

**HOUSE OF REPRESENTATIVES
FINAL BILL ANALYSIS**

BILL #:	CS/CS/HB 343	FINAL HOUSE FLOOR ACTION:	
SPONSOR(S):	Economic Affairs Committee and Transportation & Highway Safety Subcommittee and Nuñez, Stewart	115 Y's	0 N's
COMPANION BILLS:	CS/CS/SB 484	GOVERNOR'S ACTION:	Approved

SUMMARY ANALYSIS

CS/CS/HB 343 passed the House on April 25, 2014, and subsequently passed the Senate on May 2, 2014. The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge of \$2.00, a surcharge of \$1.00 per use is imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle from an airport location is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The Revenue Estimating Conference has not yet evaluated the enrolled version of the bill, but evaluated an earlier version of the bill. Based on that evaluation, staff estimates that the bill will have a recurring negative insignificant cash impact on General Revenue, state trust funds, and local government revenues.

The bill was approved by the Governor on June 20, 2013, ch. 2013-199, L.O.F., and will become effective on January 1, 2014.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Current Situation

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of \$2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether the vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed.

The surcharge only applies to the first 30 days of the term of any lease or rental. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies. The surcharge is not imposed on leases or rentals to tax-exempt entities. Section 216.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80 percent to the State Transportation Trust Fund (STTF);
- 15.75 percent to the Tourism Promotional Trust Fund; and
- 4.25 percent to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Department of Transportation (DOT) district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.

Car-Sharing Services

Car-sharing is generally marketed as an alternative to conventional car rental or car ownership and exists in a number of forms.

“Traditional carsharing provides members access to a vehicle for short-term daily use. Automobiles owned or leased by a carsharing operator are distributed throughout a network; members access the vehicles with a reservation and are charged per time and often per mile....

Traditional carsharing is intended for short trips and as a supplement to public transit. Initial market entry in North America focused on the neighborhood carsharing model, characterized by a fleet of shared-use vehicles parked in designated areas throughout a neighborhood or municipality. In recent years, business models have advanced and diversified. Variations on the neighborhood model developed in North America include: business; college/university; government/institutional fleet; and public transit (carsharing provided at public transit stations or multi-modal nodes). Despite differences in target markets, these models share a similar organizational structure, capital ownership, and revenue stream.

The next generation of shared-use vehicle services, which provide access to a fleet of shared-use vehicles, incorporates new concepts, technologies, and operational methods. These models represent innovative solutions and notable advances. They include one-way carsharing and personal vehicle sharing. One-way carsharing, also known as “free-floating” carsharing, frees users from the restriction of having to return a vehicle to the same location from which it was accessed. Instead, users leave vehicles parked at any spot within the organization’s operating

area, allowing for the possibility of one-way trips. The one-way model resembles more traditional forms of carsharing—except for the logistics of vehicle redistribution and the need for expanded vehicle parking.

Personal vehicle sharing ... represents a more distinct model due to differences in organizational structure, capital stock, and liability. Personal vehicle sharing involves short-term access to privately-owned vehicles, enabling a lower operating cost and a wider vehicle distribution. ...¹

While car sharing began at the local, grassroots level, car-sharing services are now also provided by conventional rental car companies, such as Avis, Enterprise, and Hertz.²

Current Practice Relating to Surcharge

On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 in which the question presented to DOR was whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

“Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate one and access it. Each use is labeled as a “trip” and can last up to four consecutive days. A unique feature of Taxpayer’s car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to 40 minutes, costing between \$7 and \$10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice.”

First noting taxpayer’s assertion that it is not engaged in the “traditional” rental of cars, DOR concluded that the taxpayer is clearly renting cars, is engaged in the rental of motor vehicles and, therefore, the rental car surcharge does apply. DOR further cited its rule, Fla. Admin. Code 12A-16.002(3)(b): “When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental.”

Highlighting the fact that the taxpayer’s members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and that members are charged for every trip within the same twenty-four hour period on a single daily invoice, DOR concluded that the rental car “surcharge is due from Taxpayer’s members once a day, regardless of the number of trips taken by a member in a twenty-four hour period.” Therefore, car-sharing services must pay the \$2.00 surcharge per day for each member who uses the car-sharing service that day.

It should be noted that use of car-sharing services is also subject to the state’s sales and use tax.

Proposed Changes

The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge³ a surcharge of \$1.00 per use is imposed. If a member of a car-sharing service uses the same motor vehicle for 24 consecutive hours or more, the usual surcharge of \$2 per day or any part of a day shall be imposed.

¹ Shaheen, Susan, Mark Mallery, and Karly Kingsley (2012). “Personal Vehicle Sharing Services in North America,” *Research in Transportation Business & Management*, Vol. 3, pp.71-81.

² Kell, John, Jan. 2, 2013, “Avis to Buy Car-Sharing Service Zipcar,” *The Wall Street Journal*.

³ This surcharge is imposed pursuant to s. 212.0606(1), F.S.

The bill defines “car-sharing service” as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

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- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle for a location owned, operated, or leased by of for the benefit of an airport or airport authority is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated the enrolled version of the bill, but evaluated an earlier version of the bill. Based on that evaluation, staff estimates that the bill will have a negative insignificant cash impact on General Revenue on a recurring basis. The expected impact to state trust funds is also expected to be negative insignificant cash impact on a recurring basis.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has not yet evaluated the enrolled version of the bill, but evaluated an earlier version of the bill. Based on that evaluation, staff estimates the bill will have a negative insignificant impact on local government revenues on a recurring basis.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons using car-sharing services for less than a 24-hour period will see a reduction in the rental car surcharge that they will pay.

D. FISCAL COMMENTS:

None.