

HB459 INTRODUCED



1 OKTVWW-1
2 By Representatives Rafferty, Gray
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4 First Read: 11-May-23
5
6 2023 Regular Session



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SYNOPSIS:

This bill would authorize peer-to-peer car sharing programs, which are business platforms that connect vehicle owners with drivers to enable the sharing of vehicles for financial consideration, in this state.

This bill would provide requirements for the operation of a peer-to-peer car sharing program, including insurance requirements, notification requirements, recordkeeping and reporting requirements, liability requirements, consumer protection disclosure requirements, and safety recall requirements.

This bill would also provide that lessors of vehicles used in peer-to-peer car sharing in the state who have paid taxes due upon purchase of the vehicle in the jurisdiction where it was purchased, shall not be subject to privilege or license taxes on gross proceeds of vehicle rental or leasing.

A BILL
TO BE ENTITLED
AN ACT

Relating to motor vehicles; establishing the



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29 Peer-to-Peer Car Sharing Program Act; to provide for the
30 operation of peer-to-peer car sharing programs in the state;
31 and to amend Section 40-12-222, Code of Alabama 1975, to
32 exclude lessors of peer-to-peer car sharing vehicles from
33 liability for certain taxes on the proceeds of vehicle rental
34 and leasing.

35 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

36 Section 1. This section shall be known and may be cited
37 as the Peer-to-Peer Car Sharing Program Act.

38 Section 2. (a) As used in this section, the following
39 words have the following meanings:

40 (1) CAR SHARING DELIVERY PERIOD or DELIVERY PERIOD. The
41 period of time during which a shared vehicle is being
42 delivered to the location of the car sharing start time, if
43 applicable, as documented by the governing car sharing program
44 agreement.

45 (2) CAR SHARING PERIOD or SHARING PERIOD. The period of
46 time that commences with the car sharing delivery period or,
47 if there is no car sharing delivery period, that commences
48 with the car sharing start time and, in either case, ends at
49 the car sharing termination time.

50 (3) CAR SHARING START TIME or START TIME. The time when
51 the shared vehicle becomes subject to the control of the
52 shared vehicle driver, at or after the time the reservation of
53 a shared vehicle is scheduled to begin, as documented in the
54 records of a peer-to-peer car sharing program.

55 (4) CAR SHARING TERMINATION TIME or TERMINATION TIME.
56 The earliest of the following events:



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57 a. The expiration of the agreed-upon period of time
58 established for the use of a shared vehicle according to the
59 terms of the car sharing program agreement, if the shared
60 vehicle is delivered to the location agreed upon in the car
61 sharing program agreement.

62 b. When the shared vehicle is returned to a location as
63 alternatively agreed upon by the shared vehicle owner and the
64 shared vehicle driver as communicated through a peer-to-peer
65 car sharing program, which alternatively agreed upon location
66 shall be incorporated into the car sharing program agreement.

67 c. When the shared vehicle owner, or the shared vehicle
68 owner's authorized designee, takes possession and control of
69 the shared vehicle.

70 (5) PEER-TO-PEER CAR SHARING or SHARING. The authorized
71 use of a vehicle by an individual other than the vehicle's
72 owner through a peer-to-peer car sharing program. The term
73 does not include a rental or leasing transaction of tangible
74 personal property which is subject to Article 4 of Chapter 12
75 of Title 40, Code of Alabama 1975, except as provided by
76 Section 40-12-222(a)(2), Code of Alabama 1975.

77 (6) PEER-TO-PEER CAR SHARING PROGRAM. A business
78 platform that connects vehicle owners with drivers to enable
79 the sharing of vehicles for financial consideration. The term
80 does not include any of the following:

81 a. A person engaging or continuing within this state in
82 the business of leasing or renting any automotive vehicle or
83 truck trailer, semitrailer, or house trailer which is subject
84 to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975.



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85 b. A person facilitating a rental transaction of
86 tangible personal property which is subject to Article 4 of
87 Chapter 12 of Title 40, Code of Alabama 1975.

88 c. A motor vehicle rental company licensed pursuant to
89 Section 27-7-5.1, Code of Alabama 1975.

90 d. A person facilitating rental transactions as used in
91 Section 40-2-11(7)(c), Code of Alabama 1975.

92 (7) PEER-TO-PEER CAR SHARING PROGRAM AGREEMENT or
93 AGREEMENT. The terms and conditions applicable to a shared
94 vehicle owner and a shared vehicle driver that govern the use
95 of a shared vehicle through a peer-to-peer car sharing
96 program. The term does not include any of the following;

97 a. A car rental service provider solely providing
98 hardware or software as a service to a person or entity that
99 is not effectuating payment of financial consideration for the
100 use of a shared vehicle.

101 b. A motor vehicle rental agreement governed by Section
102 32-15-6, Code of Alabama 1975.

103 c. Hiring, leasing, or renting a motor vehicle under a
104 rental agreement governed by Section 32-15-6, Code of Alabama.

105 d. A rental agreement with a motor vehicle rental
106 company licensed pursuant to Section 27-7-5.1, Code of Alabama
107 1975.

108 (8) SHARED VEHICLE or VEHICLE. A vehicle that is
109 available for sharing through a peer-to-peer car sharing
110 program. The term does not include an automotive vehicle or a
111 truck trailer, semitrailer, or house trailer that is subject
112 to Article 4 of Chapter 12 of Title 40, Code of Alabama 1975,



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113 except as provided by Section 40-12-222(a)(2), Code of Alabama
114 1975.

115 (9) SHARED VEHICLE DRIVER or DRIVER. An individual who
116 has been authorized to drive the shared vehicle by the shared
117 vehicle owner under a car sharing program agreement. The term
118 does not include a person hiring, leasing, or renting a motor
119 vehicle under an agreement with a motor vehicle rental company
120 licensed pursuant to Section 27-7-5.1, Code of Alabama 1975.

121 (10) SHARED VEHICLE OWNER or OWNER. The registered
122 owner, or a person or entity designated by the registered
123 owner, of a vehicle made available for sharing to shared
124 vehicle drivers through a peer-to-peer car sharing program.
125 The term does not include any of the following:

126 a. A lessor that is subject to Article 4 of Chapter 12
127 of Title 40, Code of Alabama 1975, except as provided by
128 Section 40-12-222(a)(2), Code of Alabama 1975.

129 b. A motor vehicle rental company licensed pursuant to
130 Section 27-7-5.1, Code of Alabama 1975.

131 Section 3.(a) Except as provided in subsection (b), a
132 peer-to-peer car sharing program shall assume liability of a
133 shared vehicle owner for bodily injury or property damage to
134 third parties or uninsured and underinsured motorists or
135 personal injury protection losses during the car sharing
136 period, in an amount stated in the peer-to-peer car sharing
137 program agreement. The amount shall not be less than the proof
138 of financial responsibility required under Chapter 7, Title
139 32, Code of Alabama 1975.

140 (b) Notwithstanding the definition of "car sharing



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141 termination time," the assumption of liability under
142 subsection (a) does not apply to any shared vehicle owner
143 under any of the following circumstances:

144 (1) When a shared vehicle owner makes an intentional
145 or fraudulent material misrepresentation or omission to the
146 peer-to-peer car sharing program before the car sharing period
147 in which the loss occurred.

148 (2) When a shared vehicle owner acts in concert with a
149 shared vehicle driver who fails to return the shared vehicle
150 pursuant to the terms of the car sharing program agreement.

151 (3) In the event of bodily injury, property damage,
152 uninsured and underinsured motorist or personal injury
153 protection losses by damaged third parties required under
154 Chapter 7 of Title 32, Code of Alabama 1975.

155 (c) A peer-to-peer car sharing program shall ensure
156 that, during each car sharing period, the shared vehicle owner
157 and the shared vehicle driver are insured under a motor
158 vehicle liability insurance policy that does all of the
159 following:

160 (1) Provides insurance coverage in amounts no less than
161 the minimum amounts required for proof of financial
162 responsibility under Section 32-7-2, Code of Alabama 1975.

163 (2) Does either of the following:

164 a. Recognizes that the shared vehicle insured under the
165 policy is made available and used through a peer-to-peer car
166 sharing program.

167 b. Does not exclude the use of a shared vehicle by a
168 shared vehicle driver.



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169 (d) The insurance required under subsection (c) may be
170 purchased by any of the following:

171 (1) A shared vehicle owner.

172 (2) A shared vehicle driver.

173 (3) A peer-to-peer car sharing program.

174 (4) Any combination of a shared vehicle owner, a shared
175 vehicle driver, and a peer-to-peer car sharing program.

176 (e) The insurance required in subsection (d), that is
177 satisfying the requirement of subsection (c), shall be primary
178 during each car sharing period, and in the event that a claim
179 occurs in another state with minimum financial responsibility
180 limits higher than those set forth in Section 32-7-2, Code of
181 Alabama 1975, during the car sharing period, the coverage
182 maintained under subsection (d) shall satisfy the difference
183 in minimum coverage amounts, up to the applicable policy
184 limits.

185 (f) The insurer, insurers, or peer-to-peer car sharing
186 program providing coverage under subsection (c) or (d) shall
187 assume primary liability for a claim when either of the
188 following occurs:

189 (1) A dispute exists as to who was in control of the
190 shared motor vehicle at the time of the loss, and the
191 peer-to-peer car sharing program does not have available, did
192 not retain, or fails to provide the information required by
193 Section 6.

194 (2) A dispute exists as to whether the shared vehicle
195 was returned to the alternatively agreed upon location, as
196 required under Section 2(4)(b).



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197 (g) If insurance maintained by a shared vehicle owner
198 or shared vehicle driver in accordance with subsection (d) has
199 lapsed or does not provide the required coverage, insurance
200 maintained by a peer-to-peer car sharing program shall provide
201 the coverage required by subsection (c) beginning with the
202 first dollar of a claim and shall have the duty to defend such
203 claim except under circumstances as set forth in subsection
204 (b).

205 (h) Coverage under an automobile insurance policy
206 maintained by the peer-to-peer car sharing program may not be
207 dependent on another automobile insurer first denying a claim,
208 and may not require another automobile insurance policy to
209 first deny a claim.

210 (i) Nothing in this section does any of the following:

211 (1) Limits the ability of a peer-to-peer car sharing
212 program for any act or omission of the peer-to-peer car
213 sharing program itself that results in injury to any person as
214 a result of the use of a shared vehicle through a peer-to-peer
215 car sharing program.

216 (2) Limits the ability of the peer-to-peer car sharing
217 program to seek indemnification, by contract, from the shared
218 vehicle owner or the shared vehicle driver for economic loss
219 sustained by the peer-to-peer car sharing program resulting
220 from a breach of the terms and conditions of the car sharing
221 program agreement.

222 Section 4. When a vehicle owner registers as a shared
223 vehicle owner on a peer-to-peer car sharing program, and
224 before the shared vehicle owner makes a shared vehicle



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225 available for car sharing on the peer-to-peer car sharing
226 program, the peer-to-peer car sharing program shall notify the
227 shared vehicle owner that, if the shared vehicle has a lien
228 against it, the use of the shared vehicle through a
229 peer-to-peer car sharing program, including use without
230 physical damage coverage, may violate the terms of the
231 contract with the lien holder.

232 Section 5. (a) An authorized insurer that writes motor
233 vehicle liability insurance in this state may exclude any and
234 all coverage and the duty to defend or indemnify for any claim
235 afforded under a shared vehicle owner's motor vehicle
236 liability insurance policy, including, but not limited to, all
237 of the following:

238 (1) Liability coverage for bodily injury and property
239 damage.

240 (2) Personal injury protection coverage.

241 (3) Uninsured and underinsured motorist coverage.

242 (4) Medical payments coverage.

243 (5) Comprehensive physical damage coverage.

244 (6) Collision physical damage coverage.

245 (b) Nothing in this act invalidates or limits an
246 exclusion contained in a motor vehicle liability insurance
247 policy, including any insurance policy in use or approved for
248 use that excludes coverage for motor vehicles made available
249 for rent, sharing, hire, or for any business use.

250 (c) Nothing in this act invalidates, limits, or
251 restricts an insurer's ability under existing law to
252 underwrite any insurance policy. Nothing in this act



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253 invalidates, limits, or restricts an insurer's ability under
254 existing law to cancel and nonrenew policies.

255 Section 6. (a) A peer-to-peer car sharing program
256 shall collect and verify records pertaining to the use of all
257 vehicles used in a peer-to-peer car sharing program,
258 including, but not limited to, all of the following:

259 (1) The number of times the vehicle is used.

260 (2) Car sharing period pick up and drop off locations.

261 (3) Fees paid by the shared vehicle driver.

262 (4) Revenues received by the shared vehicle owner.

263 (b) To facilitate a claim coverage investigation,
264 settlement, negotiation, and litigation, the peer-to-peer car
265 sharing program, upon request, shall provide the records
266 collected under subsection (a) to the shared vehicle owner,
267 the shared vehicle owner's insurer, or the shared vehicle
268 driver's insurer.

269 (c) The peer-to-peer car sharing program shall retain
270 the records for a time period not less than the applicable
271 personal injury statute of limitations.

272 Section 7. A peer-to-peer car sharing program and a
273 shared vehicle owner shall not be liable, vicariously or
274 otherwise, by reason of making a shared vehicle available for
275 use through the peer-to-peer car sharing program or by being
276 the owner of a shared vehicle, for harm to persons or property
277 that occurs during the car sharing period.

278 Section 8. A motor vehicle insurer that defends or
279 indemnifies a claim against a shared vehicle that is excluded
280 under the terms of its policy shall have the right to seek



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281 contribution against the motor vehicle insurer of the
282 peer-to-peer car sharing program if the claim is both of the
283 following:

284 (1) Made against the shared vehicle owner or the shared
285 vehicle driver for loss or injury that occurs during the car
286 sharing period.

287 (2) Excluded under the terms of its policy.

288 Section 9. (a) Notwithstanding any law to the
289 contrary, a peer-to-peer car sharing program shall have an
290 insurable interest in a shared vehicle during the car sharing
291 period.

292 (b) Nothing in this section shall create liability on a
293 peer-to-peer car sharing program to maintain the coverage
294 mandated by Section 3.

295 (c) A peer-to-peer car sharing program may own and
296 maintain as the named insured one or more policies of motor
297 vehicle liability insurance that provide coverage for any of
298 the following:

299 (1) Liabilities assumed by the peer-to-peer car sharing
300 program under a peer-to-peer car sharing program agreement.

301 (2) Any liability of the shared vehicle owner.

302 (3) Damage or loss to the shared motor vehicle.

303 (4) Any liability of the shared vehicle driver.

304 Section 10. Each car sharing program agreement made in
305 this state shall disclose to the shared vehicle owner and the
306 shared vehicle driver all of the following:

307 (1) Any right of the peer-to-peer car sharing program
308 to seek indemnification from the shared vehicle owner or the



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309 shared vehicle driver for economic loss sustained by the
310 peer-to-peer car sharing program resulting from a breach of
311 the terms and conditions of the car sharing program agreement.

312 (2) That a motor vehicle liability insurance policy
313 issued to the shared vehicle owner for the shared vehicle, or
314 to the shared vehicle driver, does not provide a defense or
315 indemnification for any claim asserted by the peer-to-peer car
316 sharing program.

317 (3) That the peer-to-peer car sharing program's
318 insurance coverage on the shared vehicle owner and the shared
319 vehicle driver is in effect only during each car sharing
320 period and that, for any use of the shared vehicle by the
321 shared vehicle driver after the car sharing termination time,
322 the shared vehicle driver and the shared vehicle owner may not
323 have insurance coverage.

324 (4) The daily rate, fees, and if applicable, any
325 insurance or protection package costs, that are charged to the
326 shared vehicle owner or the shared vehicle driver.

327 (5) That the shared vehicle owner's motor vehicle
328 liability insurance may not provide coverage for a shared
329 vehicle.

330 (6) An emergency telephone number to personnel capable
331 of fielding roadside assistance and other customer service
332 inquiries.

333 (7) Whether there are conditions under which a shared
334 vehicle driver must maintain a personal automobile insurance
335 policy with certain applicable coverage limits on a primary
336 basis in order to book a shared motor vehicle.



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337 Section 11. (a) A peer-to-peer car sharing program may
338 not enter into a peer-to-peer car sharing program agreement
339 with an individual who will operate the shared vehicle unless
340 he or she meets any of the following requirements:

341 (1) Holds a driver license issued under Section 32-6-1,
342 Code of Alabama 1975, that authorizes him or her to operate
343 vehicles of the class of the shared vehicle.

344 (2) Is a nonresident who meets both of the following
345 requirements:

346 a. Has a driver license issued by the state or country
347 of his or her residence which authorizes him or her to drive
348 vehicles of the class of the shared vehicle.

349 b. Is 16 or more years of age.

350 (3) Is specifically authorized by Section 32-6-2, Code
351 of Alabama 1975, to drive vehicles of the class of the shared
352 vehicle.

353 (b) A peer-to-peer car sharing program shall keep a
354 record of all of the following:

355 (1) The name and address of the shared vehicle driver.

356 (2) The driver license of the shared vehicle driver and
357 each other person, if any, who will operate the shared
358 vehicle.

359 (3) The place of issuance of the driver license.

360 Section 12. (a) A peer-to-peer car sharing program
361 shall have sole responsibility for any equipment, including a
362 Global Positioning System or other special equipment, that is
363 placed in or on the vehicle to monitor or facilitate the car
364 sharing transaction.



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365 (b) A peer-to-peer car sharing program shall indemnify
366 and hold harmless the shared vehicle owner for any damage to
367 or theft of such equipment during the sharing period not
368 caused by the vehicle owner.

369 (c) A peer-to-peer car sharing program may seek
370 indemnity from the shared vehicle driver for any loss or
371 damage to such equipment that occurs during the sharing
372 period.

373 Section 13. (a) When a vehicle owner registers as a
374 shared vehicle owner on a peer-to-peer car sharing program,
375 and before a shared vehicle owner makes a shared vehicle
376 available for car sharing on the peer-to-peer car sharing
377 program, the peer-to-peer car sharing program shall do both of
378 the following:

379 (1) Verify that the shared vehicle does not have any
380 safety recalls on the vehicle for which the repairs have not
381 been made.

382 (2) Notify the shared vehicle owner of the requirements
383 under subsection (b).

384 (b) (1) If a shared vehicle owner has received an actual
385 notice of a safety recall on the vehicle, the shared vehicle
386 owner may not make a vehicle available as a shared vehicle on
387 a peer-to-peer car sharing program until the safety recall
388 repair has been made.

389 (2) If a shared vehicle owner receives an actual notice
390 of a safety recall on a shared vehicle while the shared
391 vehicle is made available on the peer-to-peer car sharing
392 program, the shared vehicle owner shall change the status of



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393 the vehicle to unavailable as soon as practicably possible.
394 The shared vehicle may not be listed as available until the
395 safety recall repair has been made.

396 (3) If a shared vehicle owner receives an actual notice
397 of a safety recall on a shared vehicle while the shared
398 vehicle is in the possession of a shared vehicle driver and
399 engaged in peer-to-peer car sharing during a sharing period,
400 the shared vehicle owner shall notify the peer-to-peer car
401 sharing program about the safety recall as soon as practicably
402 possible after receiving the notice of the safety recall. The
403 shared vehicle may not be listed as available until the safety
404 recall repair has been made.

405 Section 14. Nothing in this act shall expand or
406 restrict in any manner the respective rights, obligations, and
407 limitations of motor vehicle manufacturers and licensed new
408 motor vehicle dealers as set forth in Title 8, Chapter 20,
409 Code of Alabama 1875, commencing at Section 8-20-1.

410 Section 15. Section 40-12-222, Code of Alabama 1975, is
411 amended to read as follows:

412 "§40-12-222

413 (a) (1) In addition to all other taxes now imposed by
414 law, there is hereby levied and shall be collected a privilege
415 or license tax on each person engaging or continuing within
416 this state in the business of leasing or renting tangible
417 personal property at the rate of four percent of the gross
418 proceeds derived by the lessor from the lease or rental of
419 tangible personal property.

420 (2) ~~The~~ a. Except as provided in paragraph b., the



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421 privilege or license tax on each person engaging or continuing
422 within this state in the business of leasing or renting any
423 automotive vehicle or truck trailer, semitrailer, or house
424 trailer shall be at the rate of one and one-half percent of
425 the gross proceeds derived by the lessor from the lease or
426 rental of such automotive vehicle or truck trailer,
427 semitrailer, or house trailer.

428 b. For purposes of paragraph a. only, the business of
429 leasing or renting an automotive vehicle includes peer-to-peer
430 car sharing as defined in the Peer-to-Peer Car Sharing Program
431 Act. The gross proceeds collected by the Peer-to-Peer Car
432 Sharing Program as the leasing facilitator shall be subject to
433 the tax set forth in that paragraph if, and only if, the
434 applicable sales and use taxes were not paid either upon
435 purchase of the shared vehicle in the jurisdiction in which
436 the shared vehicle owner purchased the vehicle or at the time
437 of initial titling and registration in Alabama.

438 (3) The tax levied in this article shall not apply to
439 any leasing or rental, as lessor, by the state, or any
440 municipality or county in the state, or any public corporation
441 organized under the laws of the state, including, without
442 limiting the generality of the foregoing, any corporation
443 organized under the provisions of Sections 11-54-80 through
444 11-54-101.

445 (4) The privilege or license tax on each person or firm
446 engaging or continuing within this state in the business of
447 the leasing and rental of linens and garments shall be at the
448 rate of two percent of the gross proceeds derived by the



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449 lessor from the lease or rental of the linens and garments.

450 (b) Notwithstanding subsection (a), nothing shall
451 prohibit a lessor subject to a state or local privilege or
452 license tax from passing the amounts on to a lessee by adding
453 the taxes to the leasing price or otherwise; provided,
454 however, that all amounts passed on to the lessee shall be
455 includable in the gross proceeds derived from the lease of
456 tangible personal property which shall be subject to the
457 privilege or license tax owed by the lessor.

458 (c) The state and applicable local privilege or license
459 taxes applicable to a lease or rental transaction to which a
460 lessor is subject shall be determined as follows:

461 (1) Except for automotive vehicles as provided in
462 subdivision (2), the following shall apply:

463 a. When tangible personal property is delivered to the
464 lessee by the lessor or his or her agent, the privilege or
465 license tax levy shall be determined based on where the
466 property is delivered.

467 b. When tangible personal property is picked up at the
468 lessor's rental location by the lessee or his or her agent,
469 the privilege or license tax levy shall be determined based on
470 the rental location.

471 (2) For automotive vehicles required to be registered
472 pursuant to Section 32-6-61, each lease payment is considered
473 a separate lease transaction and occurs in the location as
474 provided below and the following rules shall apply:

475 a. The privilege or license tax levy on any
476 nonrecurring gross proceeds due at the inception of the lease



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477 to a new motor vehicle dealer or a used motor vehicle dealer
478 licensed pursuant to Section 40-12-391, including any
479 capitalized cost reduction or other fee that is retained by
480 the dealer in connection with its initiation of the lease,
481 shall be determined based on the location of the dealer where
482 the lease was initiated.

483 b. The privilege or license tax levy on gross proceeds
484 other than those described in paragraph a., including the
485 initial lease or rental payment and all subsequent lease or
486 rental payments, shall be determined based on the garage
487 address of the lessee as provided to the county licensing
488 official. The lessor is considered to be engaging or
489 continuing within this state in the business of leasing or
490 renting tangible personal property when its lessee has a
491 garage address within this state."

492 Section 16. This act shall become effective on the
493 first day of the third month following its passage and
494 approval by the Governor, or its otherwise becoming law.