

PEER-TO-PEER CAR SHARING ACT

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Robert M. Spendlove

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill enacts provisions relating to the taxation and regulation of peer-to-peer car sharing companies and owners by public entities.

Highlighted Provisions:

This bill:

- defines terms;
- prohibits a public entity from regulating a peer-to-peer car sharing company or a peer-to-peer vehicle owner in the same manner as a motor vehicle rental company;
- prohibits a public entity from regulating a peer-to-peer car rental transaction in the same manner as a motor vehicle rental company transaction;
- exempts the rental of a motor vehicle that a peer-to-peer car sharing company facilitates from certain taxes; and
- makes technical and corresponding changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2020, Chapter 118



28 **13-51-101**, as enacted by Laws of Utah 2015, Chapter 461
29 **13-51-102**, as last amended by Laws of Utah 2019, Chapter 459
30 **13-51-104**, as enacted by Laws of Utah 2015, Chapter 461
31 **13-51-109**, as enacted by Laws of Utah 2015, Chapter 461
32 **41-26-106**, as enacted by Laws of Utah 2019, Chapter 459
33 **59-12-603**, as last amended by Laws of Utah 2020, Chapter 407
34 **59-12-1201**, as last amended by Laws of Utah 2016, Chapters 184 and 291

35 ENACTS:

36 **13-51-301**, Utah Code Annotated 1953
37 **13-51-302**, Utah Code Annotated 1953
38 **13-51-303**, Utah Code Annotated 1953

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

41 Section 1. Section **13-2-1** is amended to read:

42 **13-2-1. Consumer protection division established -- Functions.**

43 (1) There is established within the Department of Commerce the Division of Consumer
44 Protection.

45 (2) The division shall administer and enforce the following:

- 46 (a) Chapter 5, Unfair Practices Act;
- 47 (b) Chapter 10a, Music Licensing Practices Act;
- 48 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 49 (d) Chapter 15, Business Opportunity Disclosure Act;
- 50 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 51 (f) Chapter 21, Credit Services Organizations Act;
- 52 (g) Chapter 22, Charitable Solicitations Act;
- 53 (h) Chapter 23, Health Spa Services Protection Act;
- 54 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 55 (j) Chapter 26, Telephone Fraud Prevention Act;
- 56 (k) Chapter 28, Prize Notices Regulation Act;
- 57 (l) Chapter 32a, Pawnshop and Secondhand Merchandise Transaction Information Act;
- 58 (m) Chapter 34, Utah Postsecondary Proprietary School Act;

- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 39, Child Protection Registry;
- (p) Chapter 41, Price Controls During Emergencies Act;
- (q) Chapter 42, Uniform Debt-Management Services Act;
- (r) Chapter 49, Immigration Consultants Registration Act;
- (s) Chapter 51, Transportation [~~Network~~] Company [~~Registration~~] Act;
- (t) Chapter 52, Residential Solar Energy Disclosure Act;
- (u) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (v) Chapter 54, Ticket Website Sales Act;
- (w) Chapter 56, Ticket Transferability Act; and
- (x) Chapter 57, Maintenance Funding Practices Act.

Section 2. Section **13-51-101** is amended to read:

CHAPTER 51. TRANSPORTATION COMPANY ACT

Part 1. Transportation Network Company Registration Act

13-51-101. Title.

(1) This chapter is known as the "Transportation Company Act."

(2) This [~~chapter~~] part is known as "Transportation Network Company Registration Act."

Section 3. Section **13-51-102** is amended to read:

13-51-102. Definitions.

As used in this part:

(1) "Division" means the Division of Consumer Protection within the Department of Commerce.

(2) "Prearranged ride" means a period of time that:

(a) begins when the transportation network driver has accepted a passenger's request for a ride through the transportation network company's software application; and

(b) ends when the passenger exits the transportation network driver's vehicle.

(3) "Software application" means an Internet-connected software platform, including a mobile application, that a transportation network company uses to:

(a) connect a transportation network driver to a passenger; and

(b) process passenger requests.

- 90 (4) "Transportation network company" means an entity that:
- 91 (a) uses a software application to connect a passenger to a transportation network
- 92 driver providing transportation network services;
- 93 (b) is not:
- 94 (i) a taxicab, as defined in Section 53-3-102; or
- 95 (ii) a motor carrier, as defined in Section 72-9-102; and
- 96 (c) except in certain cases involving a motor vehicle with a level four or five automated
- 97 driving system, as defined in Section 41-26-102.1, does not own, control, operate, or manage
- 98 the vehicle used to provide the transportation network services.
- 99 (5) "Transportation network driver" means:
- 100 (a) an individual who:
- 101 (i) pays a fee to a transportation network company, and, in exchange, receives a
- 102 connection to a potential passenger from the transportation network company;
- 103 (ii) operates a motor vehicle that:
- 104 (A) the individual owns, leases, or is authorized to use; and
- 105 (B) the individual uses to provide transportation network services; and
- 106 (iii) receives, in exchange for providing a passenger a ride, compensation that exceeds
- 107 the individual's cost to provide the ride; or
- 108 (b) a level four or five automated driving system, as defined in Section 41-26-102.1,
- 109 when the automated driving system is operating the vehicle and used to provide a passenger a
- 110 ride in exchange for compensation.
- 111 (6) "Transportation network services" means, for a transportation network driver
- 112 providing services through a transportation network company:
- 113 (a) providing a prearranged ride; or
- 114 (b) being engaged in a waiting period.
- 115 (7) "Waiting period" means a period of time when:
- 116 (a) a transportation network driver is logged into a transportation network company's
- 117 software application; and
- 118 (b) the transportation network driver is not engaged in a prearranged ride.
- 119 Section 4. Section 13-51-104 is amended to read:
- 120 **13-51-104. Licensure -- Division audits -- Fines.**

(1) A person may not operate a transportation network company without registering with the division under Subsection (2).

(2) The division shall register a person to operate a transportation network company if:

(a) the person:

(i) demonstrates to the division that the person meets the definition of a transportation network company under Section 13-51-102; and

(ii) pays a registration fee in an amount determined by the division in accordance with Section 63J-1-504; and

(b) the division determines that the person complies with the operating requirements for a transportation network company described in this ~~chapter~~ part.

(3) A transportation network company's registration under Subsection (2) is:

(a) valid until one year after the day on which the transportation network company registers with the division; and

(b) renewable if the transportation network company meets the requirements of Subsection (2).

(4) The division may audit the records of a transportation network company, including a random sample of the transportation network company's records related to transportation network drivers:

(a) no more than twice per year;

(b) at a location agreed to by the division and the transportation network company; and

(c) notwithstanding Subsection (4)(a), at any time to investigate a complaint.

(5) The division may fine a transportation network company up to \$500 for each violation of this ~~chapter~~ part.

Section 5. Section 13-51-109 is amended to read:

13-51-109. Preemption clause.

(1) Except as provided in Subsection (2), this ~~chapter~~ part supersedes any regulation of a municipality, county, or local government regarding a transportation network company, a transportation network driver, or transportation network services.

(2) This ~~chapter~~ part does not supersede a municipal, county, or local government regulation regarding a transportation network driver providing transportation network services at an airport.

Section 6. Section **13-51-301** is enacted to read:

Part 3. Peer-to-peer Car Sharing Act

13-51-301. Title.

This part is known as "Peer-to-peer Car Sharing Act."

Section 7. Section **13-51-302** is enacted to read:

13-51-302. Definitions.

As used in this part:

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

(a) (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; or

(b) a person engaged in the short term rental or lease of motor vehicles, which lease or rental is subject to the tax imposed under Section [59-12-1201](#).

(2) (a) "Peer-to-peer car sharing company" means a business platform that connects vehicle owners with drivers to enable the sharing of vehicles for financial consideration.

(b) "Peer-to-peer car sharing company" does not include a motor vehicle rental company.

(3) "Peer-to-peer sharing transaction" means the authorized use of a vehicle by an individual other than the shared vehicle owner through a peer-to-peer car sharing company.

(4) "Public entity" means:

(a) the state; or

(b) a political subdivision of the state.

(5) (a) "Shared vehicle owner" means the registered owner, or a person or entity designated by the registered owner, of a vehicle made available for sharing to shared vehicle drivers through a peer-to-peer car sharing program.

(b) "Shared vehicle owner" does not include a person that is exempt from sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, for the purchase of a motor vehicle.

Section 8. Section **13-51-303** is enacted to read:

13-51-303. Prohibition of regulation.

Except as specifically authorized in statute, a public entity may not regulate:

(1) a peer-to-peer car sharing company or a shared vehicle owner in the same or

substantially similar manner as a motor vehicle rental company; or

(2) a peer-to-peer car rental transaction in the same or substantially similar manner as a transaction that is facilitated by a motor vehicle rental company.

Section 9. Section **41-26-106** is amended to read:

41-26-106. On-demand autonomous vehicle network.

(1) Subject to Subsection (2), an on-demand autonomous vehicle network may only operate pursuant to state laws governing the operation of ground transportation for-hire under state law, including:

(a) a transportation network company [~~pursuant to~~] under Title 13, Chapter 51, Part 1, Transportation Network Company Registration Act;

(b) a public transit district as defined in Section **17B-2a-802**; or

(c) a private passenger carrier as defined in Section **53-3-102**.

(2) Any provision of state law described in Subsection (1) that reasonably applies only to a human driver, including Subsection **13-51-105**(5)(b), shall not apply to the operation of a vehicle by an engaged level four or five ADS that is part of an on-demand autonomous vehicle network.

Section 10. 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~~] Except as provided in 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 rentals of motor vehicles, except for short-term 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) 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 rentals of motor vehicles, except for short-term 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) beginning on January 1, 2021, a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

(iii) 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

(iv) 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) A county may not impose a tax described in Subsection (1)(a) on:

(i) a peer-to-peer car sharing transaction as defined in Section 13-51-302;

(ii) a peer-to-peer car sharing company as defined in Section 13-51-302; or

(iii) a shared vehicle owner as defined in Section 13-51-302.

(2) (a) Subject to Subsection (2)(b), a county may use revenue from the imposition of a tax under Subsection (1) 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)(iv) 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:

(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 a tax under Subsection (1), the 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 a 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 the county's 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 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:

(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 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 day on which 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 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 day on which 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 11. 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:

(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 sharing of the motor vehicle is a peer-to-peer car sharing transaction as defined in Section 13-51-302.

(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.