

By: Alvarado

S.B. No. 1578

A BILL TO BE ENTITLED

1 AN ACT  
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.