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SENATE BILL 111

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY
John M. Sapien

AN ACT

RELATING TO RENTAL CARS; REQUIRING A RENTAL CAR COMPANY TO
ENTER INTO A CONCESSION FEE AGREEMENT WITH A MUNICIPALITY OR
COUNTY TO OPERATE AT THE MUNICIPAL OR COUNTY AIRPORT; DEFINING
"CAR FACILITATION COMPANY" IN THE RENTAL CAR INSURANCE LIMITED
PRODUCER LICENSE ACT; ESTABLISHING REQUIREMENTS FOR A CAR
FACILITATION COMPANY IN THAT ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of the Municipal Airport Law is
enacted to read:

"[NEW MATERIAL] CONCESSION FEE FOR A RENTAL CAR COMPANY TO
OPERATE AT MUNICIPAL AIRPORT.--

A. To operate at a municipal airport, a rental car
company shall enter into a concession fee agreement with the
municipality. The amount of the concession fee shall:

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1 (1) bear a reasonable relation to the
2 regulation of the company operating at the airport;

3 (2) be established with due regard to the
4 property and improvements used and the expenses of operation to
5 the municipality; and

6 (3) be uniform for the same class of rental
7 car company or service.

8 B. As used in this section, "rental car company"
9 means "rental car company" as used in the Rental Car Insurance
10 Limited Producer License Act."

11 SECTION 2. [NEW MATERIAL] CONCESSION FEE FOR A RENTAL CAR
12 COMPANY TO OPERATE AT COUNTY AIRPORT.--

13 A. To operate at a county airport, a rental car
14 company shall enter into a concession fee agreement with the
15 county. The amount of the concession fee shall:

16 (1) bear a reasonable relation to the
17 regulation of the company operating at the airport;

18 (2) be established with due regard to the
19 property and improvements used and the expenses of operation to
20 the county; and

21 (3) be uniform for the same class of rental
22 car company or service.

23 B. As used in this section, "rental car company"
24 means "rental car company" as used in the Rental Car Insurance
25 Limited Producer License Act.

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1 SECTION 3. Section 59A-32A-1 NMSA 1978 (being Laws 2001,
2 Chapter 94, Section 1) is amended to read:

3 "59A-32A-1. SHORT TITLE.--~~[This act]~~ Chapter 59A, Article
4 32A NMSA 1978 may be cited as the "Rental Car Insurance Limited
5 Producer License Act"."

6 SECTION 4. Section 59A-32A-2 NMSA 1978 (being Laws 2001,
7 Chapter 94, Section 2) is amended to read:

8 "59A-32A-2. DEFINITIONS.--As used in the Rental Car
9 Insurance Limited Producer License Act:

10 A. "car facilitation company" means a legal entity
11 qualified to do business in this state engaged in the business
12 of facilitating the use, rental of sharing of privately owned
13 passenger motor vehicles for noncommercial use by individuals
14 within this state, but "car facilitation company" does not
15 include the registered owner of the vehicle involved in the car
16 facilitation transaction facilitated by a car facilitation
17 company;

18 B. "car facilitation transaction" means the use of
19 a privately owned passenger motor vehicle by a person other
20 than the vehicle's registered owner as facilitated by a car
21 facilitation company;

22 ~~[A.]~~ C. "rental agreement" means a written master,
23 corporate, group or individual agreement setting forth the
24 terms and conditions governing the use of a rental car rented
25 or leased by a rental car company;

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1 ~~[B-]~~ D. "rental car" means a motor vehicle that is
2 intended to be rented or leased for a period of ninety
3 consecutive days or less by a driver who is not required to
4 possess a commercial driver's license to operate the motor
5 vehicle and the motor vehicle is one of the following:

6 (1) a private passenger motor vehicle,
7 including a passenger van, minivan or sports utility vehicle;
8 or

9 (2) a cargo vehicle, including a cargo van,
10 pickup truck or truck with a gross vehicle weight of less than
11 twenty-six thousand pounds;

12 ~~[G-]~~ E. "rental car agent" means a rental car
13 company that is licensed to offer, sell, bind, effect, solicit
14 or negotiate rental car insurance;

15 ~~[D-]~~ F. "rental car company" means a person or
16 entity:

17 (1) in the business of renting rental cars to
18 the public, including a franchisee; and

19 (2) that is a car facilitation company;

20 ~~[E-]~~ G. "rental car insurance" means insurance sold
21 in connection with and incidental to the rental of vehicles,
22 whether at the rental office or by a preselection of coverage
23 in master, corporate, group or individual agreements, that is
24 nontransferable, does not apply to any vehicle other than the
25 rental car that is the subject of the rental agreement and is

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1 limited to the following kinds of insurance:

2 (1) personal accident insurance for renters
3 and other rental car occupants, for accidental death or
4 dismemberment and reimbursement for medical expenses resulting
5 from an accident that occurs with the rental car during the
6 rental period;

7 (2) liability insurance that, at the exclusive
8 option of the rental car company, may include uninsured and
9 underinsured motorist coverage, whether offered separately or
10 in combination with other liability insurance, and that
11 provides protection to renters and other authorized drivers of
12 rental cars for liability arising from the operation of the
13 rental car during the rental period;

14 (3) personal effects insurance that provides
15 coverage to renters and other vehicle occupants for loss of, or
16 damage to, personal effects in the rental car during the rental
17 period;

18 (4) roadside assistance and emergency sickness
19 insurance; and

20 (5) any other travel or vehicle-related
21 insurance coverage that a rental car company may offer in
22 connection with and incidental to the rental of a rental car,
23 as may be approved by the superintendent of insurance;

24 [~~F-~~] H. "rental car endorsee" means a rental car
25 agent employee who offers, sells, binds, effects, solicits or

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1 negotiates rental car insurance; and

2 ~~[G-]~~ I. "renter" means a person who obtains the use
3 of a vehicle from a rental car company under the terms of a
4 rental agreement."

5 **SECTION 5.** A new section of the Rental Car Insurance
6 Limited Producer License Act is enacted to read:

7 "[NEW MATERIAL] FINANCIAL RESPONSIBILITY OF CAR
8 FACILITATION COMPANIES.--

9 A. During the period of a car facilitation
10 transaction and while the car being used in the car
11 facilitation transaction is under the operation and control of
12 a person other than the vehicle's registered owner, the car
13 facilitation company that facilitated the transaction shall be
14 considered the owner of the vehicle and shall be financially
15 responsible for that vehicle as required by the Mandatory
16 Financial Responsibility Act.

17 B. If any loss or injury occurs at any time that a
18 vehicle is under the operation and control of a person other
19 than the vehicle's registered owner and while it is part of a
20 car facilitation transaction, the car facilitation company that
21 facilitated the transaction shall assume all liability,
22 including any claims of negligent entrustment, of the vehicle's
23 registered owner and shall be considered the vehicle's owner
24 for all purposes.

25 C. A car facilitation company continues to be

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1 liable under this section until the vehicle is returned to a
2 location designated by the company, and one of the following
3 occurs:

4 (1) the expiration of the car facilitation
5 transaction period established for the vehicle;

6 (2) the intent to terminate the vehicle's car
7 facilitation transaction is verifiably communicated to the
8 company; or

9 (3) the vehicle's registered owner takes
10 possession and control of the vehicle.

11 D. In the event a dispute over possession and
12 control of the vehicle occurs in connection with a loss or
13 injury, the car facilitation company shall initially assume
14 liability for any claim in which the dispute exists and seek
15 indemnification if it is later determined that the registered
16 owner was in possession and control of the vehicle at the time
17 of loss or injury.

18 E. At no time shall the registered owner of the
19 vehicle or the owner's insurer be held liable for any loss,
20 injury, damage or violation involving the vehicle that occurs
21 during a car facilitation transaction unless it is shown that
22 the registered owner was in operation or control of the vehicle
23 at the time of the loss, injury, damage or violation.

24 F. Nothing in this section shall limit the
25 liability of the car facilitation company for any acts or

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1 omissions by the company that cause loss or injury to any
2 person as a result of the use or operation of a vehicle during
3 a car facilitation transaction.

4 G. Pursuant to Paragraph (3) of Subsection C of
5 Section 66-5-205.3 NMSA, a registered owner's insurer may
6 exclude from a motor vehicle insurance policy any and all
7 coverage and the duty to defend or indemnify for any claim made
8 in connection with a car facilitation transaction.

9 H. A registered owner's automobile insurer that
10 defends or indemnifies a registered owner or any other person
11 insured under the motor vehicle insurance policy for a claim,
12 made in connection with a car facilitation transaction, that is
13 later determined to be excluded by the policy shall have the
14 right to seek contribution against the car facilitation
15 transaction company or the company's insurer if the claim is:

16 (1) made against the registered owner of the
17 vehicle or renter for loss or injury that occurs during a car
18 facilitation transaction; and

19 (2) excluded under the terms of the registered
20 owner's motor vehicle insurance policy.

21 I. A registered owner's automobile insurer may deny
22 issuance of, cancel, void, terminate, rescind or deny renewal
23 of a motor vehicle insurance policy covering a vehicle that has
24 been made available for a car facilitation transaction if the
25 applicant for or policyholder of the motor vehicle insurance

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1 policy fails to provide complete and accurate information about
2 the use of the vehicle in any car facilitation transaction, as
3 requested by the automobile insurer during the application or
4 renewal process for the motor vehicle insurance policy.

5 J. Nothing in this section:

6 (1) requires any registered owner's motor
7 vehicle insurance policy to provide primary or excess coverage
8 for any loss or injury in connection with a car facilitation
9 transaction; or

10 (2) precludes an automobile insurer from
11 providing coverage for a vehicle while that vehicle is made
12 available or is being used for a car facilitation transaction
13 if the automobile insurer elects to offer such coverage by
14 contract or endorsement to a motor vehicle insurance policy.

15 K. The car facilitation company shall collect and
16 verify records pertaining to the use of a vehicle, including
17 times used, fees paid by a renter and revenues received by the
18 vehicle's registered owner, and provide that information upon
19 request to the registered owner of the vehicle, the registered
20 owner's automobile insurer or the automobile insurer of any
21 person operating the vehicle during the car facilitation
22 transaction when a claim has been made against a person or
23 entity identified in this subsection, and the car facilitation
24 company shall retain the records for a reasonable period of
25 time after the expiration of the applicable personal injury

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1 statute of limitations.

2 L. The car facilitation company shall have sole
3 responsibility for any equipment, such as a global positioning
4 system or other special equipment, that is put in or on the
5 vehicle to monitor or facilitate a car facilitation
6 transaction, and shall agree to indemnify and hold harmless the
7 registered owner of the vehicle for any damage to or theft of
8 such equipment.

9 M. For any vehicle to be made available for a car
10 facilitation transaction, the car facilitation company shall:

11 (1) verify that the vehicle does not have any
12 safety recalls pending for which repairs have not been made;
13 and

14 (2) notify the registered owner of the vehicle
15 of the requirements of Subsection N of this section.

16 N. If the registered owner of a vehicle that is
17 intended to be made available for a car facilitation
18 transaction has received a notice of safety recall for the
19 vehicle, the registered owner shall not make the vehicle
20 available through the car facilitation company for any car
21 facilitation transaction until the required safety recall
22 repairs have been made; provided that if the registered owner
23 of the vehicle receives notice of a safety recall while the
24 vehicle is available or in use through a car facilitation
25 transaction, the registered owner shall notify the car

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1 facilitation company to remove the vehicle from availability
2 for car facilitation transactions as soon as practicably
3 possible, but no later than seventy-two hours after receiving
4 the notice of safety recall, and shall not allow the vehicle to
5 be used in any car facilitation transaction until the required
6 safety recall repairs have been made."

7 SECTION 6. EFFECTIVE DATE.--The effective date of the
8 provisions of this act is July 1, 2019.

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