

Department of Finance and Administration

Legislative Impact Statement

Bill: SB351

Amendment Number: S2

Bill Subtitle: TO REGULATE PEER-TO-PEER CAR-SHARING PROGRAMS; AND TO CREATE THE PEER-TO-PEER CAR-SHARING PROGRAM INSURANCE COVERAGE ACT.

Basic Change :

Sponsors: Sen. Irvin and Rep. Evans

Senate Amendment No. 2 --- SB351-S2 (engrossed 3/22/21) replaces the entire bill with a restructured peer-to-peer regulation statute to be codified in Title 23 - Public Utilities and Regulated Industries. The bill restates the insurance and airport requirements contained in SB351-S1 (engrossed 3/15/21).

SB351-S2 clarifies the tax obligations of peer-to-peer car sharing programs in a new section, § 23-13-803. The bill requires that peer-to-peer car sharing programs collect and remit gross receipts tax on any peer-to-peer car rentals hosted on their platforms in the State of Arkansas, as long as the peer-to-peer car sharing program meets the threshold requirements of a marketplace facilitator under § 26-52-103. The bill also requires that peer-to-peer car sharing programs collect and remit the rental vehicle tax on peer-to-peer car rentals that are rented for a term of less than thirty (30) days.

Senate Amendment No. 1 --- SB351-S1 modifies the requirements of peer-to-peer car sharing programs' agreements with airports and requirements for liability coverage during the rental period. The amendment does not modify the provisions regarding sales or motor vehicle rental taxes.

Original Bill --- SB351 creates a regulatory framework for "peer-to-peer" car sharing programs. A peer-to-peer car sharing program is a business platform that arranges for individuals to rent motor vehicles from private motor vehicle owners for monetary compensation as opposed to traditional motor vehicle rental companies. This bill substantially adopts the National Conference of Insurance Legislators' Peer-to-Peer Car Sharing Insurance Program Model Act.

The regulatory framework requires car sharing program platforms to:

- Enter into an agreement with municipal and regional airports if they conduct business at that airport;
- Assume liabilities to third parties or uninsured or underinsured motorist losses;
- Ensure that the shared vehicles are covered by minimum coverage requirements under Arkansas law;
- Collect and maintain adequate records of shared vehicle drivers and owners to assist in claims investigations during the rental period;
- Confirm that a shared driver is licensed to operate a motor vehicle in Arkansas or another state;
- Indemnify shared vehicle owners from any theft or loss of property during the shared vehicle rental period;
- Ensure there are no safety recalls on the shared vehicle; and
- Collect and remit all required taxes under Arkansas law as a marketplace facilitator. The law clarifies that gross proceeds received under a car sharing program agreement are subject to sales tax and the rental vehicle tax for vehicles leased less than 30 days.

SB351 bill does not provide an effective date.

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Revenue Impact :

None.

Taxpayer Impact :

A marketplace facilitator providing peer-to-peer car sharing services that meets the sales activity thresholds outlined in existing Arkansas tax law are provided clarity on their obligations to collect sales and use tax as well as short-term rental vehicle tax.

Resources Required :

None.

Time Required :

Adequate time is provided for implementation.

Procedural Changes :

Updates to the Sales and Use Tax Rules will need to be promulgated.

Other Comments :

None.

Legal Analysis :

Senate Amendment No. 2 --- SB351-S2 clarifies the tax obligations of peer-to-peer car sharing programs. The bill requires that peer-to-peer car sharing programs collect and remit gross receipts tax on any peer-to-peer car rentals hosted on their platforms in the State of Arkansas, as long as the peer-to-peer car sharing program meets the threshold requirements of a marketplace facilitator under § 26-52-103. The bill also requires that peer-to-peer car sharing programs collect and remit the rental vehicle tax on peer-to-peer car rentals that are rented for a term of less than thirty (30) days.

Original Bill --- SB351 explicitly identifies a peer-to-peer car sharing program as a marketplace facilitator for the purposes of sales tax collection. Act 822 of 2019 required remote sellers and marketplace facilitators to collect sales tax on transactions if the remote sellers or marketplace facilitators annually have at least 200 transactions or \$100,000 in sales into the State of Arkansas.

The explicit inclusion of a peer-to-peer car sharing program in the definition of marketplace facilitator provides additional clarity to taxpayers. DFA previously concluded in a legal opinion issued in 2020 that peer-to-peer car sharing programs (as described in the opinion) are marketplace facilitators under Act 822 of 2019.