

HB0354S02 compared with HB0354S01

~~{deleted text}~~ shows text that was in HB0354S01 but was deleted in HB0354S02.

Inserted text shows text that was not in HB0354S01 but was inserted into HB0354S02.

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Representative Kim F. Coleman proposes the following substitute bill:

~~{BUSINESS REGULATION AMENDMENTS}~~ PEER-TO-PEER CAR
SHARING ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: ~~{ }~~ Jacob L. Anderegg

LONG TITLE

General Description:

This bill enacts provisions related to the regulation of ~~{certain businesses and provisions related to certain commercial activity at an airport}~~ a peer-to-peer car sharing company.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a public entity from regulating a peer-to-peer car sharing company or a peer-to-peer ~~{seller}~~ vehicle owner in the same manner as ~~{certain businesses}~~ a motor vehicle rental company;

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- ▶ prohibits a public entity from regulating a peer-to-peer car rental transaction in the same manner as ~~{certain business transactions;~~

~~→ prohibits a city from regulating an incidental commercial activity at an airport as a commercial activity; and~~

~~→ permits a city to establish a fee for an incidental commercial activity under certain circumstances;~~ a motor vehicle rental company transaction; and

- ▶ exempts the rental of a motor vehicle that a peer-to-peer car sharing company facilitates from certain taxes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-603, as last amended by Laws of Utah 2018, Chapters 258 and 312

59-12-1201, as last amended by Laws of Utah 2016, Chapters 184 and 291

ENACTS:

13-54-101, Utah Code Annotated 1953

13-54-102, Utah Code Annotated 1953

13-54-201, Utah Code Annotated 1953

~~{ **72-10-701**, Utah Code Annotated 1953~~

~~**72-10-702**, Utah Code Annotated 1953~~

~~}~~

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-54-101** is enacted to read:

CHAPTER 54. PEER-TO-PEER ~~{PLATFORM ACT}~~ CAR SHARING

Part 1. General Provisions

13-54-101. Title.

This chapter is known as "Peer-to-Peer ~~{Platform Act}~~ Car Sharing."

Section 2. Section **13-54-102** is enacted to read:

13-54-102. Definitions.

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As used in this chapter:

(1) (a) "Motor vehicle rental company" means a person:

(i) in the business of renting motor vehicles to the public; and

(ii) that is exempted from sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, for the purchase of a motor vehicle.

(2) (a) "Peer-to-peer car sharing company" means a peer-to-peer company that facilitates the rental of an individual's private motor vehicle to another individual through a peer-to-peer platform.

(b) "Peer-to-peer car sharing company" does not include a person that is exempted from sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, for the purchase of a motor vehicle.

(3) "Peer-to-peer car rental transaction" means a private car rental:

(a) that a peer-to-peer car sharing company facilitates; and

(b) between two independent individuals whom the peer-to-peer company described in Subsection (5)(a) does not employ.

~~(1)~~4) "Peer-to-peer company" means ~~an entity~~ a person that uses a peer-to-peer platform to connect independent individuals who agree to exchange a product or service.

~~(2)~~5) "Peer-to-peer platform" means an Internet-connected software service:

(a) that a peer-to-peer company provides; and

(b) through which independent individuals agree to exchange a product or service.

~~(3)~~6) "Peer-to-peer ~~seller~~ vehicle owner" means an individual who uses a peer-to-peer platform to ~~offer a product or service~~ rent the individual's private motor vehicle to another individual.

~~{~~ ~~(4) "Peer-to-peer transaction" means an exchange:~~

~~——~~ ~~(a) that a peer-to-peer company facilitates; and~~

~~——~~ ~~(b) between two independent individuals whom the peer-to-peer company described in Subsection (4)(a) does not employ.~~

~~‡~~ ~~(5)~~7) "Public entity" means:

(a) the state; or

(b) a political subdivision of the state.

~~{~~ ~~(6) (a) "Service" means a service that a peer-to-peer seller provides to an individual.~~

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~~(b) "Service" does not include a peer-to-peer platform or a peer-to-peer transaction.~~

‡ Section 3. Section **13-54-201** is enacted to read:

Part 2. Regulation

13-54-201. Prohibition of regulation.

~~{(1)}~~ Except as specifically authorized in statute, a public entity may not regulate:

~~(a) 1~~ a peer-to-peer car sharing company or a peer-to-peer ~~{seller}~~ vehicle owner in the same or substantially similar manner as a ~~{business that offers the same product or service to the public}~~ motor vehicle rental company; or

~~(b) 2~~ a peer-to-peer car rental transaction in the same or substantially similar manner as a transaction that a ~~{business offering the same product or service to the public facilitates}~~

~~(2) A public entity may regulate a peer-to-peer company in a manner prohibited under Subsection (1)(a), if the peer-to-peer company manufactures, owns, or distributes the product, or provides the service, for which the peer-to-peer} motor vehicle rental company facilitates {a peer-to-peer transaction.~~

~~(3) Any tax owed as part of a peer-to-peer transaction is the obligation of the independent individuals who agreed to exchange the product or service and not the peer-to-peer company.}.~~

Section 4. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) [In] Subject to Subsection (1)(c), in addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals

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of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

- (A) alcoholic beverages;
- (B) food and food ingredients; or
- (C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(c) In accordance with Section 13-54-201, a county may not impose a tax described in Subsection (1)(a) on the rental of a motor vehicle facilitated by a peer-to-peer car sharing company as defined in Section 13-54-102.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:
 - (A) an airport facility;
 - (B) a convention facility;
 - (C) a cultural facility;
 - (D) a recreation facility; or
 - (E) a tourist facility.

(b) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

- (i) promote tourism in ski areas within the county by persons that do not reside within the state; and
- (ii) combine the sale of:

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(A) ski lift tickets; and

(B) accommodations and services described in Subsection 59-12-103(1)(i).

(3) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

(c) a cultural facility;

(d) a recreation facility; or

(e) a tourist facility.

(4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(5) To maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(6) (a) Regardless of whether a county of the first class creates a tourism tax advisory board in accordance with Section 17-31-8, the county legislative body of the county of the first class shall create a tax advisory board in accordance with this Subsection (6).

(b) The tax advisory board shall be composed of nine members appointed as follows:

(i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and

(ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors

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of cities and towns within the county of the first class.

(c) Five members of the tax advisory board constitute a quorum.

(d) The county legislative body of the county of the first class shall determine:

(i) terms of the members of the tax advisory board;

(ii) procedures and requirements for removing a member of the tax advisory board;

(iii) voting requirements, except that action of the tax advisory board shall be by at

least a majority vote of a quorum of the tax advisory board;

(iv) chairs or other officers of the tax advisory board;

(v) how meetings are to be called and the frequency of meetings; and

(vi) the compensation, if any, of members of the tax advisory board.

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under:

(I) Part 1, Tax Collection; or

(II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue according to the distribution formula provided in Subsection (8).

(c) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenue the commission collects from a tax under this part.

(8) The commission shall distribute the revenue generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

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(a) the commission shall distribute 70% of the revenue based on the percentages generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenue based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2, County Annexation.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or

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after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

Section 5. Section 59-12-1201 is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

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(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; ~~or~~

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement~~[-]; or~~

(d) the motor vehicle rental is facilitated by a peer-to-peer car sharing company as defined in Section 13-54-102, in accordance with Section 13-54-201.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.

~~{ Section 4. Section 72-10-701 is enacted to read:~~

Part 7. Airport Commercial Activities

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~~72-10-701. Definitions.~~

~~As used in this part:~~

~~(1) (a) "City" means a municipality of the first class, as defined under Section 10-2-301, that:~~

~~(i) is authorized by statute to operate an airport; and~~

~~(ii) operates an airport with more than 10 million annual passengers.~~

~~(b) "City" includes a city's enterprise fund.~~

~~(2) "Incidental commercial activity" means a commercial activity that:~~

~~(a) (i) occurs inside an airport building; and~~

~~(ii) (A) is exclusively conducted with a person off the airport property using electronic means; or~~

~~(B) between two or more individuals, each of whom is in the course of patronizing the airport for travel purposes; or~~

~~(b) (i) occurs outside an airport building on airport property;~~

~~(ii) is part of a peer-to-peer transaction;~~

~~(iii) is not a prearranged ride as defined in Section 13-51-102; and~~

~~(iv) is comprised of the transferring of a vehicle to another individual.~~

~~(3) "Peer-to-peer company" means the same as that term is defined in Section 13-54-102.~~

~~Section 5. Section 72-10-702 is enacted to read:~~

~~72-10-702. Regulation of commercial activity at an airport.~~

~~(1) A city shall regulate an incidental commercial activity as if the activity is not commercial in nature.~~

~~(2) Notwithstanding Subsection (1), a city may establish a per-transaction fee for an incidental commercial activity if the fee is:~~

~~(a) based on the actual impact of the activity on airport property; and~~

~~(b) uniformly applied to all persons who make the same or similar impact on airport property, regardless of whether the person makes the impact in connection with an incidental commercial activity.~~

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