

January 13, 2014 Advisory Letter — Opinion Request – Fees Charged by Car Rental Companies

The Honorable Rick Miera
New Mexico State Representative
1011 Forrester NW
Albuquerque, NM 87102

Re: Opinion Request – Fees Charged by Car Rental Companies

Dear Representative Miera:

You requested our advice regarding charges for vehicle licensing and title costs that car rental companies recoup from their customers. Specifically, you asked whether this practice is a per se violation of New Mexico law. As discussed below, it appears that New Mexico law does not address or regulate fees charged by rental car businesses to recover their licensing and title costs. Thus, the practice is not a per se violation of New Mexico law.

According to your request, car rental companies commonly charge their customers a fee intended to recoup vehicle license, registration, title and similar costs (“vehicle licensing costs”) the companies incur in the operation of their businesses. You state that the companies generally inform their customers of the fees at the time of the rate quote and limit the amount of the fee to the actual costs incurred by the companies.

Based on our review of New Mexico statutes, it appears that there is no law addressing or regulating a rental car company’s authority to recoup vehicle licensing costs from its customers. Accordingly, the practice of charging customers a fee intended to recover vehicle licensing costs, by itself, is not a per se violation of New Mexico law. Our conclusion assumes that the rental car companies are otherwise operating in compliance with applicable New Mexico law, including provisions protecting consumers from unfair and deceptive business practices. See NMSA 1978, ch. 57, art. 12 (1967, as amended through 2009).

In the course of researching your questions, we found that several states have laws addressing the authority of rental car businesses to impose vehicle cost recovery fees similar to those you describe. Typically, the laws describe the costs that car rental companies may recover from their customers, require the fees to be separately stated in the rental agreements and require that the fees reflect the actual costs incurred by the rental companies. See, e.g., Alaska Stat. § 45.45.455 (2010), Idaho Code Ann. § 49-451 (2010), Ky. Rev. Stat. Ann. § 281.687 (West 2008), Mass. Gen. Laws, ch. 90, § 32E ¾ (2008), Utah Code Ann. § 13-48-103 (2011), Wash. Rev. Code § 47.04.310 (2009). Although you state that rental car companies operating in New Mexico generally disclose their cost recovery fees to customers and limit the fees to the companies’ actual vehicle licensing costs, the New Mexico Legislature might consider whether consumer protection measures similar to those adopted in other states might be

advisable to insure that the companies are disclosing and charging the fees appropriately.

If we may be of further assistance, please let us know. Your request to us was for a formal Attorney General's Opinion on the matters discussed above. Such an opinion would be a public document available to the general public. Although we are providing you our legal advice in the form of a letter instead of an Attorney General's Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide copies of this letter to the public.

Sincerely,

ELIZABETH A. GLENN
Deputy Attorney General