by the Governor on 8/13/2010

Synopsis: Insurance companies providing rental vehicle reimbursement coverage cannot require the policyholder to use a particular rental company (anti-steering law).

Pending Legislation

State: Minnesota

Citation(s): 2011 MN S.B. 508, SF0508 (MN state legislature website)

Sponsor(s): Chamberlain

Last Action(s): Introduced and referred to the Commerce and Consumer Protection Committee on 2/28/2011

Synopsis: Insurers providing rental vehicle reimbursement coverage cannot require the insured to use the services of any particular rental company, location, franchisee, or other provider. The insurance company must tell the insured that they have the right to get a rental vehicle from any rental company they choose and this information must also be included separately in the appropriate section of the insurance policy. Failure of an insurer to do any of this would constitute unfair settlement practices. This law would become effective on 8/1/2011 and would apply to policies issued or renewed on or after that date. (Anti-steering law).

4. GPS/ELECTRONIC SURVEILLANCE

Pending Legislation

State: Missouri

Citation(s): 2010 MO H.B. 1558

Sponsor(s): Biermann

Last Action(s): Referred to the House Transportation Committee 5/14/2010

Synopsis: Requires rental companies who use electronic surveillance to monitor renters' use of the vehicle for purposes of charging fines or surcharges for improper use of the vehicle to inform the renter of this in a separate rental agreement and to post signs in or around the rental vehicle stating that electronic surveillance may be used for this purpose.

State: South Carolina

Citation(s): 2011 SC H.B. 3541

Sponsor(s): Hart

Last Action(s): Introduced and referred to the House Committee on Labor, Commerce, and Industry on 2/2/2011

Synopsis: Manufacturers must disclose if a car contains any recording devices or tracking systems in the owner's manual and on a window sticker. Rental companies must disclose the existence of recording devices or tracking systems in the rental agreement.

5. INSURANCE

Passed Legislation

State: South Dakota

Citation(s): 2010 SD H.B. 1037

Sponsor(s): House Committee on Commerce

Last Action(s): Signed by the Governor 3/4/2010. Became Session Law Chapter No. 233 on 6/23/2010

Synopsis: The director of the Division of Insurance can issue a limited insurance producer's license for car rental insurance.

State: New York

Citation(s): 2009 NY S.B. 7773, S7773 and A11268-A (NY state legislature website)

Sponsor(s): Breslin (Senate) and Cusick (Assembly)

Last Action(s): Signed by the Governor 10/1/2010

Synopsis: Enacts provisions providing sponsored group personal insurance and allows such insurance to be written by authorized insurers, sponsored group personal insurance includes group renters insurance and group vintage vehicle insurance.

State: Wyoming

Citation(s): 2011 WY H.B. 9

Sponsor(s): Joint Interim Committee on Corporations, Elections & Political Subdivision

Last Action(s): Signed 2/18/11; Effective 7/1/11

Synopsis: Adds "motorcycles" to definition of rental car for purposes of insurance licensing requirements.

Pending Legislation

State: Arizona

Citation(s): 2011 AZ S.B. 1401

Sponsor(s): McComish

Last Action(s): Passed by the Senate Committee on Rules as proper for consideration

Synopsis: Public liability insurance for renters of motor vehicles may only be used when there is no other form of insurance available that satisfies the minimum financial responsibility requirements.

State: California

Citation(s): 2009 CA A.B. 2059, 2011 S.B. 621

Sponsor(s): Calderon and Solorio

Last Action(s): Enrolled 9/15/2010, went to Governor 9/15/2010, vetoed by Governor 9/30/2010. Reintroduced by Calderon on 2/16/2011

Synopsis: Requires a vehicle rental company to accept service of process on behalf of the renter who resides out of this country for any claim related to harm, loss, or damage related to the use of the vehicle under certain conditions. Requires any plaintiff who elects to deliver process to the company to limit his or her recovery against the renter or rental company to the limits of the protection provided by the insurance coverage. Later versions deleted language requiring rental companies to keep the current address, telephone number, and driver's license number of the driver and any authorized or permissive users of the vehicle. Newest version provides that the Act will only remain in effect until January 1, 2015 unless a later enacted statute deletes or extends it. It also specifies that the requirement that a rental company accept service or process doesn't create any other duty or agency.

State: Louisiana

Citation(s): 2010 LA H.B. 589

Sponsor(s): Lopinto

Last Action(s): Passed by the House 5/11/2010. Assigned to the Senate Committee on Commerce, Consumer Protection, and International Affairs on 5/13/2010

Synopsis: Would clarify the amount of insurance required for vehicle rental dealers and requires their policies to be placed with companies licensed by and admitted in Louisiana.

State: Maryland

Citation(s): 2011 MD H.B. 1058, 2011 MD S.B. 711

Sponsor(s): Braveboy and Harrison (House), Klausmeier (Senate)

Last Action(s): Introduced and referred to the House Committee on Economic Matters on 2/11/2011. Reassigned to the Senate Committee on Finance on 2/10/2011.

Synopsis: The owner of a rental vehicle may satisfy an insurance requirement by maintaining a specified security that is secondary to any other coverage and must give notice of this to renters.

State: Maine

Citation(s): 2011 ME H.B. 410, LD 527 or HP 410 (ME state legislature website)

Sponsor(s): Richardson

Last Action(s): Introduced and filed as LR 1133 on 2/11/2011

Synopsis: Changes the minimum amount of insurance required for a rental vehicle from \$350,000 to the same as required for privately owned vehicles.

State: North Dakota

Citation(s): 2011 ND H.B. 1308

Sponsor(s): Vigesaa

Last Action(s): Passed by the House and sent to the Senate on 1/21/2011

Synopsis: The insurance coverage for the owner of a rental vehicle is excess coverage in the case of an accident caused by the renter unless there is no other automobile insurance policy in force at the time of the accident, in which case the owner's coverage is primary.

State: New Jersey

Citation(s): 2010 NJ A.B. 211, A211 and S318 (NJ state legislature website)

Sponsor(s): Quigley

Last Action(s): Introduced and referred to the Assembly Financial Institutions and Insurance Committee

Synopsis: Requires insurers to inform their policy holders under which circumstances the policy extends to rental vehicles in the coverage selection form, the buyer's guide, and on the insurance identification card.

State: New York

Citation(s): 2009 NY A.B. 1788, A1788 (NY state legislature website)

Sponsor(s): Calhoun

Last Action(s): Referred to the Assembly Committee on Rules 6/9/2010. Reintroduced and referred to the Assembly Committee on Insurance on 1/21/2011.

Synopsis: Insurers cannot impose a premium charge for coverage of a rental vehicle due to the loss of the insured's vehicle when the insured policy holder is between the ages of eighteen and twenty-five.

6. TAXES

Pending Legislation

State: Alaska

Citation(s): 2009 AK H.B. 364

Sponsor(s): Holmes and Petersen

Last Action(s): Passed to the House Committee on Transportation 2/23/2010

Synopsis: Would exclude motorcycles from the passenger vehicle rental tax.

State: Arkansas

Citation(s): 2011 AK H.B. 62

Sponsor(s): Holmes

Last Action(s): Went to the House Committees on Finance and Transportation on 1/18/2011

Synopsis: Would exclude motorcycles from the motor vehicle rental tax.

State: Maine

Citation(s): 2011 ME L.R. 203, 2011 ME S.B. 191, LD 611 or SP 191 (ME state legislature website)

Sponsor(s): Trahan

Last Action(s): Ordered printed by the Senate Committee on Taxation and referred to the House Committee on Taxation on 2/17/2011

Synopsis: Would require rental companies to charge a 10% sales tax on the short-term rental of a pickup truck or van that weighs less than 26,000 pounds and allow them to purchase such vehicles tax-free.

State: New Jersey

Citation(s): 2010 NJ A.B. 2033, A2033 and S2131 (NJ state legislature website)

Sponsor(s): Johnson

Last Action(s): Introduced and referred to the Assembly Budget Committee 2/8/2010

Synopsis: Decreases the motor vehicle rental surcharge from \$5/day to \$3/day.

State: Oregon

Citation(s): 2011 OR H.B. 2545

Sponsor(s): Roblan

Last Action(s): Referred to the House Committee on Transportation and Economic Development on 1/21/11

Synopsis: Establishes a tax on motor vehicle rentals that would apply to vehicles rented on or after January 1, 2012. The base rate of the tax is ten percent of the rental cost and the surcharge is two point five percent of the rental cost.

7. **THEFT**

Pending Legislation

State: Hawaii

Citation(s): 2009 HI S.B. 2063

Sponsor(s): Chun Oakland

Last Action(s): Introduced and referred to Senate Committee on Transportation, International, and Intergovernmental Affairs 1/20/2010

Synopsis: The owner of a rented vehicle can report theft of the vehicle to the police if the renter of the vehicle fails to return it within seven days of the return date mutually agreed on by the parties or specified in the rental agreement.

State: Illinois

Citation(s): 2011 IL S.B. 1819, 2011 IL H.B. 1503

Sponsor(s): Link (Senate), Brauer (House)

Last Action(s): Referred to the Senate Assignments Committee on 2/9/2011. Referred to the House Rules Committee on 2/15/2011.

Synopsis: Increases the maximum liability of a renter of a vehicle for damages resulting from loss due to theft of the vehicle from \$2,000 to the actual and reasonable costs incurred up to the fair market value of the vehicle immediately before the loss occurred, as calculated by a commonly and commercially accepted method to establish a fair market value.

State: Illinois

Citation(s): 2009 IL S.B. 3506

Sponsor(s): Munoz (Senate) and Acevedo (House)

Last Action(s): Passed by the Senate 3/17/2010, assigned to the House Committee on State Government Administration 11/10/2010

Synopsis: Would increase the amount that the owner of a rented vehicle that is stolen can recover by \$500 more than the current maximum.

8. **OTHER**

(general topic of legislation highlighted in bold-faced type)

Passed Legislation

State: California

Citation(s): 2009 CA A.B. 1871

Sponsor(s): Jones

Last Action(s): Approved by the Governor and chaptered 9/29/2010

Synopsis: Governs the insurance of **personal vehicle sharing**: such programs are legal entities qualified to do business, insurers can't classify them as commercial as long as the owner of the vehicle isn't profiting from the sharing, the owner's insurance cannot deny them

based on the sharing program but can limit liability and coverage when someone other than the owner is operating the vehicle.

State: Louisiana

Citation(s): 2010 LA H.B. 1189, Act No. 987

Sponsor(s): Waddell (House) and Walsworth (Senate)

Last Action(s): Became effective 8/15/2010

Synopsis: Defines terms related to the **sale of rental vehicles**, allows and sets the guidelines for “as-is” sales of rental vehicles. The sale of rental vehicles must be done on premises approved by the Louisiana Used Motor Vehicle Commission unless the seller obtains an off-premises license from the Commission. The Act also describes the licensing requirements, application process, and the amount in bonds a dealer must supply.

Pending Legislation

State: Arizona

Citation(s): 2011 AZ H.B. 2351

Sponsor(s): Farnsworth

Last Action(s): Passed by the House on 2/14/2011, assigned to the Senate Committees on Judiciary and Rules on 2/16/2011

Synopsis: **Unlawful failure to return a rented motor vehicle** is a class 5 felony.

State: Hawaii

Citation(s): 2009 HI H.B. 869

Sponsor(s): Herkes

Last Action(s): Carried over to the 2010 regular session 5/11/2009, passed by the House and recommitted to the Senate Conference Committee 4/27/2010

Synopsis: When the owner of a rental vehicle receives **notice** that the renter has received a **traffic violation** while operating the rented vehicle, the owner must provide the court with the name and address of the renter within 45 days of the notice.

State: Hawaii

Citation(s): 2009 HI H.B. 1389

Sponsor(s): Souki and Awana

Last Action(s): Carried over to the 2010 regular session 5/11/2009

Synopsis: **Vehicle rental companies can register their vehicles every two years** and receive a credit for the balance of their registration upon surrender of the registration certificate.

State: Hawaii

Citation(s): 2009 HI S.B. 1941

Sponsor(s): Thielen

Last Action(s): Introduced and referred to House Committee on Transportation 1/20/2010

Synopsis: Rental companies can include **parking citation and traffic violation fines** known to them at the time the renter returns the vehicle in the final settlement of the lease agreement and provide the court with the renter's contact information, at which time they are relieved from any responsibility for the citation and cannot be charged any administrative fees by the court.

State: Louisiana

Citation(s): 2010 LA H.B. 691

Sponsor(s): Jones

Last Action(s): Subject to call for House final passage 4/21/2010

Synopsis: Increases the fees for **used motor vehicle dealer licenses** and expands the definition of a used motor vehicle dealer to include rental motor vehicle dealers.

State: Maryland

Citation(s): 2011 MD H.B. 577

Sponsor(s): Anderson

Last Action(s): Introduced and referred to the House Committee on Environmental matters on 2/9/2011

Synopsis: **Allows counties** or municipalities to establish by ordinance an alternate enforcement program for **parking tickets** and sets out requirements for an ordinance adopted under the Act, including judicial review, certain remedies, and that the owner of a rental vehicle is not liable for penalties except under certain circumstances.

State: Maryland

Citation(s): 2011 MD H.B. 1265

Sponsor(s): Baltimore County Delegation

Last Action(s): First Reading House Rules and Executive Nominations on 2/22/11

Synopsis: Authorizes **Baltimore County** to establish by ordinance an alternate enforcement program for **parking tickets** and sets out requirements for an ordinance adopted under the Act, including judicial review, certain remedies, and that the owner of a rental vehicle is not liable for penalties except under certain circumstances.

State: New York

Citation(s): 2009 NY A.B. 379, A379 (NY state legislature website)

Sponsor(s): Jeffries

Last Action(s): Referred to the Assembly Committee on Codes 2/23/2010. Reintroduced and referred to the Assembly Committee on Economic Development on 1/19/2011.

Synopsis: Rental companies cannot charge renters **refueling fees** in excess of the highest retail price of gas within a half-mile radius of their facility and will be fined \$500 for each violation.

State: New York

Citation(s): 2011 NY A.B. 771, A771 (NY state legislature website)

Sponsor(s): Gantt

Last Action(s): Introduced and referred to the Assembly Committee on Correction

Synopsis: Defines “**authorized driver**” to include the renter, the renter’s spouse, anyone who operates the vehicle in an and an emergency situation to a medical facility, and anyone expressly listed as an authorized driver in the rental agreement, provided the potential authorized driver is licensed and of age. Rental companies **cannot require authorized drivers to own a credit card** in order to operate the vehicle or enter into the rental agreement.

State: New York

Citation(s): 2011 NY A.B. 1764, A1764 (NY state legislature website)

Sponsor(s): Pheffer

Last Action(s): Introduced and referred to the Assembly Committee on Consumer Affairs and Protection on 1/11/2011

Synopsis: **Prohibits** rental companies to **discriminate on the basis of age, provided the potential renter is at least eighteen, location of residence, or past driving history**. Rental companies cannot refuse to rent, charge additional fees, or impose any additional conditions on these bases.

State: New York

Citation(s): 2011 NY A.B. 3976, A3976

Last Action(s): Morelle

Date(s): Introduced and referred to the Assembly Committee on Ways and Means on 1/31/2011

Synopsis: Would **exclude from sales receipts** the rental or lease of motor vehicles used in connection with the **production of a film for sale**.

State: New York

Citation(s): 2011 NY A.B. 4876, A4876 or S2532 (NY state legislature website)

Sponsor(s): Simotas (Assembly) and Gianaris (Senate)

Last Action(s): Introduced and referred to the Assembly Committee on Governmental Operations on 2/8/2011

Synopsis: Would require anyone in the business of **renting trucks, vans, or trailers to the public to register with the state**. Also directs the Department of Homeland Security and Emergency Services to establish rules and regulations regarding truck rental safety.

State: New York

Citation(s): 2009 NY S.B. 3543, S3543-A (NY state legislature website)

Sponsor(s): Stavisky

Last Action(s): Amended and recommitted to the Consumer Protection Committee 5/11/2010

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Synopsis: Rental companies **cannot put a block on customers' credit or debit cards** prior to the expiration of the rental period unless they disclose the amount and duration of the block to the customer.

State: New York

Citation(s): 2011 NY S.B. 2045, S2045 (NY state legislature website)

Sponsor(s): Kruger

Last Action(s): Introduced and referred to the Senate Committee on Consumer Protection on 1/18/2011

Synopsis: Would require rental vehicles to be equipped with a **full size spare tire** upon the request of the renter.

State: New York

Citation(s): 2011 NY S.B. 2653, S2653 (NY state legislature website)

Sponsor(s): Kruger

Last Action(s): Introduced and referred to the Senate Committee on Consumer Protection on 1/27/2011

Synopsis: Rental companies cannot charge customers **refueling fees** in excess of ten percent higher than the average price of gas within a five mile radius of the rental facility's location.

State: South Carolina

Citation(s): 2011 SC H.B. 3101

Sponsor(s): Gilliard

Last Action(s): Referred to the House Committee on Labor, Commerce, and Industry

Synopsis: Rental companies cannot use the **credit report** of a potential renter to decide whether or not to rent the vehicles or to determine the rental rate that they will charge.

State: Texas

Citation(s): 2011 TX H.B. 1225

Sponsor(s): Menendez

Last Action(s): Introduced on 2/9/2011

Synopsis: Rental companies must post notice of the **child passenger safety laws** in a conspicuous place at each location and is required to have child passenger safety systems available for renters to use.

State: Washington

Citation(s): 2009 WA H.B. 2198

Sponsor(s): Hudgins

Last Action(s): Reintroduced and retained in its present status by the House Committee on Transportation 3/15/2010

Synopsis: Requires rental car businesses to have a sufficient number of **child restraint systems** available to their customers; requires a rental car business to have a sufficient number of child restraint systems available at all times to meet the reasonably expected

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demand by rental car customers, and to provide the child restraint systems for no additional charge.