

BILL ANALYSIS

C.S.H.B. 2872
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Ways & Means
Committee Report (Substituted)

BACKGROUND AND PURPOSE

It has been noted that the owner of a motor vehicle using their vehicle for rental, such as a motor vehicle rental company that owns the vehicles provided to renters, is subject to a gross rental receipts tax. It has been suggested that the rights and duties of individuals who are or engage with a physical, electronic, or online motor vehicle marketplace rental provider are unclear with regard to tax collection obligations under current law. C.S.H.B. 2872 seeks to facilitate the efficient collection of certain taxes by clearly establishing the responsibilities of persons involved in marketplace rental provider transactions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2872 amends the Tax Code to require a marketplace rental provider if a motor vehicle is rented through the marketplace rental provider, to collect, report, and pay the tax on gross rental receipts to the comptroller of public accounts, in the manner prescribed by the Limited Sales, Excise, and Use Tax Act and Tax Code provisions relating to the taxes on the sale, rental, and use of motor vehicles, to certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax. The bill expressly does not require an owner who in good faith accepts the marketplace rental provider's certification to collect, report, or pay the tax. The bill defines "marketplace rental provider" as a person who:

- operates any type of marketplace, including a store with a physical location, an Internet website, a software or mobile application, or a catalog, by which the owner of a motor vehicle lists, markets, or advertises the owner's motor vehicle for rental by others for consideration in this state;
- facilitates the rental of the owner's motor vehicle by another person by communicating between the owner and the other person the terms of the agreement and the acceptance of those terms; and
- directly or indirectly collects or processes the receipts or rental charges paid by the person renting the motor vehicle for the owner of the motor vehicle.

C.S.H.B. 2872 authorizes the owner of a motor vehicle rented through a marketplace rental provider to elect to report and pay the tax on gross rental receipts to the comptroller. The bill

requires the owner, if the owner elects to report and pay the tax, to inform the marketplace rental provider in writing of the election and to register as a retailer with the comptroller in the same administrative manner as required of a retailer under the Limited Sales, Excise, and Use Tax Act. The bill requires the marketplace rental provider, if the owner elects to report and pay the tax, to forward the tax collected by the provider to the owner.

C.S.H.B. 2872 requires the marketplace rental provider, if a motor vehicle is rented through the provider and the provider is required to file the report but fails to timely file the report, to pay a penalty of \$50. The bill removes the requirement for an owner of a motor vehicle on which the motor vehicle sales or use tax has been paid who subsequently uses the vehicle for rental to collect the gross rental receipts tax from the person renting the vehicle. The bill requires the owner of a motor vehicle rented through a marketplace rental provider and the provider, if applicable, to keep for at least four years certain supporting documents relating to the gross rental receipts received from the rental of the vehicle and those paid to the comptroller.

C.S.H.B. 2872 requires a marketplace rental provider to send to the owner of a motor vehicle that is rented through the provider a report each month that shows the amount of tax collected, reported, and paid for each motor vehicle that the owner owns and that is rented through the provider. The bill expressly does not require the provider to send the report to an owner who elects to report and pay the tax.

C.S.H.B. 2872 amends the Local Government Code to require such a marketplace rental provider, if a motor vehicle subject to the short-term motor vehicle rental tax is rented through the marketplace rental provider, to collect the tax for the benefit of the applicable municipality or county and to add the tax, if applicable, and the gross rental receipts tax on motor vehicles, to the rental charge. The sum of the taxes is part of the rental charge, is a debt owed to the marketplace rental provider by the person renting the vehicle, and is recoverable at law in the same manner as a rental charge.

C.S.H.B. 2872 requires the marketplace rental provider, if the marketplace rental provider collects the short-term motor vehicle rental tax, to report and pay the taxes collected to the applicable municipality or county as provided by the ordinance or order imposing the tax and to certify to the owner of a motor vehicle rented through the provider that the provider has collected, reported, and paid the tax to the municipality or county. The bill expressly does not require an owner who in good faith accepts the marketplace rental provider's certification to collect, report, or pay the tax to the applicable municipality or county.

C.S.H.B. 2872 authorizes the owner of a motor vehicle rented through a marketplace rental provider to elect to report and pay the short-term motor vehicle rental tax to the applicable municipality or county. The bill requires the owner, if the owner elects to report and pay the tax, to inform the marketplace rental provider in writing of the election and to register as a retailer with the comptroller in the same manner as required of a retailer under the Limited Sales, Excise, and Use Tax Act. The bill requires the marketplace provider, if the owner elects to report and pay the tax, to forward the tax collected by the provider to the owner.

EFFECTIVE DATE

September 1, 2019.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2872 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute includes a requirement for the owner of a motor vehicle rented through a

marketplace rental provider who elects to report and pay the tax on gross rental receipts to register as a retailer with the comptroller in the same administrative manner as required of a retailer under the Limited Sales, Excise, and Use Tax Act.

The substitute includes certain record retention requirements for the owner of a motor vehicle rented through a marketplace rental provider and the provider, if applicable, relating to the gross rental receipts received from the rental of the vehicle and those paid to the comptroller.

The substitute does not include a provision setting the minimum total amount of gross rental receipts tax paid by the owner of or by a marketplace rental provider on a motor vehicle purchased for rental.