

House Bill 2545

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes tax on motor vehicle rentals. Deposits revenue to State Highway Fund. Continuously appropriates moneys to Department of Transportation for highway purposes.

Applies to motor vehicles rented on or after January 1, 2012.

Takes effect on 91st day following adjournment sine die.

A BILL FOR AN ACT

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2 Relating to a tax on motor vehicle rentals; creating new provisions; amending ORS 367.605; appropriating money; prescribing an effective date; and providing for revenue raising that requires approval by a three-fifths majority.

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5 **Be It Enacted by the People of the State of Oregon:**

6 **SECTION 1. As used in sections 1 to 8 of this 2011 Act:**

7 (1) **“Car sharing program” has the meaning given that term in ORS 469.185.**

8 (2) **“Doing business in this state” means any of the following conduct by a rental company whose business address is within or outside this state:**

9 (a) **Delivery of a rented vehicle to a location within this state for use by a person within this state; or**

10 (b) **Presenting a rental agreement for execution within this state by any person.**

11 (3) **“Motor vehicle” means an automobile, truck having a manufacturer’s gross vehicle weight not exceeding 24,000 pounds, motor home, motorcycle, pickup camper or any motorized passenger vehicle designed to carry fewer than 10 persons, that is capable of being used on the highways of this state.**

12 (4) **“Rental” or “renting” means obtaining from a rental company, for a rental fee, the use of a motor vehicle and all services, supplies and commodities furnished by the rental company in connection with providing the use of the vehicle, but does not include leasing or other transactions in which title of a motor vehicle is permanently or temporarily transferred from the rental company to any other person.**

13 (5) **“Rental company” means a person, any part of whose business consists of providing the use of motor vehicles for a rental fee.**

14 (6) **“Rental fee” means the gross fee and charges, whatever the basis of their calculation, paid to a rental company by any person for the rental of a motor vehicle.**

15 **SECTION 2. (1) A tax is imposed on every person renting a motor vehicle from a rental company doing business in this state, if the rental is for a period of 30 days or less. For purposes of this section, a rental has a duration of 30 days or less if the actual possession or use by the person renting the vehicle terminates not later than the end of a 30-day period or if any contract governing the rental has a duration of 30 days or less.**

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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (2) The base rate of the tax imposed by subsection (1) of this section is equal to 10 per-
 2 cent of the rental fee charged by the rental company for the rental.

3 (3) The surcharge rate of the tax imposed by subsection (1) of this section is equal to 2.5
 4 percent of the rental fee charged by the rental company for the rental.

5 (4) If, with respect to any rental fee, the tax imposed under this section does not equal
 6 an amount calculable to a whole cent, the rental company must charge a tax equal to the
 7 next highest whole cent. However, the amount remitted to the Department of Revenue by
 8 the rental company for each quarter must equal 12.5 percent of the total rental fees collected
 9 by the rental company during the quarter.

10 **SECTION 3.** (1) The rental company shall collect the tax imposed under section 2 of this
 11 2011 Act at the time it collects a rental fee.

12 (2) On or before the last business day of January, April, July and October of each year,
 13 each rental company must remit to the Department of Revenue all taxes collected during the
 14 preceding calendar quarter. The remittance must be accompanied by a report showing:

15 (a) The amount of the rental fees collected by the rental company during the preceding
 16 quarter;

17 (b) The amount, if any, of those rental fees that is attributable to and identified on the
 18 records or billings of the rental company for gasoline sales; and

19 (c) Such further information as the department may prescribe.

20 (3) The report and all additional information required from the rental company accom-
 21 panying remittance of the collected tax is exempt from public disclosure and remains confi-
 22 dential in the possession of the department.

23 (4) All rental companies must maintain accurate records of rental fees assessed and of
 24 taxes collected, and the records are subject to review, inspection and audit within this state
 25 by the department at all reasonable times.

26 (5) The rental company doing business in this state is responsible for remittance of the
 27 tax, based on the total rental fee, wherever collected, as well as maintenance of the appro-
 28 priate records of the fees.

29 (6) The tax imposed under section 2 of this 2011 Act is a debt owed by the rental company
 30 to this state until remitted under this section.

31 **SECTION 4.** (1) If the Department of Revenue determines that the report required in
 32 section 3 of this 2011 Act has not been filed or is incorrect, the department may compute
 33 and determine the amount required to be paid upon the basis of the facts contained in any
 34 report or reports, or upon the basis of any available information. The department may make
 35 one or more deficiency or evasion determinations of the amount due for one or more than
 36 one period. The amount so determined is due and payable immediately upon service of notice,
 37 after which the amount determined is delinquent. Penalties on deficiencies shall be applied
 38 as provided under section 8 of this 2011 Act.

39 (2) In making a determination, the department may offset any overpayments previously
 40 made for a period or periods against any underpayment for a subsequent period or periods,
 41 or against penalties and interest on the underpayments. Interest on underpayments accrues
 42 at the rate of one percent per month pro rata from the date the tax became delinquent until
 43 the date paid.

44 (3) The department shall give written determination notice to the rental company, served
 45 personally or by certified mail. If mail service is employed, service is deemed made upon

1 mailing.

2 (4) Except where fraud or intent to evade this section exists, every deficiency determi-
 3 nation must be made and notice given within three years after the last day of the month
 4 following the close of the quarterly reporting period for which the amount is proposed to be
 5 determined, or within three years after the report reflecting an underpayment is filed,
 6 whichever period expires later.

7 **SECTION 5.** The tax imposed under section 2 of this 2011 Act does not apply to:

8 (1) A rental fee that state or federal law exempts from the tax.

9 (2) A rental fee for a motor vehicle used for official governmental business by an em-
 10 ployee of the federal government.

11 (3) A motor vehicle rented by a resident of this state to temporarily replace a vehicle
 12 being repaired or serviced.

13 (4) A motor vehicle rented through a car sharing program by a member of the program.

14 **SECTION 6.** To operate in this state, a rental company shall obtain from the Department
 15 of Consumer and Business Services a nontransferable license for each site the company op-
 16 erates within this state. The department shall collect a fee in an amount of \$_____ for each
 17 license issued.

18 **SECTION 7.** All moneys received by the Department of Revenue pursuant to sections 1
 19 to 8 of this 2011 Act, and interest thereon, shall be paid to the State Treasurer to be held in
 20 a suspense account established under ORS 293.445. After the payment of refunds:

21 (1) Moneys necessary to reimburse the Department of Revenue for the actual costs in-
 22 curred by the department in administering the tax imposed under section 2 of this 2011 Act,
 23 not to exceed two percent of collections, are continuously appropriated to the department;

24 (2) The balance of the moneys received shall be transferred to the State Highway Fund
 25 established under ORS 366.505. The moneys transferred under this subsection are contin-
 26 uously appropriated to the Department of Transportation for highway purposes; and

27 (3) Not more than 70 percent of the revenues collected in a biennium under section 2 of
 28 this 2011 Act may be pledged in a biennium to payment of revenue bonds.

29 **SECTION 8.** (1) In addition to any other penalties prescribed by law, a rental company
 30 that fails to collect and remit the tax required under section 2 of this 2011 Act or otherwise
 31 fails to comply with the requirements of sections 1 to 8 of this 2011 Act is subject to a pen-
 32 alty equal to 50 percent of any deficiency in the taxes remitted by the company, or to a lesser
 33 penalty the Director of the Department of Revenue may assess.

34 (2) The penalty imposed by subsection (1) of this section is a debt owed by the rental
 35 company to this state.

36 **SECTION 9.** ORS 367.605 is amended to read:

37 367.605. (1) Moneys deposited in the State Highway Fund established under ORS 366.505 are
 38 pledged to payment of Highway User Tax Bonds issued under ORS 367.615.

39 (2) Except as provided in subsection (3) of this section, moneys, once deposited in the highway
 40 fund from the following sources are subject to the use or pledge described in subsection (1) of this
 41 section:

42 (a) Moneys from the taxes and fees on motor carriers imposed under ORS 825.474 and 825.480.

43 (b) Moneys from the tax on motor vehicle fuel imposed under ORS 319.020.

44 (c) Moneys from the tax on fuel used in motor vehicles imposed under ORS 319.530.

45 (d) Moneys described under ORS 803.090 from the titling of vehicles.

1 (e) Moneys described under ORS 803.420 from the registration of vehicles.

2 (f) Moneys described under ORS 807.370 relating to the issuance of driver licenses and driver
3 permits.

4 **(g) Subject to the limitation provided in section 7 of this 2011 Act, moneys from the tax
5 on rentals of motor vehicles imposed under section 2 of this 2011 Act.**

6 [(g)] (h) Moneys received by the Department of Transportation from taxes, fees or charges im-
7 posed after January 1, 2001, or other revenues received by the department from sources not listed
8 in paragraphs (a) to [(f)] (g) of this subsection that are available for the use or pledge described by
9 this section.

10 (3) Moneys described under subsection (2) of this section do not include:

11 (a) Moneys provided for appropriations to counties under ORS 366.762 to 366.768.

12 (b) Moneys provided for appropriations to cities under ORS 366.785 to 366.820.

13 (c) Moneys in the account established under ORS 366.512 for parks and recreation.

14 (4) To the extent affirmatively pledged, moneys from the following sources are subject to the
15 use or pledge described in subsection (1) of this section:

16 (a) Moneys received by the Department of Transportation from the United States government.

17 (b) Any other moneys legally available to the department.

18 (5) Notwithstanding ORS 366.507, the lien or charge of any pledge of moneys securing bonds
19 issued under ORS 367.615 is superior or prior to any other lien or charge and to any law of [the]
20 **this** state requiring the department to spend moneys for specified highway purposes.

21 **SECTION 10. Sections 1 to 8 of this 2011 Act and the amendments to ORS 367.605 by
22 section 9 of this 2011 Act apply to motor vehicles rented on or after January 1, 2012.**

23 **SECTION 11. This 2011 Act takes effect on the 91st day after the date on which the 2011
24 session of the Seventy-sixth Legislative Assembly adjourns sine die.**

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