

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 88TH LEGISLATIVE REGULAR SESSION

April 16, 2023

TO: Honorable Morgan Meyer, Chair, House Committee on Ways & Means

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: HB3209 by Thompson, Ed (Relating to the collection, remittance, and administration of certain taxes on motor vehicles rented through a marketplace rental provider; imposing a penalty.), **As Introduced**

Estimated Two-year Net Impact to General Revenue Related Funds for HB3209, As Introduced : a positive impact of \$21,548,000 through the biennium ending August 31, 2025.

General Revenue-Related Funds, Five- Year Impact:

<i>Fiscal Year</i>	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2024	\$8,831,000
2025	\$12,717,000
2026	\$15,259,000
2027	\$16,786,000
2028	\$17,625,000

All Funds, Five-Year Impact:

<i>Fiscal Year</i>	Probable Revenue Gain from General Revenue Fund 1	Probable Revenue Gain from State Highway Fund 6
2024	\$8,831,000	\$4,755,000
2025	\$12,717,000	\$6,847,000
2026	\$15,259,000	\$8,217,000
2027	\$16,786,000	\$9,038,000
2028	\$17,625,000	\$9,490,000

Fiscal Analysis

The bill would amend sections of Chapter 334 of the Local Government Code (sports and community venue short-term motor vehicle rental tax) and Chapter 152 of the Tax Code (taxes on sale, rental, and use of motor vehicles) relating to the collection, remittance, and administration of certain taxes on motor vehicles rented through a marketplace rental provider.

The bill would impose a tax on the gross receipts of an owner of a motor vehicle or, if the motor vehicle is rented through a marketplace rental provider, on the provider. Gross receipts from the rental of the motor vehicle would be presumed to be subject to motor vehicle rental tax, except for gross receipts for which the owner or marketplace rental provider has accepted in good faith a properly completed exemption certificate.

The bill would require a marketplace rental provider to collect the tax for the benefit of a municipality or

county that imposes a motor vehicle rental tax.

The bill would change the definition of gross rental receipts to include value received or promised as consideration to the owner of a motor vehicle or the marketplace rental provider for rental of the vehicle.

The bill would define marketplace rental provider.

The bill would require marketplace rental providers to collect, report, and pay the tax on gross rental receipts to the Comptroller in the same manner prescribed by Chapter 151 of the Tax Code (Limited Sales, Excise, and Use Tax). The marketplace rental provider would certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax.

The owner of a motor vehicle rented through a marketplace rental provider could elect to report and pay the tax on gross rental receipts to the Comptroller under certain circumstances.

Either the owner of the motor vehicle or the marketplace rental provider would add the tax to the rental charge. The Comptroller could proceed against a person renting a motor vehicle, the owner of the rented motor vehicle, or the marketplace rental provider for any unpaid gross rental receipts tax.

If the motor vehicle is rented through a marketplace rental provider and the provider is required to file a report under Chapter 152 (Taxes on Sale, Rental, and Use of Motor Vehicles) but fails to timely file the report, the provider would pay a penalty of \$50.

The bill would require a marketplace rental provider required to collect, report, and pay a tax on gross rental receipts to register as a retailer with the Comptroller.

The bill would take effect October 1, 2023.

Methodology

The bill would impose the gross rental receipts tax on vehicles rented through a marketplace rental provider in the same manner vehicle rentals are currently taxed under Chapter 152 of the Tax Code – 10 percent on rentals for 30 days or less and 6.25 percent on rentals for longer than 30 days. The bill would also allow owners of those vehicles to credit any motor vehicle sales or use tax paid for the vehicle to be used as a credit against gross rental receipts tax owed as they elect to do so.

Information regarding the size of the national peer-to-peer car rental market was used and apportioned to Texas to calculate to amount of rental tax that would be generated under the provisions of the bill. The amount was then reduced by the projected credits taken by owners of vehicles rented through marketplace providers, compliance rate and the timely filer discount provided by Chapter 151, and the effective date of the bill. Credit claims are anticipated to be larger in the near term as owners of vehicles currently used as peer-to-peer seek credits for motor vehicle sales tax already paid.

There would be effects on the Economic Stabilization Fund (ESF) balance limit and consequent effects for GR reserves and transfers to ESF. Because motor vehicle rental tax revenue is initially deposited to the general revenue fund, the increase in tax revenue in the 2024-25 biennium would increase the 2026-27 ESF balance limit by ten percent of the increase in tax, increasing 2025 severance tax reserves for transfer to the ESF by the amount of the balance limit increase, and reducing available GR in 2025 by the amount of increase of the reserves, however these amounts are not expected to be significant.

Local Government Impact

The Comptroller does not have information regarding which municipalities or counties actively impose a short-term motor vehicle sales tax under Chapter 334 of the Local Government Code. The fiscal impacts to those municipalities and counties cannot be estimated.

Source Agencies: 304 Comptroller of Public Accounts

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