

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;

1 and

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

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

6 (B) requiring an additional license or permit;

7 (C) setting rates;

8 (D) imposing operational or entry requirements;

9 or

10 (E) imposing other requirements.

11 SUBCHAPTER B. PLATFORM AGREEMENTS

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

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

17 (2) the sharing period.

18 SUBCHAPTER C. DUTIES OF PLATFORM AND VEHICLE OWNERS

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

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

1 made.

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

4 Sec. 151.0044. "PEER-TO-PEER VEHICLE SHARING".

5 "Peer-to-peer vehicle sharing" has the meaning assigned by Section  
6 113.001, Business & Commerce Code.

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

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

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

17 (a) "Taxable services" means:

- 18 (1) amusement services;
- 19 (2) cable television services;
- 20 (3) personal services;
- 21 (4) motor vehicle parking and storage services;
- 22 (5) the repair, remodeling, maintenance, and  
23 restoration of tangible personal property, except:

24 (A) aircraft;

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

26 (i) a taxable boat or motor as defined by

27 Section 160.001;

- 1                   (ii) a sports fishing boat; or  
2                   (iii) any other vessel used for pleasure;  
3                   (C) the repair, maintenance, and restoration of a  
4 motor vehicle; and  
5                   (D) the repair, maintenance, creation, and  
6 restoration of a computer program, including its development and  
7 modification, not sold by the person performing the repair,  
8 maintenance, creation, or restoration service;  
9                   (6) telecommunications services;  
10                   (7) credit reporting services;  
11                   (8) debt collection services;  
12                   (9) insurance services;  
13                   (10) information services;  
14                   (11) real property services;  
15                   (12) data processing services;  
16                   (13) real property repair and remodeling;  
17                   (14) security services;  
18                   (15) telephone answering services;  
19                   (16) Internet access service; ~~and~~  
20                   (17) a sale by a transmission and distribution  
21 utility, as defined in Section 31.002, Utilities Code, of  
22 transmission or delivery of service directly to an electricity  
23 end-use customer whose consumption of electricity is subject to  
24 taxation under this chapter; and  
25                   (18) peer-to-peer vehicle sharing.

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

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

3 (1) oil as taxed by Chapter 202;

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

6 (3) cement as taxed by Chapter 181;

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

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

11 (B) peer-to-peer vehicle sharing;

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

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

21 (7) oil well service as taxed by Subchapter E, Chapter  
22 191; and

23 (8) insurance premiums subject to gross premiums  
24 taxes.

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

27 Sec. 151.360. LOCAL TAXES ON PEER-TO-PEER VEHICLE SHARING.

1 Peer-to-peer vehicle sharing is exempted from local taxes imposed  
2 or governed by Subtitle C, Title 3.

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

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

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

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