

# HOUSE BILL No. 1119

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-2.5; IC 6-6; IC 9-25; IC 9-30-11; IC 24-4.

**Synopsis:** Peer to peer car rentals. Specifies that a car facilitation company is a company facilitating the noncommercial use of a privately owned passenger motor vehicle by a person other than the vehicle's registered owner. Provides that a car facilitation company is treated the same as a car rental company under the trade regulation statutes and for purposes of the state gross retail and use tax, the state auto rental excise tax, and the Marion County and Vanderburgh County car rental excise taxes. Specifies requirements related to a car facilitation transaction and vehicle safety recalls. Makes conforming amendments.

**Effective:** July 1, 2019.

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## Karickhoff

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January 7, 2019, read first time and referred to Committee on Roads and Transportation.

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First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

## HOUSE BILL No. 1119

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 6-2.5-1-12.4 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2019]: **Sec. 12.4. As used in this article, a**  
4 **"car facilitation company" means a legal entity qualified to do**  
5 **business in Indiana that is engaged in the business of facilitating**  
6 **the use, rental, or sharing of privately owned passenger motor**  
7 **vehicles for noncommercial use by individuals within this state. A**  
8 **car facilitation company does not include the registered owner of**  
9 **the vehicle involved in a car facilitation transaction.**

10       SECTION 2. IC 6-2.5-1-12.5 IS ADDED TO THE INDIANA  
11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
12 [EFFECTIVE JULY 1, 2019]: **Sec. 12.5. As used in this article, a**  
13 **"car facilitation transaction" means the acceptance of a payment**  
14 **from an individual by a car facilitation company to facilitate the**  
15 **individual's noncommercial use of a privately owned passenger**  
16 **motor vehicle by a person other than the vehicle's registered**  
17 **owner.**



SECTION 3. IC 6-2.5-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 10. (a) A person, other than a public utility, is a retail merchant making a retail transaction when ~~he the retail merchant~~ rents or leases tangible personal property to another person other than for subrent or sublease. **In addition, a car facilitation company is a retail merchant making a retail transaction when the car facilitation company makes a car facilitation transaction.**

(b) A person is a retail merchant making a retail transaction when the person sells any tangible personal property which has been rented or leased in the regular course of the person's rental or leasing business.

(c) Notwithstanding subsection (a), a person is not a retail merchant making a retail transaction when the person rents or leases motion picture film, audio tape, or video tape to another person. However, this exclusion only applies if:

- (1) the person who pays to rent or lease the film charges admission to those who view the film; or
- (2) the person who pays to rent or lease the film or tape broadcasts the film or tape for home viewing or listening.

SECTION 4. IC 6-6-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) An excise tax, known as the auto rental excise tax, is imposed upon the rental of passenger motor vehicles and trucks in Indiana for periods of less than thirty (30) days. **A car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the rental of a passenger motor vehicle for purposes of this chapter.**

(b) The auto rental excise tax imposed upon the rental of a passenger motor vehicle or truck equals four percent (4%) of the gross retail income received by the retail merchant for the rental.

SECTION 5. IC 6-6-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. The person who rents a passenger motor vehicle or truck is liable for the auto rental excise tax. **A person who makes a payment in a car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the person who rents the passenger motor vehicle for purposes of this chapter.** The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

SECTION 6. IC 6-6-9.5-7, AS ADDED BY P.L.214-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax,



known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. **A car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the rental of a passenger motor vehicle for purposes of this chapter.** The ordinance must specify that the tax expires December 31, 2036.

(b) The county supplemental auto rental excise tax that may be imposed upon the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

SECTION 7. IC 6-6-9.5-9, AS ADDED BY P.L.214-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. **A person that makes a payment in a car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the person that rents the passenger motor vehicle for purposes of this chapter.** The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

SECTION 8. IC 6-6-9.7-7, AS AMENDED BY P.L.205-2013, SECTION 127, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. (a) The city-county council of a county that contains a consolidated city may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles and trucks in the county for periods of less than thirty (30) days. **A car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the rental of a passenger motor vehicle for purposes of this chapter.** The ordinance must specify that the tax expires December 31, 2027.

(b) Except as provided in subsection (c), the county supplemental auto rental excise tax that may be imposed upon the rental of a



passenger motor vehicle or truck equals two percent (2%) of the gross retail income received by the retail merchant for the rental.

(c) On or before June 30, 2005, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax imposed under subsection (a) from two percent (2%) to four percent (4%). The ordinance must specify that:

(1) if on December 31, 2027, there are obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the original two percent (2%) rate imposed under subsection (a) continues to be levied after its original expiration date set forth in subsection (a) and through December 31, 2040; and

(2) the additional rate authorized under this subsection expires on:

(A) January 1, 2041;

(B) January 1, 2010, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under IC 5-1-17-26; or

(C) October 1, 2005, if on that date there are no obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority or to any state agency under a lease or a sublease of an existing capital improvement entered into under IC 5-1-17, unless waived by the budget director.

(d) The amount collected from that portion of county supplemental auto rental excise tax imposed under:

(1) subsection (b) and collected after December 31, 2027; and

(2) under subsection (c);

shall, in the manner provided by section 11 of this chapter, be distributed to the capital improvement board of managers operating in a consolidated city or its designee. So long as there are any current or future obligations owed by the capital improvement board of managers to the Indiana stadium and convention building authority created by IC 5-1-17 or any state agency pursuant to a lease or other agreement entered into between the capital improvement board of managers and the Indiana stadium and convention building authority or any state agency under IC 5-1-17-26, the capital improvement board of managers or its designee shall deposit the revenues received under this subsection in a special fund, which may be used only for the payment of the obligations described in this subsection.



(e) After January 1, 2013, and before March 1, 2013, the city-county council may, by ordinance adopted by a majority of the members elected to the city-county council, increase the tax rate imposed under subsection (a) by not more than two percent (2%). The amount collected from an increase adopted under this subsection shall be deposited in the sports and convention facilities operating fund established by IC 36-7-31-16. An increase in the tax rate under this subsection continues in effect unless the increase is rescinded. However, any increase in the tax rate under this subsection may not continue in effect after February 28, 2023.

(f) If a city-county council adopts an ordinance under subsection (a), (c), or (e), the city-county council shall immediately send a certified copy of the ordinance to the commissioner of the department of state revenue.

(g) If a city-county council adopts an ordinance under subsection (a), (c), or (e) on or before the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted. If the city-county council adopts an ordinance under subsection (a), (c), or (e) after the fifteenth day of a month, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month following the month in which the ordinance is adopted.

SECTION 9. IC 6-6-9.7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 9. The person that rents a passenger motor vehicle or truck is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. **A person that makes a payment in a car facilitation transaction (as defined in IC 6-2.5-1-12.5) is considered to be the person that rents the passenger motor vehicle for purposes of this chapter.** The retail merchant shall collect the tax as an agent for the state.

SECTION 10. IC 9-25-6-3, AS AMENDED BY P.L.120-2017, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) If the bureau:

- (1) does not receive a certificate of compliance during the applicable compliance response period for a person identified under IC 9-25-5-2; or
- (2) receives a certificate that does not indicate that financial responsibility was in effect with respect to the motor vehicle operated by the person or operation of the motor vehicle by the person on the date of the accident referred to in IC 9-25-5-2;



1 the bureau shall take action under subsection (d).

2 (b) If the bureau:

3 (1) does not receive a certificate of compliance during the  
4 applicable compliance response period for a person presented  
5 with a request for evidence of financial responsibility under  
6 IC 9-25-9-1; or

7 (2) receives a certificate that does not indicate that financial  
8 responsibility was in effect with respect to the motor vehicle or  
9 operation of the motor vehicle that the person was operating when  
10 the person committed the violation described in the judgment or  
11 abstract received by the bureau under IC 9-25-9-1;

12 the bureau shall take action under subsection (d).

13 (c) If the bureau:

14 (1) does not receive a certificate of compliance during the  
15 applicable compliance response period for a person presented  
16 with a request under IC 9-25-10 (before its repeal); or

17 (2) receives a certificate that does not indicate that financial  
18 responsibility was in effect on the date requested;

19 the bureau shall take action under subsection (d).

20 (d) Under the conditions set forth in subsection (a), (b), or (c), the  
21 bureau shall immediately suspend the person's driving privileges or  
22 motor vehicle registration, or both, as determined by the bureau, for at  
23 least ninety (90) days and not more than one (1) year. The suspension  
24 of a person's driving privileges or motor vehicle registration, or both,  
25 may be imposed only one (1) time under this subsection or IC 9-25-8-2  
26 for the same incident.

27 (e) Except as provided in subsection (f), if subsection (a), (b), or (c)  
28 applies to a person, the bureau shall suspend the driving privileges of  
29 the person irrespective of the following:

30 (1) The sale or other disposition of the motor vehicle by the  
31 owner.

32 (2) The cancellation or expiration of the registration of the motor  
33 vehicle.

34 (3) An assertion by the person that the person did not own the  
35 motor vehicle and therefore had no control over whether financial  
36 responsibility was in effect with respect to the motor vehicle.

37 (f) The bureau shall not suspend the driving privileges of a person  
38 to which subsection (a), (b), or (c) applies if the person, through a  
39 certificate of compliance or another communication with the bureau,  
40 establishes to the satisfaction of the bureau that the motor vehicle that  
41 the person was operating when the accident referred to in subsection  
42 (a) took place or when the violation referred to in subsection (b) or (c)



was committed was:

(1) rented from a rental company; ~~or~~

**(2) rented or shared through a car facilitation company; or**

~~(2) (3)~~ (3) owned by the person's employer and operated by the person in the normal course of the person's employment.

SECTION 11. IC 9-25-8-2, AS AMENDED BY P.L.198-2016, SECTION 547, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A person that knowingly:

(1) operates; or

(2) permits the operation of;

a motor vehicle on a public highway in Indiana without financial responsibility in effect as set forth in IC 9-25-4-4 commits a Class A infraction. However, the offense is a Class C misdemeanor if the person knowingly or intentionally violates this section and has a prior unrelated conviction or judgment under this section.

(b) Subsection (a)(2) applies to:

(1) the owner of a rental company under IC 9-25-6-3(f)(1); ~~and~~

**(2) the owner of a car facilitation company under IC 9-25-6-3(f)(2); and**

~~(2) (3)~~ (3) an employer under ~~IC 9-25-6-3(f)(2)~~; **IC 9-25-6-3(f)(3).**

(c) In addition to any other penalty imposed on a person for violating this section, the court shall recommend the suspension of the person's driving privileges for at least ninety (90) days but not more than one (1) year. However, if, within the five (5) years preceding the conviction under this section, the person had a prior unrelated conviction under this section, the court shall recommend the suspension of the person's driving privileges and motor vehicle registration for one (1) year.

(d) Upon receiving the recommendation of the court under subsection (c), the bureau shall suspend the person's driving privileges and motor vehicle registration, as applicable, for the period recommended by the court. If no suspension is recommended by the court, or if the court recommends a fixed term that is less than the minimum term required by statute, the bureau shall impose the minimum period of suspension required under this article. The suspension of a person's driving privileges or motor vehicle registration, or both, may be imposed only one (1) time under this subsection or IC 9-25-6 for the same incident.

SECTION 12. IC 9-30-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. The motor vehicle registration suspension procedure under this chapter does not apply to a judgment imposed for an infraction or ordinance violation involving





a motor vehicle that was, at the time of the infraction or ordinance violation, the subject of:

(1) a written agreement for the rental or lease of the motor vehicle for a period not greater than sixty (60) days; or

(2) a car facilitation transaction (as defined in IC 24-4-9.1-2).

SECTION 13. IC 9-30-11-8, AS AMENDED BY P.L.1-2006, SECTION 169, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. (a) This section does not apply in a proceeding concerning a standing or parking citation issued by a police authority operating under the jurisdiction of an airport authority.

(b) It is a defense in a proceeding to enforce an ordinance or a statute defining an infraction concerning the standing or parking of vehicles if the owner:

(1) proves that at the time of the alleged violation the owner was engaged in the business of renting or leasing vehicles under either written agreements or car facilitation transactions (as defined in IC 24-4-9.1-2);

(2) proves that at the time of the alleged violation the vehicle was in the care, custody, or control of a person (other than the owner or an employee of the owner) under a written agreement for the rental or lease of the vehicle for a period of not more than sixty (60) days; and

(3) provides to the traffic violations bureau or court that has jurisdiction the name and address of the person who was renting or leasing the vehicle at the time of the alleged violation.

(c) The owner of a vehicle may establish proof under subsection (b)(2) by submitting, within thirty (30) days after the owner receives notice by mail of:

(1) the parking ticket; or

(2) the infraction violation;

a copy of the rental or lease agreement to the traffic violations bureau or court that has jurisdiction.

SECTION 14. IC 24-4-9-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1.5. As used in this chapter, "car facilitation company" has the meaning set forth in IC 24-4-9.1-1.

SECTION 15. IC 24-4-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 7. As used in this chapter, "rental company" means any person engaged in the business of regularly making available, or arranging for another person to use, a vehicle under a rental agreement. The term includes a car facilitation company.



SECTION 16. IC 24-4-9.1 IS ADDED TO THE INDIANA CODE  
AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
JULY 1, 2019]:

**Chapter 9.1. Car Facilitation Companies**

**Sec. 1.** As used in this chapter, "car facilitation company" means a legal entity qualified to do business in Indiana that is engaged in the business of facilitating the use, rental, or sharing of privately owned vehicles for noncommercial use by individuals within Indiana. The term does not include the registered owner of a vehicle used in a car facilitation transaction.

**Sec. 2.** As used in this chapter, "car facilitation transaction" means the acceptance of a payment from a renter by a car facilitation company to facilitate the renter's noncommercial use of a privately owned vehicle that is not owned by the car facilitation company.

**Sec. 3.** As used in this chapter, "vehicle" has the meaning set forth in IC 24-4-9-8.

**Sec. 4. (a)** A car facilitation company shall, before using a vehicle in a car facilitation transaction:

- (1) verify that the vehicle is not subject to any safety recalls for which repairs have not been made; and
- (2) notify the registered owner of the requirements described in subsection (b).

**(b)** If a registered owner has received an actual notice of a safety recall applicable to a vehicle, the registered owner:

- (1) shall not make the vehicle available through a car facilitation company until the safety recall repair has been made; and
- (2) if the actual notice is received while the vehicle is available or in use through a car facilitation company, shall:
  - (A) remove the vehicle from availability and use through the car facilitation company as soon as is practicably possible, but not later than seventy-two (72) hours after receiving the actual notice; and
  - (B) not allow the vehicle to be used in a car facilitation transaction until the safety recall repair has been made.

