

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1111 Vehicles for Rent or Lease
SPONSOR(S): Transportation & Infrastructure Subcommittee, Latvala
TIED BILLS: IDEN./SIM. **BILLS:** SB 1148

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 3 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

This bill relates to vehicles for rent or lease. In general, the bill:

- Creates a number of definitions and a framework for a peer-to-peer car-sharing program to remit a rental car surcharge and appropriate taxes when a vehicle is rented;
- Authorizes an electronic copy of a rental or lease documentation be accepted by law enforcement or other entities as proof of possession of such documentation;
- Repeals the requirement that a person renting a motor vehicle to another verify the latter individual's signature on his or her driver license, and instead requires them to verify that the individual's driver license is unexpired;
- Repeals the requirement that the individual renting the vehicle to another record the date on which the driver license was issued;
- Provides that anyone that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired; and
- Requires a motor vehicle rental company, car-sharing service, or a peer-to-peer car-sharing program to enter into an agreement with a publicly owned airport, open to the public for use, in order to provide services at the airport.

The bill may have an indeterminate fiscal impact on state and local governments. See Fiscal Analysis for discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

For-Hire Vehicles

With certain exceptions, offering for lease or rent any motor vehicle in the State of Florida qualifies the vehicle as a “for-hire vehicle.” Specifically, s. 320.01(15)(a), F.S., provides:

“For-hire vehicle” means any motor vehicle, when used for transporting persons or goods for compensation; let or rented to another for consideration; offered for rent or hire as a means of transportation for compensation; advertised in a newspaper or generally held out as being for rent or hire; used in connection with a travel bureau; or offered or used to provide transportation for persons solicited through personal contact or advertised on a “share-expense” basis. When goods or passengers are transported for compensation in a motor vehicle outside a municipal corporation of this state, or when goods are transported in a motor vehicle not owned by the person owning the goods, such transportation is “for hire”. The carriage of goods and other personal property in a motor vehicle by a corporation or association for its stockholders, shareholders, and members, cooperative or otherwise, is transportation “for hire”.

Peer-to-Peer Car-Sharing

Car owners interested in renting their vehicles can register as a host on a peer-to-peer (P2P) sharing site.¹ Sites require photos of the car and help the owner determine a rental fee based on the location and type of car. The host then specifies the car's availability. The host may choose to have the car picked up at his or her house, deliver the vehicle, or have it picked up at an airport. Hosts typically receive between 65 and 75 percent of rental fees. Payments are typically through direct deposit.²

Renters also register with the P2P site. The site will conduct a background check and look at the renters' driving records before approving them. The rental process involves choosing an available car, reserving a rental date and time, and providing credit card information if it is not already on file. At the end of the rental period, the driver replaces any consumed fuel before returning the car to its pickup location.³

One P2P sharing website reports that its company has users in 56 countries in over 5,500 cities across the world. It also has over 850 makes and models of vehicles and offers up to \$1 million in liability insurance.⁴ In Florida, the same P2P company has over 611,000 residents signed up as renters and 23,000 hosts (of which 95 percent share two or fewer cars).⁵ The average trip duration is 4.4 days and the average host earns \$300 per month.⁶

Car-Sharing Service

“Car-sharing service” is a membership-based organization or business 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;

¹ Turo, Getaround, and Drift are examples of P2P car-sharing services.

² Russ Heaps, *The Good, Bad and Ugly of Peer-to-Peer Car Sharing*, Autotrader, (February 2015), available at <https://www.autotrader.com/car-shopping/good-bad-and-ugly-peer-peer-car-sharing-234961> (last visited March 14, 2019).

³ *Id.*

⁴ Turo, *About Turo*, available at <https://turo.com/about> (last visited March 14, 2019).

⁵ Turo, *Florida Fast Facts* (on file with the Transportation & Infrastructure Subcommittee).

⁶ *Id.*

- 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 lease, rental, or usage of a motor vehicle for a location-owned, operated, or leased by or 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.⁷

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 the rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed. The surcharge is subject to all applicable taxes imposed in Chapter 212, F.S.

The surcharge only applies to the first 30 days of the term of any lease or rental. 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.

Section 212.0606(2), F.S., provides 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,⁸ 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 surcharge of \$2 per day or any part of a day shall be imposed.

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;
- 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 are deposited into the State Transportation Trust Fund and are allocated to each Department of Transportation district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.⁹

Revenue from Rental Car Surcharge for Fiscal Years 2012-2019¹⁰

Fiscal Year	Total** Collections	Annual Change %	State Transportation Trust Fund	Tourism Promotional Trust Fund	Florida International Trade and Promotion Trust Fund
2018-19*	175,800,000	1.80%	140,600,000	27,700,000	7,500,000
2017-18*	172,700,000	-0.96%	138,200,000	27,200,000	7,300,000
2016-17	174,367,779	-0.93%	139,492,736	27,464,097	7,410,947

⁷ Section 212.0606(2), F.S.

⁸ This surcharge is imposed pursuant to s. 212.0606(1), F.S.

⁹ Section 212.0606(3), F.S.

¹⁰ Florida Revenue Estimating Conference, *2018 Florida Tax Handbook*, at 153.

Fiscal Year	Total** Collections	Annual Change %	State Transportation Trust Fund	Tourism Promotional Trust Fund	Florida International Trade and Promotion Trust Fund
2015-16	176,001,151	6.37%	140,800,921	27,731,681	7,468,549
2014-15	165,464,220	6.41%	132,371,376	26,060,615	7,032,229
2013-14	155,492,431	7.58%	124,393,945	24,490,058	6,608,428
2012-13	144,540,275	6.04%	115,632,220	22,765,093	6,142,962

* Estimate ** Excluding administrative fees and service charge

Documentation Required to Operate a Vehicle

Section 320.0605(1), F.S., requires that at all times while a vehicle is being used or operated on the roads of Florida, the operator of the vehicle must be in the possession of:

- The registration certificate or an official copy;
- A true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period;
- A temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet; or
- A cab card issued for a vehicle registered under the International Registration Plan.

The certificate or document must be exhibited upon demand of any authorized law enforcement officer or agent of the Department of Highway Safety and Motor Vehicles (DHSMV), except for a registered fleet vehicle.¹¹ This provision does not apply during the first 30 days after purchase of a replacement vehicle. A violation is a noncriminal traffic infraction, punishable as a nonmoving violation as provided in Chapter 318, F.S.¹²

Section 320.0605(2), F.S., specifies that the rental or lease documentation must include:

- Date of rental and time of exit from rental facility;
- Rental station identification;
- Rental agreement number;
- Rental vehicle identification number;
- Rental vehicle license plate number and state of registration;
- Vehicle's make, model, and color;
- Vehicle's mileage; and
- Authorized renter's name.

Renting a Motor Vehicle to Another

Section 322.38, F.S., establishes the requirements for an individual who wishes to rent a motor vehicle to another. These include that the individual inspects the driver license of the person to whom the vehicle is to be rented, and compares and verifies the signature thereon with the signature of such person written in his or her presence before the vehicle can be rented. Further, the individual must keep a record of the registration number of the motor vehicle rented, the name and address of the person renting and the number, date, and place of issue.

Proposed Changes

The bill amends s. 212.0606, F.S., providing that the term "lease or rental of a motor vehicle" applies to a motor vehicle rental company, a car-sharing service, and a peer-to-peer car-sharing program. The definition of "car-sharing" service" is removed from this section and placed in s. 320.01, F.S. For

¹¹ A fleet vehicle registered under s. 320.0657, F.S., provides for the permanent registration of fleet license plates.

¹² Chapter 318, F.S., relates to the disposition of traffic infractions.

purposes of s. 212.0606, F.S., the term “dealer” is defined as a car-sharing service, a motor vehicle rental company, and a peer-to-peer car-sharing service.

The bill defines the term “motor vehicle rental company” to mean any person who is in the business of providing motor vehicles to the public under a rental agreement for a period of 30 days or less for consideration. The bill defines the term “peer-to-peer car-sharing program” to mean a business platform that connects vehicle owners with drivers to enable the renting of vehicles for financial consideration.

The bill subjects motor vehicles offered for rent through peer-to-peer car-sharing programs to additional regulations, including the \$2 per day rental car surcharge (\$1 per day for rentals less than 24 hours) and appropriate sales tax. Additionally, these motor vehicles may be subject to different insurance and registration requirements.

The bill amends s. 320.0605, F.S., authorizing an operator to possess an electronic copy of the motor vehicle registration or rental or lease documentation in a format authorized by DHSMV to be displayed upon the request of a law enforcement officer or an agent of DHSMV. Displaying the electronic copy does not constitute consent for the officer or agent to access any information on the device other than the displayed documentation. The person who presents the device to the officer assumes liability for any resulting damage to the device.

The bill also provides that rather than requiring the rental or lease documentation to include the date of rental and time of exit from the rental facility, the documentation will only have to include the date and time of rental. Additionally, the documentation will not require the rental station identification.

The bill amends s. 322.38, F.S., to eliminate the requirement that a person renting a motor vehicle to another verify the latter individual’s signature on his or her driver license, and adds the requirement that the individual renting the vehicle to another verify that the renter’s driver license is unexpired. The bill also eliminates the requirement that the individual renting the vehicle to another record the date on which the driver license was issued.

Additionally, the bill provides that a rental car company that rents a motor vehicle to a person through digital, electronic, or other means which allows the renter to obtain possession of the vehicle without direct contact with an agent or employee of the rental car company, or where the renter does not execute a rental contract at the time he or she takes possession of the vehicle, is deemed to have met the license inspection requirements if the renter verifies that he or she is duly licensed and the license is unexpired. Such verification may occur when the renter enrolls in a rental company’s membership program, master agreement, or other means of establishing use of the company’s services or at any time thereafter.

Finally, the bill creates s. 331.17, F.S., providing that in order to facilitate the provision of service on the property of a publicly owned airport that is open for public use, a motor vehicle rental company, a car-sharing service, or a peer-to-peer car-sharing program must enter an agreement with the airport to provide such services.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.0606, F.S., relating to rental car surcharge.

Section 2: Amends s. 320.01, F.S., relating to definitions.

Section 3: Amends s. 320.0605, F.S., relating to certificate of registration; possession required; exception.

Section 4: Amends s. 322.38, F.S., relating to renting motor vehicle to another.

Section 5: Creates s. 331.17, F.S., relating to transportation services at airports.

Section 6: Provides an effective date of July 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may result in an increase in revenue as a result of the requirement that specified entities remit the rental car surcharge. These revenues will be deposited into the State Transportation Trust Fund, Tourism Promotional Trust Fund, and Florida International Trade and Promotion Trust Fund.

Additionally, the state may experience an increase in revenue from additional sales tax that is deposited into the General Revenue Fund.

To the extent the bill reduces the motor vehicle title and registration fees for certain vehicles, there may be an indeterminate negative fiscal impact to the state.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

A publicly owned airport that is open for public use, entering into an agreement with a motor vehicle rental company, a car-sharing service, or a peer-to-peer car-sharing program to provide services, may see an indeterminate positive fiscal impact from any revenues derived from the agreement.

Counties may experience an increase in revenue associated with additional sales taxes from motor vehicle rental companies.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Peer-to-peer car-sharing programs will be required to remit the rental car surcharge and appropriate sales taxes.

Owners of for-hire motor vehicles participating in peer-to-peer and other car-sharing business models may be subject to different regulations relating to insurance and registration.

D. FISCAL COMMENTS:

According to the Department of Revenue, the rental car surcharge under s. 212.0606, F.S., and sales and use taxes under s. 212.05, F.S., on rental revenue generated by participating in a "Peer-to-Peer", or other, ride-share model program, apply under current law and are currently required to be remitted to the state.¹³

¹³ Email from Debra Longman, Director of the Office of Legislative and Cabinet Services, Department of Revenue, RE: SB 1148 Questions (March 18, 2019), (On file with the Transportation & Infrastructure Subcommittee).

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

Article VII, s. 19 of the Florida Constitution requires the imposition, authorization, or raising of a state tax or fee be contained in a separate bill that contains no other subject and be approved by two-thirds of the membership of each house of the Legislature. As such, Art. VII, s. 19 of the Florida Constitution may apply if the tax provisions in the bill are interpreted to be a new tax.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 26, 2019, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Removed the definitions of the terms “private motor vehicle” and “private motor vehicle rental program” from the bill.
- Created definitions for “peer-to-peer car-sharing program” and “motor vehicle rental company”.
- Moved the definition of “car-sharing service” into the definition section of Chapter 320, F.S.
- Required a motor vehicle rental company, car-sharing service, or a peer-to-peer car-sharing program that facilitates service at airports, to enter into agreements with these airports.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.