

By: Burrows, Murphy, Springer

H.B. No. 2872

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the collection, remittance, and administration of
3 certain taxes on motor vehicles rented through a marketplace rental
4 provider.

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

6 SECTION 1. Section 334.105, Local Government Code, is
7 amended by adding Subsection (c) to read as follows:

8 (c) Notwithstanding Subsections (a) and (b), if a motor
9 vehicle subject to the tax imposed under this subchapter is rented
10 through a marketplace rental provider, the marketplace rental
11 provider shall collect the tax for the benefit of the municipality
12 or county. The marketplace rental provider shall add the tax
13 imposed under this subchapter, if applicable, and the gross rental
14 receipts tax imposed by Chapter 152, Tax Code, to the rental charge,
15 and the sum of the taxes is part of the rental charge, is a debt owed
16 to the marketplace rental provider by the person renting the
17 vehicle, and is recoverable at law in the same manner as the rental
18 charge.

19 SECTION 2. Section 334.109, Local Government Code, is
20 amended to read as follows:

21 Sec. 334.109. GROSS RECEIPTS PRESUMED SUBJECT TO TAX. All
22 gross receipts of an owner of a motor vehicle or, if the motor
23 vehicle is rented through a marketplace rental provider, of the
24 provider, from the rental of the motor vehicle are presumed to be

1 subject to the tax imposed by this subchapter, except for gross
2 receipts for which the owner or marketplace rental provider has
3 accepted in good faith a properly completed exemption certificate.

4 SECTION 3. Section 334.110(a), Local Government Code, is
5 amended to read as follows:

6 (a) The owner of a motor vehicle used for rental purposes
7 who is required to file a report under this subchapter or, if the
8 motor vehicle is rented through a marketplace rental provider and
9 the provider is required to file a report under this subchapter, the
10 provider, shall keep for four years records and supporting
11 documents containing the following information on the amount of:

12 (1) gross rental receipts received from the rental of
13 the motor vehicle; and

14 (2) the tax imposed under this subchapter and paid to
15 the municipality or county by the owner or the marketplace rental
16 provider, as applicable, on each motor vehicle used for rental
17 purposes by the owner.

18 SECTION 4. Section 334.111(a), Local Government Code, is
19 amended to read as follows:

20 (a) An owner of a motor vehicle required to file a report
21 under this subchapter or, if applicable, a marketplace rental
22 provider required to file a report under this subchapter commits an
23 offense if the owner or provider fails to make and retain complete
24 records for the four-year period required by Section 334.110.

25 SECTION 5. Section 334.113, Local Government Code, is
26 amended by amending Subsection (a) and adding Subsections (a-1) and
27 (a-2) to read as follows:

1 (a) Except as otherwise provided by this section or another
2 provision of this subchapter, the [~~The~~] owner of a motor vehicle
3 required to collect the tax imposed under this subchapter shall
4 report and pay [~~send~~] the taxes collected to the municipality or
5 county as provided by the ordinance or order imposing the tax.

6 (a-1) Except as provided by Subsection (a-2), if a
7 marketplace rental provider collects the tax imposed under this
8 subchapter, the marketplace rental provider shall report and pay
9 the taxes collected to the municipality or county as provided by the
10 ordinance or order imposing the tax. The marketplace rental
11 provider shall certify to the owner of a motor vehicle rented
12 through the provider that the provider has collected, reported, and
13 paid the tax to the municipality or county. An owner who in good
14 faith accepts the marketplace rental provider's certification is
15 not required to collect, report, or pay the tax to the municipality
16 or county.

17 (a-2) The owner of a motor vehicle rented through a
18 marketplace rental provider may elect to report and pay the tax
19 imposed under this subchapter to the municipality or county. If the
20 owner elects to report and pay the tax under this subsection:

21 (1) the owner must:

22 (A) register as required by Section [152.065](#), Tax
23 Code; and

24 (B) inform the marketplace rental provider in
25 writing of the election; and

26 (2) the marketplace rental provider shall forward the
27 tax collected by the provider to the owner.

1 SECTION 6. Section 152.001, Tax Code, is amended by
2 amending Subdivision (8) and adding Subdivision (21) to read as
3 follows:

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

8 (A) separately stated charges for insurance;

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

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

13 (D) discounts.

14 (21) "Marketplace rental provider" means a person who:

15 (A) operates any type of marketplace, including a
16 store with a physical location, an Internet website, a software or
17 mobile application, or a catalog, by which the owner of a motor
18 vehicle lists, markets, or advertises the owner's motor vehicle for
19 rental by others for consideration in this state;

20 (B) facilitates the rental of the owner's motor
21 vehicle by another person by communicating between the owner and
22 the other person the terms of the agreement and the acceptance of
23 those terms; and

24 (C) directly or indirectly collects or processes
25 the receipts or rental charges paid by the person renting the motor
26 vehicle for the owner of the motor vehicle.

27 SECTION 7. Section 152.045, Tax Code, is amended to read as

1 follows:

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

3 (a) Except as otherwise provided by this section or another
4 provision of [~~inconsistent with this chapter and rules adopted~~
5 ~~under~~] this chapter, an owner of a motor vehicle subject to the tax
6 on gross rental receipts shall collect, report, and pay the tax to
7 the comptroller in the same manner as the tax under Chapter 151
8 [~~Limited Sales, Excise and Use Tax~~] is collected, reported, and
9 paid by a retailer [~~retailers~~] under that chapter [~~Chapter 151 of~~
10 ~~this code~~].

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

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

25 (1) the owner must:

26 (A) register as required by Section 152.065; and

27 (B) inform the marketplace rental provider in

1 writing of the election; and

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

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

8 (1) a part of the rental charge;

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

12 (3) recoverable at law in the same manner as the rental
13 charge.

14 (c) The comptroller may proceed against a person renting a
15 motor vehicle, the owner of the rented motor vehicle, or the
16 marketplace rental provider, as applicable, for any unpaid gross
17 rental receipts tax.

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

1 period under the required report.

2 SECTION 8. Section [152.046](#)(b), Tax Code, is amended to read
3 as follows:

4 (b) An owner of a motor vehicle on which the motor vehicle
5 sales or use tax has been paid who subsequently uses the vehicle for
6 rental [~~shall collect the gross rental receipts tax imposed by this~~
7 ~~chapter from the person renting the vehicle. The owner~~] may credit
8 an amount equal to the motor vehicle sales or use tax paid by the
9 owner to the comptroller against the amount of gross rental
10 receipts due from the owner. This credit is not transferable and
11 cannot be applied against tax due and payable from the rental of
12 another vehicle belonging to the same owner.

13 SECTION 9. Section [152.063](#)(b), Tax Code, is amended to read
14 as follows:

15 (b) Except as otherwise provided by Section [111.0041](#):

16 (1) the [The] owner of a motor vehicle used for rental
17 purposes shall keep for at least four years after the purchase of
18 the [a] motor vehicle records and supporting documents containing
19 [the following] information on the amount of:

20 (A) [(1)] total consideration for the motor
21 vehicle; and

22 (B) [(2)] motor vehicle sales or use tax paid on
23 the motor vehicle; and

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

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

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

7 SECTION 10. Section 152.065, Tax Code, is amended to read as
8 follows:

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

15 SECTION 11. Subchapter D, Chapter 152, Tax Code, is amended
16 by adding Section 152.070 to read as follows:

17 Sec. 152.070. MARKETPLACE RENTAL PROVIDER'S REPORT. A
18 marketplace rental provider shall send to the owner of a motor
19 vehicle that is rented through the provider a report each month that
20 shows the amount of tax collected, reported, and paid for each motor
21 vehicle that the owner owns and that is rented through the provider.
22 The provider is not required to send the report to an owner who
23 elects to report and pay the tax under Section 152.045(a-2).

24 SECTION 12. This Act applies only to a rental agreement for
25 the rental of a motor vehicle entered into on or after the effective
26 date of this Act. A rental agreement for the rental of a motor
27 vehicle entered into before the effective date of this Act is

1 governed by the law in effect on the date the rental agreement was
2 entered into, and the former law is continued in effect for the
3 collection of taxes due and for civil and criminal enforcement of
4 the liability for those taxes.

5 SECTION 13. This Act takes effect September 1, 2019.