

## **BILL ANALYSIS**

Senate Research Center  
88R13296 CJC-F

S.B. 1498  
By: Nichols  
Finance  
3/27/2023  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

The owner of a motor vehicle using the vehicle for rental, such as a motor vehicle rental company that owns the vehicles provided to renters, is subject to a gross rental receipts tax. The rights and duties of individuals who are motor vehicle marketplace rental providers or who engage with a physical, electronic, or online motor vehicle marketplace rental providers are unclear with regard to tax collection obligations under current law.

S.B. 1498 seeks to facilitate the efficient collection of certain taxes by clearly establishing the responsibilities of persons involved in marketplace rental provider transactions.

As proposed, S.B. 1498 amends current law relating to the collection, remittance, and administration of the tax on gross rental receipts on motor vehicles rented through a marketplace rental provider and imposes a penalty.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 152.001(8), Tax Code to redefine "gross rental receipts."

SECTION 2. Amends Subchapter A, Chapter 152, Tax Code, by adding Section 152.0011, as follows:

Sec. 152.0011. MARKETPLACE RENTAL PROVIDER. (a) Defines "marketplace rental provider."

(b) Provides that the term "marketplace rental provider" does not include a person who lists, markets, or advertises motor vehicles for rental by others if:

(1) the person lists, markets, or advertises only motor vehicles registered in the manner provided under Section 152.061 (Registration of Motor Vehicle Purchased for Rental); and

(2) the owners of the motor vehicles described by Subdivision (1) collect, report, and pay the tax imposed under Section 152.026 to the comptroller in the same manner as the tax under Chapter 151 (Limited Sales, Excise, and Use Tax) is collected, reported, and paid by a retailer under that chapter.

SECTION 3. Amends Section 152.026, Tax Code, by amending Subsection (b) and adding Subsections (b-1) and (b-2), as follows:

(b) Provides that the tax rate, except as provided by Subsections (b-1) and (b-2), is 10 percent of the gross rental receipts from the rental of a rented motor vehicle for 30 days

or less and 6.25 percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days. Makes nonsubstantive changes.

(b-1) Provides that the tax rate is 6.25 percent of the gross rental receipts from the rental of a rented motor vehicle if the motor vehicle is rented through a marketplace rental provider and if Subsection (b-2) does not apply to the motor vehicle.

(b-2) Provides that the tax rate is 10 percent of the gross rental receipts from the rental of a rented motor vehicle if:

- (1) the motor vehicle is rented through a marketplace rental provider;
- (2) the motor vehicle is rented for 30 days or less; and
- (3) either the motor vehicle is registered in the manner provided under Section 152.061 or the owner of the motor vehicle rents at least five different motor vehicles within any 12-month period.

SECTION 4. Amends Section 152.045, Tax Code, as follows:

Sec. 152.045. COLLECTION OF TAX ON GROSS RENTAL RECEIPTS. (a) Requires an owner of a motor vehicle subject to the tax on gross rental receipts, except as otherwise provided by this section or another provision of Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicles), to collect, report, and pay the tax to the Comptroller of Public Accounts of the State of Texas (comptroller) in the same manner as the tax under Chapter 151 is collected, reported, and paid by a retailer under that chapter.

Deletes existing text requiring an owner of a motor vehicle subject to the tax on gross rental receipts, except as inconsistent with this chapter and rules adopted under this chapter, to report and pay the tax to the comptroller in the same manner as the limited sales, excise, and use tax is reported and paid by retailers under Chapter 151 of this code.

(a-1) Requires the marketplace rental provider, except as provided by Subsection (a-2), if the motor vehicle is rented through a marketplace rental provider, is required to collect, report, and pay the tax on gross rental receipts to the comptroller in the manner prescribed by Subsection (a). Requires the marketplace rental provider to certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax. Provides that an owner who in good faith accepts the marketplace rental provider's certification is not required to collect, report, or pay the tax.

(a-2) Authorizes the owner of a motor vehicle rented through a marketplace rental provider to elect to report and pay the tax on gross rental receipts to the comptroller. Provides that if the owner elects to report and pay the tax under this subsection:

- (1) the owner is required to register as required by Section 152.065 (Required Permits) and inform the marketplace rental provider in writing of the election; and
- (2) the marketplace rental provider is required to forward the tax collected by the provider to the owner.

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

- (1) makes no changes to this subdivision;

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

(3) makes no changes to this subdivision.

(c) Authorizes the comptroller to proceed against a person renting a motor vehicle, the owner of the rented motor vehicle, or the marketplace rental provider, as applicable, for any unpaid gross rental receipts tax.

(d) Requires the provider, if the motor vehicle is rented through a marketplace rental provider and the provider is required to file a report under this chapter but fails to timely file the report, to pay a penalty of \$50.

SECTION 5. Amends Section 152.046(b), Tax Code, as follows:

(b) Authorizes an owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental to credit an amount equal to the motor vehicle sales or use tax paid by the owner to the comptroller against the amount of gross rental receipts due from the owner. Deletes existing text requiring an owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental to collect the gross rental receipts tax imposed by this chapter from the person renting the vehicle. Makes a nonsubstantive change.

SECTION 6. Amends Section 152.063(b), Tax Code, as follows:

(b) Provides that, except as otherwise provided by Section 111.0041 (Records; Burden to Produce and Substantiate Claims):

(1) the owner of a motor vehicle used for rental purposes is required to keep for at least four years after the purchase of the motor vehicle records and supporting documents containing information on the amount of total consideration for the motor vehicle and motor vehicle sales or use tax paid on the motor vehicle; and

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

(A) gross rental receipts received by the owner or provider, as applicable, from the rental of the motor vehicle; and

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

Makes nonsubstantive changes.

SECTION 7. Amends Section 152.065, Tax Code, as follows:

Sec. 152.065. **REQUIRED PERMITS.** Provides that a motor vehicle owner or a marketplace rental provider required to collect, report, and pay a tax on gross rental receipts imposed by this chapter and a seller required to collect, report, and pay a tax on a seller-financed sale to register as a retailer with the comptroller in the same manner as is required of a retailer under Subchapter F (Sales Tax Permits), Chapter 151.

SECTION 8. Amends Subchapter D, Chapter 152, Tax Code, by adding Section 152.070, as follows:

Sec. 152.070. **MARKETPLACE RENTAL PROVIDER'S REPORT.** Requires a marketplace rental provider to send to the owner of a motor vehicle that is rented through

the provider a report each month that shows the amount of tax collected, reported, and paid for each motor vehicle that the owner owns and that is rented through the provider. Provides that the provider is not required to send the report to an owner who elects to report and pay the tax under Section 152.045(a-2).

SECTION 9. Makes application of this Act prospective.

SECTION 10. Effective date: October 1, 2023.