86R25607 GRM-F

By:  Nevárez, Rodriguez, Moody H.B. No. 4362

Substitute the following for H.B. No. 4362:

By:  Ortega C.S.H.B. No. 4362

A BILL TO BE ENTITLED

AN ACT

relating to peer-to-peer vehicle sharing platforms and the applicability of certain taxes to those platforms.

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

SECTION 1.  Subtitle C, Title 5, Business & Commerce Code, is amended by adding Chapter 113 to read as follows:

CHAPTER 113. PEER-TO-PEER VEHICLE SHARING PLATFORMS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 113.001.  DEFINITIONS. In this chapter:

(1)  "Peer-to-peer vehicle sharing" means the authorized use of a personal motor vehicle by an individual other than the vehicle's owner through a peer-to-peer vehicle sharing platform.

(2)  "Peer-to-peer vehicle sharing platform" means a platform that is in the business of connecting personal motor vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration.

Sec. 113.002.  CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted under this chapter, and another law, this chapter controls.

Sec. 113.003.  CONTROLLING AUTHORITY. Notwithstanding any other provision of law, the regulation of peer-to-peer vehicle sharing and peer-to-peer vehicle sharing platforms:

(1)  is an exclusive power and function of this state; and

(2)  may not be regulated by a municipality, county, or other local entity, including by:

(A)  imposing a tax, levy, fee, or charge of any kind;

(B)  requiring an additional license or permit;

(C)  setting rates;

(D)  imposing operational or entry requirements; or

(E)  imposing other requirements.

SUBCHAPTER B. PLATFORM AGREEMENTS

Sec. 113.051.  REQUIRED DISCLOSURES. A peer-to-peer vehicle sharing platform agreement must state:

(1)  the daily rate, fees, and any protection package or insurance costs that are charged to the shared vehicle owner or the shared vehicle driver; and

(2)  the sharing period.

SUBCHAPTER C. DUTIES OF PLATFORM AND VEHICLE OWNERS

Sec. 113.101.  DUTIES OF PLATFORM. A peer-to-peer vehicle sharing platform shall verify that a motor vehicle does not have any safety recalls for which repairs have not been made before the motor vehicle is made available for sharing on the platform.

Sec. 113.102.  DUTIES OF VEHICLE OWNER. If a shared vehicle owner receives actual notice of a safety recall on the owner's vehicle after the motor vehicle is made available for sharing on a peer-to-peer vehicle sharing platform, the owner shall remove the vehicle from the platform until the safety recall repair has been made.

SECTION 2.  Subchapter A, Chapter 151, Tax Code, is amended by adding Section 151.0044 to read as follows:

Sec. 151.0044.  "PEER-TO-PEER VEHICLE SHARING". "Peer-to-peer vehicle sharing" has the meaning assigned by Section 113.001, Business & Commerce Code.

SECTION 3.  Section 151.008, Tax Code, is amended by adding Subsection (c) to read as follows:

(c)  For the purpose of peer-to-peer vehicle sharing, the seller or retailer is the peer-to-peer vehicle sharing platform as defined by Section 113.001, Business & Commerce Code. The owner of a personal motor vehicle used for peer-to-peer vehicle sharing is not the seller or retailer unless the owner of the vehicle is the peer-to-peer vehicle sharing platform.

SECTION 4.  Section 151.0101(a), Tax Code, is amended to read as follows:

(a)  "Taxable services" means:

(1)  amusement services;

(2)  cable television services;

(3)  personal services;

(4)  motor vehicle parking and storage services;

(5)  the repair, remodeling, maintenance, and restoration of tangible personal property, except:

(A)  aircraft;

(B)  a ship, boat, or other vessel, other than:

(i)  a taxable boat or motor as defined by Section 160.001;

(ii)  a sports fishing boat; or

(iii)  any other vessel used for pleasure;

(C)  the repair, maintenance, and restoration of a motor vehicle; and

(D)  the repair, maintenance, creation, and restoration of a computer program, including its development and modification, not sold by the person performing the repair, maintenance, creation, or restoration service;

(6)  telecommunications services;

(7)  credit reporting services;

(8)  debt collection services;

(9)  insurance services;

(10)  information services;

(11)  real property services;

(12)  data processing services;

(13)  real property repair and remodeling;

(14)  security services;

(15)  telephone answering services;

(16)  Internet access service; [~~and~~]

(17)  a sale by a transmission and distribution utility, as defined in Section 31.002, Utilities Code, of transmission or delivery of service directly to an electricity end-use customer whose consumption of electricity is subject to taxation under this chapter; and

(18)  peer-to-peer vehicle sharing.

SECTION 5.  Section 151.308(a), Tax Code, is amended to read as follows:

(a)  The following are exempted from the taxes imposed by this chapter:

(1)  oil as taxed by Chapter 202;

(2)  motor fuels and special fuels as defined, taxed, or exempted by Chapter 162;

(3)  cement as taxed by Chapter 181;

(4)  motor vehicles, trailers, and semitrailers as defined, taxed, or exempted by Chapter 152, other than:

(A)  a mobile office or an oilfield portable unit, as those terms are defined by Section 152.001; or

(B)  peer-to-peer vehicle sharing;

(5)  mixed beverages, ice, or nonalcoholic beverages and the preparation or service of these items if the receipts are taxable by Subchapter B, Chapter 183, or the items are taxable by Subchapter B-1, Chapter 183;

(6)  alcoholic beverages when sold to the holder of a private club registration permit or to the agent or employee of the holder of a private club registration permit if the holder or agent or employee is acting as the agent of the members of the club and if the beverages are to be served on the premises of the club;

(7)  oil well service as taxed by Subchapter E, Chapter 191; and

(8)  insurance premiums subject to gross premiums taxes.

SECTION 6.  Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.360 to read as follows:

Sec. 151.360.  LOCAL TAXES ON PEER-TO-PEER VEHICLE SHARING. Peer-to-peer vehicle sharing is exempted from local taxes imposed or governed by Subtitle C, Title 3.

SECTION 7.  Section 152.001, Tax Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a)  "Rental" does not include peer-to-peer vehicle sharing as defined by Section 113.001, Business & Commerce Code.

SECTION 8.  The changes in law made by this Act do not affect tax liability accruing before the effective date of this Act. That liability continues in effect as if this Act had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 9.  This Act takes effect September 1, 2019.