

JAN 23 2020

A BILL FOR AN ACT

RELATING TO RENTAL MOTOR VEHICLE MARKETPLACE FACILITATORS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 251, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§251- Rental motor vehicle marketplace facilitators.

5 (a) A rental motor vehicle marketplace facilitator, as defined
6 under section 251-1, shall be deemed the rental motor vehicle
7 lessor for purposes of section 251-2.

8 (b) Any person other than a rental motor vehicle
9 marketplace facilitator who provides a forum, whether physical
10 or electronic, in which rental motor vehicle lessors list or
11 advertise rental motor vehicles for lease and takes or processes
12 lease orders shall:

13 (1) Post a conspicuous notice on its forum that informs
14 rental motor vehicle lessors intending to lease rental
15 motor vehicles in this State that the rental motor
16 vehicle lessor is required to pay rental motor vehicle
17 and tour vehicle surcharge tax under section 251-2;
18 and

S.B. NO. 2924

1 (2) No later than the twentieth day of the fourth month
2 following the close of the taxable year, submit a
3 report to the department that includes, with respect
4 to each rental motor vehicle lessor, all of the
5 following:

6 (A) The rental motor vehicle lessor's name, its
7 billing address, and its mailing address;

8 (B) The address in this State at which the rental
9 motor vehicle was delivered to the lessee; and

10 (C) The aggregate dollar amount of the lessee's
11 leases from the lessor;

12 provided that the person, in lieu of complying with the notice
13 and reporting requirements in this subsection, may elect to be
14 deemed the rental motor vehicle lessor as provided in subsection
15 (a).

16 (c) Any person who fails to comply with subsection (b) and
17 has not elected to be deemed the rental motor vehicle lessor,
18 unless it is shown that the failure is due to reasonable cause
19 and not due to neglect, shall be assessed a penalty of \$1,000 if
20 the failure is for not more than one month, with an additional
21 \$1,000 for each additional month or fraction thereof during

S.B. NO. 2924

1 which the failure continues, not to exceed \$12,000 in the
2 aggregate.

3 (d) Notwithstanding subsections (a) and (b), this section
4 shall not apply to transactions involving rental motor vehicles
5 leased by lessors, who in any single month in the past twelve
6 months, has leased one or more rental motor vehicles for thirty
7 or more days or portions of days in the aggregate. For purposes
8 of this subsection, the term "lessor" does not include a rental
9 motor vehicle marketplace facilitator."

10 SECTION 2. Section 251-1, Hawaii Revised Statutes, is
11 amended by adding a new definition to be appropriately inserted
12 and to read as follows:

13 "Rental motor vehicle marketplace facilitator" means any
14 person who leases or assists in the lease of rental motor
15 vehicles on behalf of another rental motor vehicle lessor by:

16 (1) Providing a forum, whether physical or electronic, in
17 which lessors list or advertise the lease of rental
18 motor vehicles; and

19 (2) Collecting payment from the rental motor vehicle
20 lessee, either directly or indirectly through an
21 agreement with a third party."

22 SECTION 3. New statutory material is underscored.

S.B. NO. 2924

1 SECTION 4. This Act, upon its approval, shall take effect
2 on January 1, 2021.

3

INTRODUCED BY: 

BY REQUEST

S.B. NO. 2924

Report Title:

Rental Motor Vehicle Marketplace Facilitators

Description:

Deems rental motor vehicle marketplace facilitators to be the lessors and operators for purposes of rental motor vehicle and tour vehicle surcharge tax under chapter 251, Hawaii Revised Statutes.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

JUSTIFICATION SHEET

DEPARTMENT: Taxation.

TITLE: A BILL FOR AN ACT RELATING TO RENTAL MOTOR VEHICLE MARKETPLACE FACILITATORS.

PURPOSE: To amend chapter 251, Hawaii Revised Statutes (HRS) to deem rental motor vehicle marketplace facilitators lessors of rental motor vehicles for purposes of the rental motor vehicle surcharge tax.

MEANS: Add a new section to chapter 251, HRS, and amend section 251-1, HRS.

JUSTIFICATION: In rental motor vehicle transactions where a person either offers his or her own car for rent or secures a rental car through a third-party intermediary ("marketplace facilitator"), whether physical or electronic, it is possible the lessor is unaware of rental motor vehicle surcharge tax ("RVST") implications or purposefully ignores them. Tracking down each individual lessor for tax enforcement is burdensome and less efficient than tracking down the marketplace facilitator through which all such leases are carried out. By deeming such third parties to be rental motor vehicle marketplace facilitators that are responsible for collecting and paying the RVST, both the rental motor vehicle industry and the department will benefit. Users of third-party motor vehicle rental services will not be burdened with registering for and paying RVST, and the department will not be burdened with tracking down numerous lessors engaged in few transactions. Instead, the department can focus enforcement and education efforts on a small number of third-party marketplace facilitators deemed the lessors on their users' behalves.

Impact on the public: The general public should benefit from being able to participate in the rental motor vehicle market on a small scale without having to register for a rental motor vehicle surcharge tax license and file and pay the tax.

Impact on the department and other agencies: The department will benefit by being able to focus its enforcement and education efforts on the rental motor vehicle marketplace facilitators deemed the lessor on their users' behalves.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: None.

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: January 1, 2021.