

Business, Transportation and Housing Agency
Office of Tourism
Title 10, Chapter 7.65, Sections 5350 – 5358.1
Passenger Car Rental Industry Tourism Assessment

INITIAL STATEMENT OF REASONS

SPECIFIC PURPOSE OF THE REGULATION

The proposed regulation will establish the Passenger Car Rental Industry Tourism Assessment. The regulation will identify the affected car rental business locations, and shall specify how the rate is determined and terms of payment. The proposed regulation also provides for a form that shall be submitted with all payments.

NECESSITY

Government Code section 13995.20 establishes a fifth industry category in the tourism assessment program, the Passenger Car Rental Industry. Section 5352 has been amended to delete passenger car rentals from the Transportation and Travel Services Industry segment to add it as a new industry segment.

Government Code section 13995.65.5 provides for the collection of the passenger car rental industry assessment by the car rental companies from each rental transaction that commences at either an airport or at a hotel or other overnight lodging. A new section 5357 defines the passenger car rental companies that will be affected by this new assessment program. It is necessary to repeat this information in the regulation to centralize the program requirements.

Government Code section 13995.92 specifies that the passenger car rental industry will generate funding for the California Travel and Tourism Commission, minus amounts reverted to the general fund pursuant to Item 0520-495 of Section 2 of the Budget Act of 2006, for a spending plan for the 2006/07 fiscal year of twenty-five million dollars (\$25,000,000), and for the 2007/08 fiscal year of fifty million dollars (\$50,000,000). A new section 5357.1 establishes the process used to determine the appropriate assessment rate each year in order to achieve the targeted budget. This assessment rate may change each year because of several variables: the state general funding for a given fiscal year, the assessment revenue generated from the regular tourism assessment program, and the economy in general which affects the number of car rentals and the revenue. Because of this, the proposal requires the passenger car rental companies to provide the previous year's revenue in order for the Office to have the most current data to calculate the rate. This data, along with the State general funds allocated for the given year, and the estimated tourism assessment program revenue will all be considered when calculating the "Assessment Rate".

The regulation also provides for the next years calculation to be adjusted for any excess or deficit of the \$50 million required funding in the next fiscal year. The program's intent is to keep the budget at the \$50 million as provided by statute.

Section 5357.2 provides for a monthly payment plan for the assessment program. The monthly payment plan is consistent with the airport concession fee remittance that the passenger car rental industry already complies with at all airport locations and therefore is compatible with their accounting systems. An assessment form specific to this industry assessment was developed to insure that all the payments are collected consistently and are credited to the correct accounts by the Office. The Assessment Form, OT-100, requires the company to provide its Tourism Identification number, name, address, the period of time for which this form is submitted, its monthly revenue and the amount due. It also requires the authorized representative to certify that the information is correct. The form indicates that the payment is due by the 25th of the following month as provided in section 5357.2. The Office will provide the passenger car rental companies with forms pre-printed with the information on file, such as ID number, name and address for their convenience.

Government Code section 13995.54 provides in part that all information pertaining to assessed businesses obtained by the secretary pursuant to this chapter is confidential and shall not be disclosed. Section 5358 provides for this confidentiality in the regulation. It is critical that this information not be released because of the competitive nature of the industry.

Section 5358.1 provides for the continuation of this program until the next industry referendum in 2013. At that time, the assessed businesses, including the passenger car rental industry, shall vote on the termination or continuation of the Commission as provided in Government Code section 13995.60(b). This is an industry agreement between the passenger car rental companies and the California Travel and Tourism Commission. This section also provides for a termination of the passenger car rental industry tourism assessment if the industry loses its ability to pass the assessment on to the consumer as now provided in Civil Code section 1936.01. If the ability to pass the assessment on to the consumer was prohibited, the passenger car rental industry would have to pay the assessment from its revenues and it would affect net profit. This was not the intent of the legislation.

Section 5350 provides definitions of terms used in the Tourism Assessment Program. The definitions have been editorially amended to correct Government Code sections and to delete any obsolete terms. Specific to the Passenger Car Rental Industry, three new definitions have been added. The definition of Assessment Rate provides for the mathematical calculation method the Office of Tourism uses to determine the Passenger Car Rental Industry Assessment Rate. The Passenger Car Rental Industry is defined as a company renting passenger vehicles at an airport location or accommodation location as provided for by Government Code section 13995.65.5. Vehicle is defined in the Vehicle Code and is referenced in the definition. It is necessary to distinguish the types of motor vehicles rented by various car rental companies because only passenger car rentals are affected by this regulation. Revenue is defined as all paid time and/or mileage charges only, as shown on each concluded rental agreement, net of any discount at California Airport Locations and Accommodation locations. The definition of Revenue is a term used in its industry and clear to the persons affected. The definition of California Travel

and Tourism Commission is added to this section and the definition of the Office of Tourism is amended.

The regulations in Chapter 7.65 have also been amended to divide it into new subchapters to distinguish between the two assessment programs and the referendum process.

The Tourism Marketing Act was relocated within the Government Code in 2003, but the regulations were never amended to cite the correct sections. These regulations will amend all incorrect Government Code section references in the amended sections.

TECHNICAL, THEORETICAL, AND /OR EMPIRICAL STUDIES, REPORTS, OR DOCUMENTS

The Office did not rely upon any technical, theoretical, or empirical studies, reports, or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE OFFICE'S REASON FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented to or considered by the Office. This regulation implements Government Code section 13995.20, 13995.65.5, and 13995.92.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Office has not identified any alternatives that would lessen any adverse impact on small business.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The office has determined that the proposed regulations would not have a significant adverse economic impact on businesses. These regulations only affect the passenger car rental industry.