

Representative Kim F. Coleman proposes the following substitute bill:

PEER-TO-PEER CAR SHARING ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kim F. Coleman

Senate Sponsor: Jacob L. Anderegg

LONG TITLE

General Description:

This bill enacts provisions related to the regulation of a peer-to-peer car sharing company.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a public entity from regulating a peer-to-peer car sharing company or a peer-to-peer vehicle owner in the same manner as a motor vehicle rental company;
- ▶ prohibits a public entity from regulating a peer-to-peer car rental transaction in the same manner as a motor vehicle rental company transaction; and
- ▶ exempts the rental of a motor vehicle that a peer-to-peer car sharing company facilitates from certain taxes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 59-12-603, as last amended by Laws of Utah 2018, Chapters 258 and 312
27 59-12-1201, as last amended by Laws of Utah 2016, Chapters 184 and 291

28 ENACTS:

29 13-54-101, Utah Code Annotated 1953
30 13-54-102, Utah Code Annotated 1953
31 13-54-201, Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **13-54-101** is enacted to read:

35 **CHAPTER 54. PEER-TO-PEER CAR SHARING**

36 **Part 1. General Provisions**

37 **13-54-101. Title.**

38 This chapter is known as "Peer-to-Peer Car Sharing."

39 Section 2. Section **13-54-102** is enacted to read:

40 **13-54-102. Definitions.**

41 As used in this chapter:

42 (1) (a) "Motor vehicle rental company" means a person:

43 (i) in the business of renting motor vehicles to the public; and

44 (ii) that is exempted from sales and use tax under Title 59, Chapter 12, Sales and Use
45 Tax Act, for the purchase of a motor vehicle.

46 (2) (a) "Peer-to-peer car sharing company" means a peer-to-peer company that
47 facilitates the rental of an individual's private motor vehicle to another individual through a
48 peer-to-peer platform.

49 (b) "Peer-to-peer car sharing company" does not include a person that is exempted
50 from sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act, for the purchase of a
51 motor vehicle.

52 (3) "Peer-to-peer car rental transaction" means a private car rental:

53 (a) that a peer-to-peer car sharing company facilitates; and

54 (b) between two independent individuals whom the peer-to-peer company described in
55 Subsection (5)(a) does not employ.

56 (4) "Peer-to-peer company" means a person that uses a peer-to-peer platform to

57 connect independent individuals who agree to exchange a product or service.

58 (5) "Peer-to-peer platform" means an Internet-connected software service:

59 (a) that a peer-to-peer company provides; and

60 (b) through which independent individuals agree to exchange a product or service.

61 (6) "Peer-to-peer vehicle owner" means an individual who uses a peer-to-peer platform
62 to rent the individual's private motor vehicle to another individual.

63 (7) "Public entity" means:

64 (a) the state; or

65 (b) a political subdivision of the state.

66 Section 3. Section **13-54-201** is enacted to read:

67 **Part 2. Regulation**

68 **13-54-201. Prohibition of regulation.**

69 Except as specifically authorized in statute, a public entity may not regulate:

70 (1) a peer-to-peer car sharing company or a peer-to-peer vehicle owner in the same or
71 substantially similar manner as a motor vehicle rental company; or

72 (2) a peer-to-peer car rental transaction in the same or substantially similar manner as a
73 transaction that a motor vehicle rental company facilitates.

74 Section 4. Section **59-12-603** is amended to read:

75 **59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance**
76 **required -- Advisory board -- Administration -- Collection -- Administrative charge --**
77 **Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice**
78 **requirements.**

79 (1) (a) ~~[It]~~ Subject to Subsection (1)(c), in addition to any other taxes, a county
80 legislative body may, as provided in this part, impose a tax as follows:

81 (i) (A) a county legislative body of any county may impose a tax of not to exceed 3%
82 on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases
83 and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
84 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

85 (B) beginning on or after January 1, 1999, a county legislative body of any county
86 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
87 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals

88 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
89 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
90 to a repair or an insurance agreement;

91 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
92 sales of the following that are sold by a restaurant:

- 93 (A) alcoholic beverages;
- 94 (B) food and food ingredients; or
- 95 (C) prepared food; and

96 (iii) a county legislative body of a county of the first class may impose a tax of not to
97 exceed .5% on charges for the accommodations and services described in Subsection
98 [59-12-103\(1\)\(i\)](#).

99 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
100 [17-31-5.5](#).

101 (c) In accordance with Section [13-54-201](#), a county may not impose a tax described in
102 Subsection (1)(a) on the rental of a motor vehicle facilitated by a peer-to-peer car sharing
103 company as defined in Section [13-54-102](#).

104 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
105 for in Subsections (1)(a)(i) through (iii) may be used for:

- 106 (i) financing tourism promotion; and
- 107 (ii) the development, operation, and maintenance of:
 - 108 (A) an airport facility;
 - 109 (B) a convention facility;
 - 110 (C) a cultural facility;
 - 111 (D) a recreation facility; or
 - 112 (E) a tourist facility.

113 (b) A county of the first class shall expend at least \$450,000 each year of the revenue
114 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
115 marketing and ticketing system designed to:

- 116 (i) promote tourism in ski areas within the county by persons that do not reside within
117 the state; and
- 118 (ii) combine the sale of:

119 (A) ski lift tickets; and

120 (B) accommodations and services described in Subsection 59-12-103(1)(i).

121 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
122 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
123 Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1,
124 Part 5, Agency Bonds, to finance:

125 (a) an airport facility;

126 (b) a convention facility;

127 (c) a cultural facility;

128 (d) a recreation facility; or

129 (e) a tourist facility.

130 (4) (a) To impose the tax under Subsection (1), each county legislative body shall adopt
131 an ordinance imposing the tax.

132 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
133 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
134 those items and sales described in Subsection (1).

135 (c) The name of the county as the taxing agency shall be substituted for that of the state
136 where necessary, and an additional license is not required if one has been or is issued under
137 Section 59-12-106.

138 (5) To maintain in effect its tax ordinance adopted under this part, each county
139 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
140 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
141 amendments to Part 1, Tax Collection.

142 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
143 board in accordance with Section 17-31-8, the county legislative body of the county of the first
144 class shall create a tax advisory board in accordance with this Subsection (6).

145 (b) The tax advisory board shall be composed of nine members appointed as follows:

146 (i) four members shall be residents of a county of the first class appointed by the
147 county legislative body of the county of the first class; and

148 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
149 towns within the county of the first class appointed by an organization representing all mayors

150 of cities and towns within the county of the first class.

151 (c) Five members of the tax advisory board constitute a quorum.

152 (d) The county legislative body of the county of the first class shall determine:

153 (i) terms of the members of the tax advisory board;

154 (ii) procedures and requirements for removing a member of the tax advisory board;

155 (iii) voting requirements, except that action of the tax advisory board shall be by at

156 least a majority vote of a quorum of the tax advisory board;

157 (iv) chairs or other officers of the tax advisory board;

158 (v) how meetings are to be called and the frequency of meetings; and

159 (vi) the compensation, if any, of members of the tax advisory board.

160 (e) The tax advisory board under this Subsection (6) shall advise the county legislative

161 body of the county of the first class on the expenditure of revenue collected within the county

162 of the first class from the taxes described in Subsection (1)(a).

163 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part

164 shall be administered, collected, and enforced in accordance with:

165 (A) the same procedures used to administer, collect, and enforce the tax under:

166 (I) Part 1, Tax Collection; or

167 (II) Part 2, Local Sales and Use Tax Act; and

168 (B) Chapter 1, General Taxation Policies.

169 (ii) A tax under this part is not subject to Section [59-12-107.1](#) or [59-12-123](#) or

170 Subsections [59-12-205](#)(2) through (6).

171 (b) Except as provided in Subsection (7)(c):

172 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the

173 commission shall distribute the revenue to the county imposing the tax; and

174 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue

175 according to the distribution formula provided in Subsection (8).

176 (c) The commission shall retain and deposit an administrative charge in accordance

177 with Section [59-1-306](#) from the revenue the commission collects from a tax under this part.

178 (8) The commission shall distribute the revenue generated by the tax under Subsection

179 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the

180 following formula:

181 (a) the commission shall distribute 70% of the revenue based on the percentages
182 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by
183 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and

184 (b) the commission shall distribute 30% of the revenue based on the percentages
185 generated by dividing the population of each county collecting a tax under Subsection
186 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

187 (9) (a) For purposes of this Subsection (9):

188 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,
189 County Annexation.

190 (ii) "Annexing area" means an area that is annexed into a county.

191 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
192 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
193 change shall take effect:

194 (A) on the first day of a calendar quarter; and

195 (B) after a 90-day period beginning on the date the commission receives notice meeting
196 the requirements of Subsection (9)(b)(ii) from the county.

197 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

198 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

199 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

200 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

201 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
202 (9)(b)(ii)(A), the rate of the tax.

203 (c) (i) If the billing period for a transaction begins before the effective date of the
204 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
205 the tax or the tax rate increase shall take effect on the first day of the first billing period that
206 begins after the effective date of the enactment of the tax or the tax rate increase.

207 (ii) If the billing period for a transaction begins before the effective date of the repeal
208 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
209 rate decrease shall take effect on the first day of the last billing period that began before the
210 effective date of the repeal of the tax or the tax rate decrease.

211 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or

212 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
213 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

214 (A) on the first day of a calendar quarter; and

215 (B) after a 90-day period beginning on the date the commission receives notice meeting
216 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

217 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

218 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
219 repeal, or change in the rate of a tax under this part for the annexing area;

220 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

221 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

222 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
223 (9)(d)(ii)(A), the rate of the tax.

224 (e) (i) If the billing period for a transaction begins before the effective date of the
225 enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of
226 the tax or the tax rate increase shall take effect on the first day of the first billing period that
227 begins after the effective date of the enactment of the tax or the tax rate increase.

228 (ii) If the billing period for a transaction begins before the effective date of the repeal
229 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax
230 rate decrease shall take effect on the first day of the last billing period that began before the
231 effective date of the repeal of the tax or the tax rate decrease.

232 Section 5. Section **59-12-1201** is amended to read:

233 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
234 **collection, and enforcement of tax -- Administrative charge -- Deposits.**

235 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
236 short-term leases and rentals of motor vehicles not exceeding 30 days.

237 (b) The tax imposed in this section is in addition to all other state, county, or municipal
238 fees and taxes imposed on rentals of motor vehicles.

239 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
240 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

241 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
242 take effect on the first day of the first billing period:

243 (A) that begins after the effective date of the tax rate increase; and
244 (B) if the billing period for the transaction begins before the effective date of a tax rate
245 increase imposed under Subsection (1).

246 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
247 rate decrease shall take effect on the first day of the last billing period:

248 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
249 and

250 (B) if the billing period for the transaction begins before the effective date of the repeal
251 of the tax or the tax rate decrease imposed under Subsection (1).

252 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

253 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

254 (b) the motor vehicle is rented as a personal household goods moving van; ~~[or]~~

255 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
256 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
257 insurance agreement~~[-];~~ or

258 (d) the motor vehicle rental is facilitated by a peer-to-peer car sharing company as
259 defined in Section 13-54-102, in accordance with Section 13-54-201.

260 (4) (a) (i) The tax authorized under this section shall be administered, collected, and
261 enforced in accordance with:

262 (A) the same procedures used to administer, collect, and enforce the tax under Part 1,
263 Tax Collection; and

264 (B) Chapter 1, General Taxation Policies.

265 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
266 Subsections 59-12-103(4) through (10) or Section 59-12-107.1 or 59-12-123.

267 (b) The commission shall retain and deposit an administrative charge in accordance
268 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

269 (c) Except as provided under Subsection (4)(b), all revenue received by the
270 commission under this section shall be deposited daily with the state treasurer and credited
271 monthly to the Marda Dillree Corridor Preservation Fund under Section 72-2-117.