

ACT 110

S.B. NO. 2731

A Bill for an Act Relating to a Car-Sharing Vehicle Surcharge Tax.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The purpose of this Act is to create a car-sharing vehicle surcharge tax.

SECTION 2. Chapter 251, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

“§251- Car-sharing vehicle surcharge tax. (a) There is levied and shall be assessed and collected a car-sharing vehicle surcharge tax of 25 cents per half-hour, or any portion of a half-hour, that a rental motor vehicle is rented or leased by a car-sharing organization; provided that for each rental of six hours or more, the tax shall be assessed in a manner provided in section 251-2. The car-sharing vehicle surcharge tax shall be levied upon the car-sharing organization.

(b) An organization that qualifies as a car-sharing organization as defined in section 251-1, that is registered with the department pursuant to section 251-3, and that is subject to the surcharges imposed by this section shall not be subject to the surcharges imposed by section 251-2; provided that any organization registered with the department pursuant to section 251-3 shall be subject to at least one surcharge imposed by this chapter.”

SECTION 3. Section 251-1, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Car-sharing organization” means a rental motor vehicle lessor that operates a membership program in which:

- (1) Self-service access to a fleet of vehicles is provided, with or without requiring a reservation, exclusively to members of the organization who have paid a membership fee;
- (2) Members are charged a usage rate, either hourly or by the minute, for each use of a vehicle;
- (3) Members are not required to enter into a separate written agreement with the organization each time the member reserves and uses a vehicle; and
- (4) The average paid use period for all vehicles provided by the organization during any taxable period is six hours or less.”

SECTION 4. Chapter 251, Hawaii Revised Statutes, is amended by amending its title to read as follows:

**“~~[[~~CHAPTER 251~~]]~~
RENTAL MOTOR VEHICLE ~~[AND]~~, TOUR VEHICLE, AND
CAR-SHARING VEHICLE SURCHARGE TAX”**

SECTION 5. Section 251-3, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Each person as a condition precedent to engaging or continuing in the business of providing rental motor vehicles to the public ~~[or]~~, engaging or continuing in the tour vehicle operator business, or engaging or continuing in a car-sharing organization business shall register with the director. A person required to so register shall make a one-time payment of \$20, upon receipt of which the director shall issue a certificate of registration in such form as the director determines, attesting that the registration has been made. The registration shall not be transferable and shall be valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. The registration, or in lieu thereof a notice stating where the registration may be inspected and examined, shall at all times be conspicuously displayed at the place for which it is issued.”

SECTION 6. Section 437D-8.4, Hawaii Revised Statutes, is amended by amending subsection (a) to read as follows:

“(a) Notwithstanding any law to the contrary, a lessor may visibly pass on to a lessee:

- (1) The general excise tax attributable to the transaction;
- (2) The vehicle license and registration fee and weight taxes, prorated at 1/365th of the annual vehicle license and registration fee and weight taxes actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license and registration fees charged to all lessees shall not exceed the annual vehicle license and registration fee actually paid for the particular vehicle rented;
- (3) The ~~[rental motor vehicle]~~ surcharge ~~[tax as provided in section 251-2]~~ taxes imposed in chapter 251 attributable to the transaction;
- (4) The county surcharge on state tax under section 46-16.8; provided that the lessor itemizes the tax for the lessee; and
- (5) The rents or fees paid to the department of transportation under concession contracts negotiated pursuant to chapter 102, service permits granted pursuant to title 19, Hawaii Administrative Rules, or rental motor vehicle customer facility charges established pursuant to section 261-7; provided that:
 - (A) The rents or fees are limited to amounts that can be attributed to the proceeds of the particular transaction;
 - (B) The rents or fees shall not exceed the lessor's net payments to the department of transportation made under concession contract or service permit;
 - (C) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts of the rents or fees paid to the department of transportation pursuant to the applicable concession contract or service permit:
 - (i) For all airport locations; and
 - (ii) For each airport location;

- (D) The lessor submits to the department of transportation and the department of commerce and consumer affairs a statement, verified by a certified public accountant as correct, that reports the amounts charged to lessees:
 - (i) For all airport locations;
 - (ii) For each airport location; and
 - (iii) For each lessee;
- (E) The lessor includes in these reports the methodology used to determine the amount of fees charged to each lessee; and
- (F) The lessor submits the above information to the department of transportation and the department of commerce and consumer affairs within three months of the end of the preceding annual accounting period or contract year as determined by the applicable concession agreement or service permit.

The respective departments, in their sole discretion, may extend the time to submit the statement required in this subsection. If the director determines that an examination of the lessor's information is inappropriate under this subsection and the lessor fails to correct the matter within ninety days, the director may conduct an examination and charge a lessor an examination fee based upon the cost per hour per examiner for evaluating, investigating, and verifying compliance with this subsection, as well as additional amounts for travel, per diem, mileage, and other reasonable expenses incurred in connection with the examination, which shall relate solely to the requirements of this subsection, and which shall be billed by the departments as soon as feasible after the close of the examination. The cost per hour shall be \$40 or as may be established by rules adopted by the director. The lessor shall pay the amounts billed within thirty days following the billing. All moneys collected by the director shall be credited to the compliance resolution fund.”

SECTION 7. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.¹

SECTION 8. This Act shall take effect on January 1, 2015; provided that the amendments made by section 6 of this Act to section 437D-8.4(a), Hawaii Revised Statutes, shall not be repealed when section 437D-8.4, Hawaii Revised Statutes, is reenacted on December 31, 2022, pursuant to section 9(3) of Act 247, Session Laws of Hawaii 2005.

(Approved June 20, 2014.)

Note

- 1. Edited pursuant to HRS §23G-16.5.