

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 Committee on Infrastructure and Security

BILL: SB 1148

INTRODUCER: Senator Perry

SUBJECT: Vehicles for Rent or Lease

DATE: March 19, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Pre-meeting
2.			ATD	
3.			AP	

I. Summary:

SB 1148 is a bill related to vehicles for rent or lease which:

- Amends the definition of a “for-hire vehicle” to include a private motor vehicle that participates in a private motor vehicle rental program and is rented or offered for rent to another for consideration;
- Defines “private motor vehicle” as a motor vehicle owned by an individual and insured under a personal automobile liability insurance policy that lists a single individual, or individuals residing in the same household, as the named insured. This term does not include a motor vehicle with fewer than four wheels;
- Defines “private motor vehicle rental program” as the means, digital or otherwise, by which a private motor vehicle is offered for rent by a person or entity who does not own the private motor vehicle;
- Authorizes an electronic copy of a motor vehicle certificate of registration or rental or lease documentation be accepted by law enforcement or other entities as proof of possession of such documentation; and
- Provides that anyone who rents a vehicle to another person is deemed to have met certain statutory requirements if the renter verifies he or she holds a valid driver license and the vehicle is rented through digital, electronic, or other means.

The bill may have an indeterminate negative fiscal impact on certain ride-sharing models and to the state. See fiscal notes in Section V.

The bill takes effect July 1, 2019.

II. Present Situation:

For-Hire Vehicles

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

“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”.¹

Rental Car Industry

In recent years there has been a growing industry of rental cars known as “car-sharing” services. Companies, or programs, like “Zipcar”², “car2go”³, and “Turo”⁴ allow members to reserve the use of a car without visiting a rental car location. This model is seen as an alternative to the traditional rental car business model as well as an alternative to owning a car in a major metropolitan area. As a developing industry, car-sharing services face varying regulations and taxes across different local and state governments. The CarSharing Association represents several car-sharing companies and “seeks to improve access to reliable, affordable transportation while providing a viable option for communities to move away from a culture of personal car ownership.”⁵ Car-sharing services are promoted by some organizations as a form of “sharing economy,” which is described as an “economic activity that involves individuals buying or selling usually temporary access to goods or services especially as arranged through an online company or organization.”⁶

¹ See s. 320.01(15)(b), F.S., the following are not included in the term “for-hire vehicle”: a motor vehicle used for transporting school children to and from school under contract with school officials; a hearse or ambulance when operated by a licensed embalmer or mortician or his or her agent or employee in this state; a motor vehicle used in the transportation of agricultural or horticultural products or in transporting agricultural or horticultural supplies direct to growers or the consumers of such supplies or to associations of such growers or consumers; a motor vehicle temporarily used by a farmer for the transportation of agricultural or horticultural products from any farm or grove to a packinghouse or to a point of shipment by a transportation company; or a motor vehicle not exceeding 11/2 tons under contract with the Government of the United States to carry United States mail, provided such vehicle is not used for commercial purposes.

² Zipcar website, <http://www.zipcar.com/> (last visited Mar. 15, 2019).

³ car2go website, <https://www.car2go.com/en/austin/> (last visited Mar. 15, 2019).

⁴ Turo website, <https://turo.com/> (last visited Mar. 15, 2019).

⁵ The CarSharing Association website, <http://carsharing.org/> (last visited Mar. 15, 2019).

⁶ Merriam-Webster website, <https://www.merriam-webster.com/dictionary/sharing%20economy> (last visited Mar. 15, 2019).

Three major varieties of car-sharing models exist currently:⁷

- Peer to Peer: “A fleet of cars is owned by a community. The marketplace matches owners of cars that are available to other drivers to rent.”
- Business to Consumer: “A company owns a fleet of cars and facilitates the sharing among members.”
- Not-For-Profit or Co-Op: “A local organization or community that facilitates car sharing with the goal of changing driving habits over making a profit.”

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 such 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 by county, attributing the surcharge to the county where the rental agreement was made.

The surcharge applies to only the first 30 days of the term of any lease or rental, whether or not the vehicle is licensed in Florida.⁸ If the rental or lease of a vehicle is for longer than 30 days, only the first 30 days are subject to the surcharge. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge.

The surcharge is not imposed on leases or rentals to tax-exempt entities.⁹ Section 212.0606(5), 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, the rental car surcharge is distributed as follows:

- 80 percent of the surcharge to the State Transportation Trust Fund (STTF);
- 15.75 percent of the surcharge to the Tourism Promotional Trust Fund; and
- 4.25 percent of the surcharge to the Florida International Trade and Promotion Trust Fund.¹⁰

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Florida Department of Transportation district, except the Turnpike District, for transportation projects based on the amount of proceeds collected in the counties within each respective district.¹¹

⁷ Collaborative Fund and Hyperakt, *The Bright Future of CarSharing*, <http://futureofcarsharing.com/> (last visited Mar. 15, 2019).

⁸ Section 212.0606(1), F.S.

⁹ Section 212.08, F.S.; Rule 12A-1.038, F.A.C.

¹⁰ Section 212.0606(3)(a), F.S.

¹¹ Section 212.0606(3)(b), F.S.

Motor Vehicle Registrations and Rental Agreements

Section 320.0605, F.S., requires all drivers to possess (or carry in the vehicle) one of the following documents while using or operating a motor vehicle on state roads:

- the vehicle's registration certificate (or an official copy);
- the temporary receipt of an internet registration renewal;
- a true copy of a rental or lease documentation¹²; or
- a cab card issued for vehicles registered under the International Registration Plan.

One of the documents listed above must be exhibited, upon demand, to any authorized law enforcement officer or Department of Highway Safety and Motor Vehicles (DHSMV) agent. Failing to meet the requirement is a nonmoving violation subject to a \$30 fine, unless the driver can later show proof of valid registration at the time of arrest.¹³ The above requirement has two exceptions: fleet vehicles¹⁴, and replacement vehicles purchased within the last 30 days.

Section 320.0605, F.S., requires that a person who rents or leases a vehicle is required to possess a true copy of rental or lease documentation for the motor vehicle at all times while the vehicle is being operated. The documentation must include certain information including the date of rental and time of exit from the rental facility, and the rental station identification.

Renting a Motor Vehicle to Another

Section 322.38, F.S., sets 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.

III. Effect of Proposed Changes:

Private Motor Vehicle

The bill amends s. 320.01(15)(a), F.S., to redefine a "for-hire vehicle" to:

- Allow for advertisement to occur electronically; and
- Include a private motor vehicle that participates in a private motor vehicle rental program and is rented or offered for rent to another for consideration.

The bill creates s. 320.01(46), F.S., to define a "private motor vehicle" as a motor vehicle owned by an individual and insured under a personal automobile liability insurance policy that lists a single individual, or individuals residing in the same household, as the named insured. This term does not include a motor vehicle with fewer than four wheels.

¹² See s. 320.0605(2), F.S., a rental or lease documentation that is sufficient to satisfy the requirement in s. 320.0506, F.S. includes the following: 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.

¹³ Section 318.18(2)(b)1., F.S.

¹⁴ See s. 320.0657(1), F.S., which defines the term "fleet" to mean nonapportioned motor vehicles owned or leased by a company and used for business purposes.

The bill creates s. 320.01(47), F.S., to define “private motor vehicle rental program” as the means, digital or otherwise, by which a private motor vehicle is offered for rent by a person or entity who does not own the private motor vehicle.

The amended definition of a “for-hire vehicle” may subject a “Peer to Peer”, or other, ride-sharing model to additional local and state regulation, and the vehicles to different insurance and registration requirements. Section 324.032, F.S., allows a person who is either the owner or a lessee and who operates one or more for-hire passenger transportation vehicles to prove financial responsibility by furnishing satisfactory evidence of holding a motor vehicle liability policy. In addition, the DHSMV indicates the motor vehicle title fee of a for-hire vehicle is \$56.25 and the base motor vehicle registration fee of a for-hire vehicle is \$17.00.¹⁵ According to the Department of Revenue (DOR), 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, therefore the amended definition does not appear to impact either of these issues.¹⁶

Motor Vehicle Registrations and Rental Agreements

The bill amends s. 320.0605, F.S., to allow a driver to operate a motor vehicle on state roads if they have an electronic copy of a rental or lease documentation in a format authorized by the DHSMV for the vehicle in operation. The bill provides that the act of presenting to a law enforcement officer or agent of the DHSMV an electronic device displaying an electronic copy of a rental or lease documentation does not constitute consent for the officer or agent to access any information on the device other than the displayed rental or lease documentation, and the person who presents the device to the officer or agent assumes liability for any resulting damage to the device.

The bill also amends s. 320.0605, F.S., to repeal the requirement that the rental or lease documentation must include the time of exit from the rental facility, as well as the rental station identification.

Renting a Motor Vehicle to Another

The bill amends s. 322.38, F.S., to repeal 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. The bill also repeals the requirement that the individual renting the vehicle to another record the date on which the driver license was issued.

The bill creates s. 322.38(4), F.S., to provide 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 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

¹⁵ The Department of Highway Safety and Motor Vehicles, Fees, <https://www.flhsmv.gov/fees/> (last visited on Mar. 16, 2019).

¹⁶ 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 Committee on Infrastructure and Security).

duly licensed and the license is unexpired. This verification may occur when the renter enrolls in a membership program, master agreement, or other means of establishing use of the services of the rental car company or of the private motor vehicle program, or at any time thereafter.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By defining vehicles in “private motor vehicle rental programs” as “for-hire vehicles”, the bill may have the effect of making vehicles in a “Peer to Peer”, or other, car-sharing business model subject to different regulations for insurance and registration.

C. Government Sector Impact:

Should a “Peer to Peer”, or other, car-sharing model be subject to the reduced motor vehicle title fee of a for-hire vehicle, and the reduced base motor vehicle registration fee of a for-hire vehicle, then there may be an indeterminate negative fiscal impact to the state.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear to what degree a “Peer to Peer”, or other, ride-sharing model vehicle would be impacted by varying insurance and registration requirements, or at what point an individual’s privately owned and operated vehicle should be titled and registered through the DHSMV as a “for-hire vehicle”.

VIII. Statutes Affected:

This bill substantially amends ss. 320.01, 320.0605, and 322.38 of the Florida Statutes.

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

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

None.

B. Amendments:

None.