

By: Nichols

S.B. No. 1498

A BILL TO BE ENTITLED

AN ACT

relating to the collection, remittance, and administration of the tax on gross rental receipts on motor vehicles rented through a marketplace rental provider; imposing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 152.001(8), Tax Code, is amended to read as follows:

(8) "Gross rental receipts" means value received or promised as consideration to the owner of a motor vehicle or the marketplace rental provider for rental of the vehicle, but does not include:

(A) separately stated charges for insurance;

(B) charges for damages to the motor vehicle occurring during the rental agreement period;

(C) separately stated charges for motor fuel sold by the owner of the motor vehicle; or

(D) discounts.

SECTION 2. Subchapter A, Chapter 152, Tax Code, is amended by adding Section 152.0011 to read as follows:

Sec. 152.0011. MARKETPLACE RENTAL PROVIDER. (a) Subject to Subsection (b), in this chapter, "marketplace rental provider" means a person who:

(1) operates any type of marketplace, including a store with a physical location, an Internet website, a software or

1 mobile application, or a catalog, by which the owner of a motor
2 vehicle lists, markets, or advertises the owner's motor vehicle for
3 rental by others for consideration in this state;

4 (2) facilitates the rental of the owner's motor
5 vehicle by another person by communicating between the owner and
6 the other person the terms of the agreement and the acceptance of
7 those terms; and

8 (3) directly or indirectly collects or processes the
9 receipts or rental charges paid by the person renting the motor
10 vehicle for the owner of the motor vehicle.

11 (b) The term marketplace rental provider does not include a
12 person who lists, markets, or advertises motor vehicles for rental
13 by others if:

14 (1) the person lists, markets, or advertises only
15 motor vehicles registered in the manner provided under Section
16 [152.061](#); and

17 (2) the owners of the motor vehicles described by
18 Subdivision (1) collect, report, and pay the tax imposed under
19 Section [152.026](#) to the comptroller in the same manner as the tax
20 under Chapter [151](#) is collected, reported, and paid by a retailer
21 under that chapter.

22 SECTION 3. Section [152.026](#), Tax Code, is amended by
23 amending Subsection (b) and adding Subsections (b-1) and (b-2) to
24 read as follows:

25 (b) Except as provided by Subsections (b-1) and (b-2), the
26 [The] tax rate is 10 percent of the gross rental receipts from the
27 rental of a rented motor vehicle for 30 days or less and [6.25](#)

1 [6-1/4] percent of the gross rental receipts from the rental of a
2 rented motor vehicle for longer than 30 days.

3 (b-1) The tax rate is 6.25 percent of the gross rental
4 receipts from the rental of a rented motor vehicle if:

5 (1) the motor vehicle is rented through a marketplace
6 rental provider; and

7 (2) Subsection (b-2) does not apply to the motor
8 vehicle.

9 (b-2) The tax rate is 10 percent of the gross rental
10 receipts from the rental of a rented motor vehicle if:

11 (1) the motor vehicle is rented through a marketplace
12 rental provider;

13 (2) the motor vehicle is rented for 30 days or less;
14 and

15 (3) either:

16 (A) the motor vehicle is registered in the manner
17 provided under Section 152.061; or

18 (B) the owner of the motor vehicle rents at least
19 five different motor vehicles within any 12-month period.

20 SECTION 4. Section 152.045, Tax Code, is amended to read as
21 follows:

22 Sec. 152.045. COLLECTION OF TAX ON GROSS RENTAL RECEIPTS.

23 (a) Except as otherwise provided by this section or another
24 provision of [~~inconsistent with this chapter and rules adopted~~

25 ~~under~~] this chapter, an owner of a motor vehicle subject to the tax

26 on gross rental receipts shall collect, report, and pay the tax to

27 the comptroller in the same manner as the tax under Chapter 151

1 ~~[Limited Sales, Excise and Use Tax]~~ is collected, reported, and
2 paid by a retailer ~~[retailers]~~ under that chapter ~~[Chapter 151 of~~
3 ~~this code]~~.

4 (a-1) Except as provided by Subsection (a-2), if the motor
5 vehicle is rented through a marketplace rental provider, the
6 marketplace rental provider shall collect, report, and pay the tax
7 on gross rental receipts to the comptroller in the manner
8 prescribed by Subsection (a). The marketplace rental provider
9 shall certify to the owner of a motor vehicle rented through the
10 provider that the provider has collected, reported, and paid the
11 tax. An owner who in good faith accepts the marketplace rental
12 provider's certification is not required to collect, report, or pay
13 the tax.

14 (a-2) The owner of a motor vehicle rented through a
15 marketplace rental provider may elect to report and pay the tax on
16 gross rental receipts to the comptroller. If the owner elects to
17 report and pay the tax under this subsection:

18 (1) the owner must:
19 (A) register as required by Section 152.065; and
20 (B) inform the marketplace rental provider in
21 writing of the election; and

22 (2) the marketplace rental provider shall forward the
23 tax collected by the provider to the owner.

24 (b) The owner of a motor vehicle subject to the tax on gross
25 rental receipts or, if the motor vehicle is rented through a
26 marketplace rental provider, the provider, shall add the tax to the
27 rental charge, and when added, the tax is:

1 (1) a part of the rental charge;

2 (2) a debt owed to the motor vehicle owner or
3 marketplace rental provider, as applicable, by the person renting
4 the vehicle; and

5 (3) recoverable at law in the same manner as the rental
6 charge.

7 (c) The comptroller may proceed against a person renting a
8 motor vehicle, the owner of the rented motor vehicle, or the
9 marketplace rental provider, as applicable, for any unpaid gross
10 rental receipts tax.

11 (d) In addition to any other penalty provided by law, the
12 owner of a motor vehicle subject to the tax on gross rental receipts
13 who is required to file a report as provided by this chapter and who
14 fails to timely file the report shall pay a penalty of \$50. If the
15 motor vehicle is rented through a marketplace rental provider and
16 the provider is required to file a report under this chapter but
17 fails to timely file the report, the provider shall pay a penalty of
18 \$50. The penalty provided by this subsection is assessed without
19 regard to whether the taxpayer subsequently files the report or
20 whether any taxes were due from the taxpayer for the reporting
21 period under the required report.

22 SECTION 5. Section 152.046(b), Tax Code, is amended to read
23 as follows:

24 (b) An owner of a motor vehicle on which the motor vehicle
25 sales or use tax has been paid who subsequently uses the vehicle for
26 rental [~~shall collect the gross rental receipts tax imposed by this~~
27 ~~chapter from the person renting the vehicle. The owner~~] may credit

1 an amount equal to the motor vehicle sales or use tax paid by the
2 owner to the comptroller against the amount of gross rental
3 receipts due from the owner. This credit is not transferable and
4 cannot be applied against tax due and payable from the rental of
5 another vehicle belonging to the same owner.

6 SECTION 6. Section 152.063(b), Tax Code, is amended to read
7 as follows:

8 (b) Except as otherwise provided by Section 111.0041:

9 (1) the ~~[The]~~ owner of a motor vehicle used for rental
10 purposes shall keep for at least four years after the purchase of
11 the ~~[a]~~ motor vehicle records and supporting documents containing
12 ~~[the following]~~ information on the amount of:

13 (A) ~~[(1)]~~ total consideration for the motor
14 vehicle; and

15 (B) ~~[(2)]~~ motor vehicle sales or use tax paid on
16 the motor vehicle; and

17 (2) the owner of a motor vehicle used for rental
18 purposes and, if the motor vehicle is rented through a marketplace
19 rental provider, the provider, shall keep for at least four years
20 supporting documents containing information on the amount of:

21 (A) ~~[(3)]~~ gross rental receipts received by the
22 owner or provider, as applicable, from the rental of the motor
23 vehicle; and

24 (B) ~~[(4)]~~ gross rental receipts tax paid to the
25 comptroller by the owner or provider, as applicable, on each motor
26 vehicle used for rental purposes by the owner.

27 SECTION 7. Section 152.065, Tax Code, is amended to read as

1 follows:

2 Sec. 152.065. REQUIRED PERMITS. A motor vehicle owner or a
3 marketplace rental provider required to collect, report, and pay a
4 tax on gross rental receipts imposed by this chapter and a seller
5 required to collect, report, and pay a tax on a seller-financed sale
6 shall register as a retailer with the comptroller in the same manner
7 as is required of a retailer under Subchapter F, Chapter 151.

8 SECTION 8. Subchapter D, Chapter 152, Tax Code, is amended
9 by adding Section 152.070 to read as follows:

10 Sec. 152.070. MARKETPLACE RENTAL PROVIDER'S REPORT. A
11 marketplace rental provider shall send to the owner of a motor
12 vehicle that is rented through the provider a report each month that
13 shows the amount of tax collected, reported, and paid for each motor
14 vehicle that the owner owns and that is rented through the provider.
15 The provider is not required to send the report to an owner who
16 elects to report and pay the tax under Section 152.045(a-2).

17 SECTION 9. This Act applies only to a rental agreement for
18 the rental of a motor vehicle entered into on or after the effective
19 date of this Act. A rental agreement for the rental of a motor
20 vehicle entered into before the effective date of this Act is
21 governed by the law in effect on the date the rental agreement was
22 entered into, and the former law is continued in effect for the
23 collection of taxes due and for civil and criminal enforcement of
24 the liability for those taxes.

25 SECTION 10. This Act takes effect October 1, 2023.