88R13296 CJC-F

By:  Nichols S.B. No. 1498

A BILL TO BE ENTITLED

AN ACT

relating to the collection, remittance, and administration of the tax on gross rental receipts on motor vehicles rented through a marketplace rental provider; imposing a penalty.

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

SECTION 1.  Section 152.001(8), Tax Code, is amended to read as follows:

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

(A)  separately stated charges for insurance;

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

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

(D)  discounts.

SECTION 2.  Subchapter A, Chapter 152, Tax Code, is amended by adding Section 152.0011 to read as follows:

Sec. 152.0011.  MARKETPLACE RENTAL PROVIDER. (a) Subject to Subsection (b), in this chapter, "marketplace rental provider" means a person who:

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

(2)  facilitates the rental of the owner's motor vehicle by another person by communicating between the owner and the other person the terms of the agreement and the acceptance of those terms; and

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

(b)  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; 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 is collected, reported, and paid by a retailer under that chapter.

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

(b)  Except as provided by Subsections (b-1) and (b-2), the [~~The~~] tax rate is 10 percent of the gross rental receipts from the rental of a rented motor vehicle for 30 days or less and 6.25 [~~6-1/4~~] percent of the gross rental receipts from the rental of a rented motor vehicle for longer than 30 days.

(b-1)  The tax rate is 6.25 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; and

(2)  Subsection (b-2) does not apply to the motor vehicle.

(b-2)  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:

(A)  the motor vehicle is registered in the manner provided under Section 152.061; or

(B)  the owner of the motor vehicle rents at least five different motor vehicles within any 12-month period.

SECTION 4.  Section 152.045, Tax Code, is amended to read as follows:

Sec. 152.045.  COLLECTION OF TAX ON GROSS RENTAL RECEIPTS. (a) Except as otherwise provided by this section or another provision of [~~inconsistent with this chapter and rules adopted under~~] this chapter, an owner of a motor vehicle subject to the tax on gross rental receipts shall collect, report, and pay the tax 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 [~~retailers~~] under that chapter [~~Chapter 151 of this code~~].

(a-1)  Except as provided by Subsection (a-2), if the motor vehicle is rented through a marketplace rental provider, the marketplace rental provider shall collect, report, and pay the tax on gross rental receipts to the comptroller in the manner prescribed by Subsection (a). The marketplace rental provider shall certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax. 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)  The owner of a motor vehicle rented through a marketplace rental provider may elect to report and pay the tax on gross rental receipts to the comptroller. If the owner elects to report and pay the tax under this subsection:

(1)  the owner must:

(A)  register as required by Section 152.065; and

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

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

(b)  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, shall add the tax to the rental charge, and when added, the tax is:

(1)  a part of the rental charge;

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

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

(c)  The comptroller may 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)  In addition to any other penalty provided by law, the owner of a motor vehicle subject to the tax on gross rental receipts who is required to file a report as provided by this chapter and who fails to timely file the report shall pay a penalty of $50. 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, the provider shall pay a penalty of $50. The penalty provided by this subsection is assessed without regard to whether the taxpayer subsequently files the report or whether any taxes were due from the taxpayer for the reporting period under the required report.

SECTION 5.  Section 152.046(b), Tax Code, is amended to read as follows:

(b)  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 [~~shall collect the gross rental receipts tax imposed by this chapter from the person renting the vehicle. The owner~~] may 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. This credit is not transferable and cannot be applied against tax due and payable from the rental of another vehicle belonging to the same owner.

SECTION 6.  Section 152.063(b), Tax Code, is amended to read as follows:

(b)  Except as otherwise provided by Section 111.0041:

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

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

(B) [~~(2)~~]  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, shall keep for at least four years supporting documents containing information on the amount of:

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

(B) [~~(4)~~]  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.

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

Sec. 152.065.  REQUIRED PERMITS. 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 shall register as a retailer with the comptroller in the same manner as is required of a retailer under Subchapter F, Chapter 151.

SECTION 8.  Subchapter D, Chapter 152, Tax Code, is amended by adding Section 152.070 to read as follows:

Sec. 152.070.  MARKETPLACE RENTAL PROVIDER'S REPORT. A marketplace rental provider shall 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. 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.  This Act applies only to a rental agreement for the rental of a motor vehicle entered into on or after the effective date of this Act. A rental agreement for the rental of a motor vehicle entered into before the effective date of this Act is governed by the law in effect on the date the rental agreement was entered into, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

SECTION 10.  This Act takes effect October 1, 2023.