

Electronic Commerce

New Car Share Fees May Plug Budget Holes in Pennsylvania

Pennsylvanians who hop in a ZipCar or Enterprise CarShare to get around town will soon find errands a bit more expensive if a proposed measure in the Senate’s revenue package becomes law.

Under the proposal, short-term car sharing services would be subject to incremental fees ranging from 25 cents for trips of less than two hours to \$1.25 for three to four hours. Rentals above four hours would pay the same \$2 fee now imposed on traditional car rental services.

The proposed car share fee is just one of many revenue builders in H.B. 542, the omnibus tax bill to implement the fiscal year 2017-18 budget. The bill, passed by the Senate July 27, would plug a \$2 billion budget deficit by borrowing \$1.3 billion and raising \$571.5 million in new taxes, fees, and other structural changes.

The bill now goes to the House, which has recessed until Sept. 11 unless the speaker calls legislators back into session. It isn’t clear how much support the bill will receive.

‘New Designer Tax’ “It’s the new designer tax of the day,” Vito A. Cosmo, a managing director in state and local tax services at Grant Thornton LLP’s Philadelphia office, told Bloomberg BNA July 31. “They’re going to tax every little iota of our lives.”

The car share fee is among more than a dozen proposals that have no revenue estimates in a fiscal note accompanying the bill. The majority of new revenue would come from a severance tax on natural gas, a new gross receipts gas on natural gas, increases in taxes on electricity and telecommunications, a 6 percent sales tax on third-party sales facilitated through online marketplaces like Amazon.com, Inc. and Ebay Inc., and changes to the state’s tax appeal process.

Lawmakers are looking for new ways to raise funds to avoid increasing sales taxes or personal income taxes, which make up the bulk of Pennsylvania’s general fund revenues, Cosmo said.

“They’re trying to avoid the big two,” he said.

Not Uber or Lyft Based on the bill’s language, the fee would only apply to car sharing services like Zipcar and wouldn’t apply to ride sharing services like Uber Technologies Inc. and Lyft Inc., according to Matt Wilk, senior manager in state and local tax services at RSM US LLP in Blue Bell, Pa.

The bill defines the term “carsharing” as a “membership based service that provides an alternative to personal car ownership” and meets certain conditions.

“When you look at the definition of ‘Carshare’ there is a requirement that an ‘attendant’ is not required,” Wilk told Bloomberg BNA in an email July 31. “For Uber and Lyft you still need a driver (at least for now).”

If state revenues dry up in the future, though, an aggressive auditor might seek to apply it to car owners who drive for Uber or Lyft, according to Paul Graney, state and local tax leader for Marcum LLP and a partner in the firm’s Boston office.

‘Slippery Slope’ “This gets a little convoluted but the argument would be the drivers are ‘members’ of Uber as opposed to employees or contractors and are ‘renting’ their cars to passengers or Uber,” Graney told Bloomberg BNA in an email Aug. 1.

Lawmakers often look for “novel approaches to enforce existing laws,” and the Legislature could always amend the statute, he said. “Laws like this are a slippery slope that tend to expand as technology advances.”

Wilk and Cosmo both questioned whether the graduated fees in the proposal might be challenged as a violation of the Uniformity Clause of the state’s constitution, which requires that taxpayers be treated equally.

Pro-Rating Appropriate Enterprise Holdings, Inc., the parent company of Enterprise CarShare, said in an email Aug. 2 that “car sharing is simply a technology-based rental available in time or distance increments shorter than a typical rental day—so proration of the rental tax is appropriate to the hourly rental model commonly called car sharing.”

However, the company does have “some concerns with the definition of car sharing in the bill currently and hopes to work with the legislature to improve the definitional language,” Laura Bryant, a company spokeswoman, told Bloomberg BNA in an email Aug. 2.

Zipcar had no comment on the bill. In an email Aug. 2, spokeswoman Katelyn Chesley told Bloomberg BNA that “in general, we believe that policy makers should promote, not tax, car sharing members because of their positive impact on the environment, including reducing personal vehicle ownership, traffic, congestion and carbon emissions.”

Uber declined to comment on the bill and Lyft didn’t immediately respond to a request for comment.

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Text of H.B. 542 is at <http://src.bna.com/q8R>.

Text of the fiscal note is at <http://src.bna.com/raX>.

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