

By: Burrows

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. The
20 owner must inform the marketplace rental provider in writing if the
21 owner elects to report and pay the tax under this subsection. If
22 the owner elects to report and pay the tax, the marketplace rental
23 provider shall forward the tax collected by the provider to the
24 owner.

25 SECTION 6. Section 152.001, Tax Code, is amended by adding
26 Subdivision (21) to read as follows:

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

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

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

10 (C) collects or processes the receipts or rental
11 charges paid by the person renting the motor vehicle, either
12 directly or through the use of a third-party contractor, for the
13 owner of the motor vehicle.

14 SECTION 7. Section 152.026(c), Tax Code, is amended to read
15 as follows:

16 (c) Except for a destroyed motor vehicle or an unrecovered
17 stolen motor vehicle, the total amount of gross rental receipts tax
18 paid by the owner, as defined by Section 152.001(9)(A) [~~of this~~
19 ~~code~~], of, or by a marketplace rental provider on, a motor vehicle
20 registered under Section 152.061 [~~of this code~~] may not be less than
21 an amount equal to the tax that would be imposed by Section 152.021
22 or 152.022 [~~of this code~~] but for Subsection (d) of this section.

23 SECTION 8. Section 152.045, Tax Code, is amended to read as
24 follows:

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

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

1 ~~under~~] this chapter, an owner of a motor vehicle subject to the tax
2 on gross rental receipts shall collect, report, and pay the tax to
3 the comptroller in the same manner as the tax under Chapter 151
4 ~~[Limited Sales, Excise and Use Tax]~~ is collected, reported, and
5 paid by a retailer ~~[retailers]~~ under that chapter ~~[Chapter 151 of~~
6 ~~this code]~~.

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

17 (a-2) The owner of a motor vehicle rented through a
18 marketplace rental provider may elect to report and pay the tax on
19 gross rental receipts to the comptroller. The owner must inform the
20 marketplace rental provider in writing if the owner elects to
21 report and pay the tax under this subsection. If the owner elects
22 to report and pay the tax, the marketplace rental provider shall
23 forward the 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, if the

9 vehicle is rented through a marketplace rental provider, the

10 provider, for any unpaid gross 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 the report but fails to timely file

17 the report, the provider shall pay a penalty of \$50. The penalty

18 provided by this subsection is assessed without regard to whether

19 the taxpayer subsequently files the report or whether any taxes

20 were due from the taxpayer for the reporting period under the

21 required report.

22 SECTION 9. 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 10. Section 152.063(b), Tax Code, is amended to
7 read as follows:

8 (b) The owner of a motor vehicle used for rental purposes
9 shall keep for four years after purchase of a motor vehicle records
10 and supporting documents containing the following information on
11 the amount of:

- 12 (1) total consideration for the motor vehicle;
- 13 (2) motor vehicle sales or use tax paid on the motor
14 vehicle;
- 15 (3) gross rental receipts received from the rental of
16 the motor vehicle by the owner or, if the motor vehicle is rented
17 through a marketplace rental provider, by the provider; and
- 18 (4) gross rental receipts tax paid to the comptroller
19 by the owner or, if the motor vehicle is rented through a
20 marketplace rental provider, by the provider, on each motor vehicle
21 used for rental purposes by the owner.

22 SECTION 11. Section 152.065, Tax Code, is amended to read as
23 follows:

24 Sec. 152.065. REQUIRED PERMITS. A motor vehicle owner or a
25 marketplace rental provider required to collect, report, and pay a
26 tax on gross rental receipts imposed by this chapter and a seller
27 required to collect, report, and pay a tax on a seller-financed sale

1 shall register as a retailer with the comptroller in the same manner
2 as is required of a retailer under Subchapter F, Chapter 151.

3 SECTION 12. Subchapter D, Chapter 152, Tax Code, is amended
4 by adding Section 152.070 to read as follows:

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

12 SECTION 13. This Act applies only to a rental agreement for
13 the rental of a motor vehicle entered into on or after the effective
14 date of this Act. A rental agreement for the rental of a motor
15 vehicle entered into before the effective date of this Act is
16 governed by the law in effect on the date the rental agreement was
17 entered into, and the former law is continued in effect for the
18 collection of taxes due and for civil and criminal enforcement of
19 the liability for those taxes.

20 SECTION 14. This Act takes effect September 1, 2019.