

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: SB 1452

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Credit Card Surcharges

DATE: February 1, 2012 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Davis | Buford | TR | Pre-meeting |
| 2. | | | CA | |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

Senate Bill 1452 provides that a county or municipality may not prohibit the owner or operator of a taxicab, limousine, jitney, or other passenger vehicle for hire from imposing a surcharge on a passenger who elects to pay the passenger fare using a credit card in lieu of payment by cash, check, or similar means.

The bill also provides the prohibition on the imposition of a credit card surcharge does not apply to passenger fares for a taxicab, limousine, jitney, or other passenger vehicle for hire.

This bill substantially amends ss. 125.01 and 501.0117 of the Florida Statutes.

The bill creates ss. 125.01035 and 166.0433 of the Florida Statutes.

II. Present Situation:

Taxi cab for hire regulation

Section 125.01(1), F.S., grants counties the power to carry on county government to the extent not inconsistent with general or special law. Specifically, it grants the power of a county to “license and regulate taxis, jitneys, limousines for hire, rental cars, and other passenger vehicles for hire that operate in the unincorporated areas of the county, except that any constitutional charter county as defined in s. 125.011(1), F.S., shall on July 1, 1988, have been authorized to have issued a number of permits to operate taxis which is no less than the ratio of one permit for each 1,000 residents of said county, and any such new permits issued after June 4, 1988, shall be

issued by lottery among individuals with such experience as a taxi driver as the county may determine.”¹ Many counties have adopted ordinances regulating vehicles for hire.

Miami-Dade County heavily regulates for-hire motor vehicles covering such areas as licenses, chauffeur’s registration, operating rules, taximeter standards, fare rates, insurance requirements, vehicle standards, and enforcement provisions.² In 2010, the Miami-Dade Board of County Commissioners proposed an amendment to its Chapter 31 regulating vehicles for hire that required a certain number of taxicabs operated pursuant to a “for-hire license” issued after September 1, 2010 be equipped with a two-way radio system, a taximeter, a security camera system, and an operable credit card system.³ This proposed amendment also provided that there could not be an additional charge added to the fare for use of a credit card. After opposition at the public meetings concerning this proposed ordinance, the language regarding additional charges for use of a credit card was revised to read “There shall be no additional charge added to the fare for the use of a credit card unless the County Commission has, to the extent, permitted by Florida law, amended the fare schedule by resolution pursuant to section 31-87...”⁴ As revised, the amendment was adopted on July 19, 2011. Testimony at the public meetings disclosed that the taxi drivers were opposed to having to absorb the credit card fee because of their thin operating margins. The practical effect of the ordinance will be that requirements for this new equipment will be phased in over time so that eventually all vehicles will be so equipped.⁵

Airport officials at the Fort Lauderdale-Hollywood International Airport want to require every cab to install machines to process credit cards. Many other cities, including New York City, Boston, and San Francisco, require credit card machines in cabs.⁶ None of south Florida’s three international airports require that credit card machines be installed. In 2010, San Francisco mandated that cabs accept credit cards for the convenience of residents and visitors. This resulted in a backlash from cab companies and cab drivers who had to pay the credit card fees and the lawmakers amended the rule to allow the companies to charge their drivers a 5 percent credit card fee which resulted in some drivers telling their fares the machine was broken or ordering passengers out or telling them to go to an ATM.⁷

Credit cards

Under section 501.0117, F.S., a seller or lessor in a sales or lease transaction may not impose a surcharge on the buyer or lessee for electing to use a credit card in lieu of payment by cash, check, or similar means, if the seller or lessor accepts payment by credit card. A surcharge is any additional amount imposed at the time of a sale or lease transaction by the seller or lessor that increases the charge to the buyer or lessee for the privilege of using a credit card to make

¹ Section 125.01(1)(n), F.S.

² Miami-Dade County, Florida Code of Ordinances, Part III, Chapter 31, Vehicles for Hire, Article II – Licensing and Regulation of For-hire Motor Vehicles.

³ See <http://www.miamidade.gov/govaction/matter.asp?matter=101665&file=true&yearFolder=Y2010> for minutes of public meeting.

⁴ See Ordinance 11-54 at <http://www.miamidade.gov/govaction/matter.asp?matter=112615&file=false&yearFolder=Y2011>

⁵ Oral conversation with Jimmy Morales, Esq., Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A., on February 1, 2012.

⁶ http://articles.sun-sentinel.com/2011-10-17/business/fl-taxis-credit-card-20111017_1_card-machines-credit-card-card-fee.

⁷ <http://blog.cardoffers.com/credit-cards-now-accepted-in-taxi-cabs-nationwide-except-san-francisco/>.

payment.⁸ A person who violates this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, F.S. Unless similar regulated fare rates, such as those existing in Miami Dade County, are revised to take a credit card fee into consideration or without an exemption from this section, a taxi driver could not add the credit card fee to the fare without exposing himself to risk of violating this section.

III. Effect of Proposed Changes:

Section 1 amends s. 125.01(1)(n), F.S., to conform provisions to reflect changes made by the bill. Specifically, the bill provides an exception to the powers and duties of the legislative and governing body of a county.

Section 2 creates s. 125.01035, F.S., to provide that a county may not prohibit the owner or operator of a taxicab, limousine, jitney, or other passenger vehicle for hire from imposing a surcharge on a passenger who elects to pay the passenger fare using a credit card in lieu of payment be cash, check, or similar means.

Section 3 creates s. 166.0433, F.S., to provide that a municipality may not prohibit the owner or operator of a taxicab, limousine, jitney, or other passenger vehicle for hire from imposing a surcharge on a passenger who elects to pay the passenger fare using a credit card in lieu of payment be cash, check, or similar means.

Section 4 amends s. 501.0117, F.S., to provide an exemption to the prohibition on the imposition of credit card surcharges for passenger fares for a taxicab, limousine, jitney, or other passenger vehicle for hire.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁸ Section 501.0117(1), F.S.

B. Private Sector Impact:

A passenger of taxicab, limousine, jitney, or other passenger vehicle for hire may be subject to a surcharge if using a credit card to pay the passenger fare.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that a county or municipality may not prohibit the owner or operator of a taxicab, limousine, jitney, or other passenger vehicle for hire from imposing a surcharge on a passenger who elects to pay the passenger fare using a credit card in lieu of payment by cash, check, or similar means; however, the bill does not specify the amount or percentage of the surcharge that could be imposed.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.