House Legislative Analysis Section

Olds Plaza Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

ALLOW CAR RENTAL TRANSACTION FEE

House Bill 4741 with committee amendment
First Analysis (5-27-97)

Sponsor: Rep. David Galloway
Committee: Transportation

THE APPARENT PROBLEM:

Like every other person who registers and titles his or her car in Michigan, rental car companies pay title, registration, and ad valorem taxes to the state for each car that they own. These taxes are collected by the state for use to support the maintenance and development of the state's roads and highways. The taxes are collected on a yearly basis; however, unlike most car owners, the car rental industry turns over its new vehicles about every 7 months. Thus, according to the industry, these companies end up paying titling and registration taxes for the full year without necessarily using the vehicles for the full year. In addition, when new cars are purchased, the rental company must pay these taxes again. Given the number of vehicles purchased by rental companies, title and registration taxes can become a significant portion of the companies' costs. Because of this inequity, legislation has been introduced to allow the rental car companies to pass the costs of these taxes on to their customers in the form of a two percent transaction fee.

THE CONTENT OF THE BILL:

House Bill 4741 would amend the Michigan Vehicle Code to require certain car rental companies to collect a transaction fee as part of each car rental contracted for 31 days or less. The bill's provisions would only apply to businesses that rent private passenger vehicles designed to carry 15 passengers or less, trucks, or semi-trailers (not including those used to transport commercial freight) offered for rental without a driver that are part of a fleet of five or more such vehicles used primarily for rental purposes and are physically delivered to the possession of the renter in Michigan.

On or before February 15th of each year, each rental company subject to the bill's provisions would be required to report to the secretary of state the total amount of "title fees and registration or ad valorem taxes" paid by the rental company during the previous year. The information would have to be reported on a form prescribed by the secretary of state. The bill would define "title fees and registration or ad valorem taxes" to mean "the fees and taxes imposed on a motor vehicle and the privilege of operating a motor vehicle under [the] act."

A rental company would be allowed to use the transaction fees that it had collected to reimburse itself for all the title fees and registration or ad valorem taxes that it had already paid to the state. If the amount of transaction fees collected by a rental company exceeded the amount of title fees and registration or ad valorem taxes paid by that company to the state, the rental company would be required to send the difference to the state for deposit in the Michigan Transportation Fund.

The transaction fee required by the bill would be have to be paid by the customer and collected as part of the rental contract. The amount of the fee would be equal to two percent of the "gross receipts" for the rental of the motor vehicle. Gross receipts would be defined by the bill to include the total amount paid to the car rental company for the use of the motor vehicle, including charges for ancillary optional services such as fuel or damage waiver and insurance services, but not including fees or taxes owed to the state or a county or municipality in conjunction with those charges. The transaction fee would be computed before the assessment of any applicable sales or use taxes and would not be considered part of the rental receipts for the purposes of the General Sales Tax Act (MCL 205.51 - 205.78) or the Use Tax Act (MCL 205.91 - 205.111).

A person who violated the bill's provisions by knowingly and willfully making a false statement or material misrepresentation to the secretary of state would be guilty of a misdemeanor, punishable by up to 90 days imprisonment, a fine of not more than $500 per occurrence, or both.

MCL 257.831

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would increase state revenues to the Michigan Transportation Fund by an indeterminate amount. (5-20-97)

ARGUMENTS:

For:

The title, registration and ad valorem taxes are charged by the state as a user fee to help to pay the costs of building and maintaining the state's roads and highways. The bill will allow the car rental companies to avoid paying these taxes on their rental cars by passing these costs on to the customers who are the actual users of the vehicles. The state would suffer no loss of income due to the bill's provisions because shortfalls would be required to be paid by the rental companies and could possibly increase the money received by the state since any excess collected would be turned over to the state for deposit in the Michigan Transportation Fund. In fact, according to the rental car industry, the two percent transaction fee would yield an additional $1.4 million in revenue for the state. Furthermore, given the nature of the travel industry, most people who rent cars in Michigan are from out-of-state and therefore most of the people who would be required to pay this fee will be from out-of-state. It should also be noted that since 26 other states have already enacted similar legislation, Michigan residents will likely have to pay similar fees when they travel to other states.

Finally, the bill would not increase the state's administrative burdens because the bill would continue to require the vehicle owner to pay the title and registration fee, and an annual report would be filed with the appropriate state agency by each rental car company stating the amount of title and registration fees paid by the company, the amount of the transaction fees collected, and the amount of the collected fees that the company retained as reimbursement.

Response:

Unless there is no intent that the state actually make any effort to ascertain the reliability of the amounts claimed by each rental car company, the bill will indeed increase the state's administrative burdens of the Department of State. On the other hand, if there is no intent that the state make any effort to enforce the bill's provisions, then the bill's penalty provision might as well be removed since it is unlikely that any deceit on the part of the rental car companies could be caught unless the state makes a thorough review of the appropriate records from each company.

For:

Under the International Registration Plan (IRP), all national rental car companies are required to register a certain percentage of vehicles in each state based on the percentage of revenue. When the costs of registering the cars is high, as it is in Michigan, the companies restrict the number of cars they register in the state to the minimum number required under the IRP. The companies also tend to limit the number of more expensive models (e.g. luxury cars and vans) to keep their costs lower.

By lowering the cost of purchasing new vehicles, the bill will probably encourage rental car companies in Michigan to expand their fleets. This would help the state's economy by increasing the number of people hired, not only by the rental car companies, but also in the auto industry due to the increased demand for new vehicles. The bill will also increase the number of "nearly new" cars in the used car market, thus lowering overall costs for used cars and providing consumers with the opportunity to purchase good quality used cars for low prices. In addition, because rental car considerations play an important role in the choice of tourist destinations and the siting of conventions and other large association meetings, Michigan's competitiveness in the tourism market would be increased as well.

Against:

The bill simply will increase the profit margin for rental car companies by allowing them to pass one of their operating expenses on to their customers without raising their rates. This will allow the companies to continue to advertise rates that are significantly lower than the amount that a customer actually pays when he or she leases a car. Rather than publicly raising their rates or accepting a lower profit margin, the rental car companies are asking the state to help them increase their profits by adding yet another surprise cost to their customers' bills above and beyond rental car company's advertised rate. If this bill is passed, what will be the next cost of doing business that the rental car companies will ask to have the state collect for them? Will fees be collected to cover payroll taxes, insurance, vehicle upkeep and repair? If rental car companies want to cover their cost of doing business, they should have to raise their rates like everyone else. If they can't do so for fear of not being competitive, then they are running a bad business and deserve to be beaten by other more competitive companies.

Response:

First of all, it should be noted that the bill would merely allow rental car companies to do what the auto industry is currently allowed to do in their longer term leases of automobiles. Secondly, raising rates is not so simple for rental car companies, as many rental agreements and rental prices are set well in advance of the time the rental actually occurs and the rental car market is extremely competitive (unilateral rate increases inevitably cost the company business, and the companies are legally prevented from agreeing among themselves to raise rates). Further, Michigan's current system of collecting title and registration fees amounts to what is essentially an "inventory tax" on the rental car company's fleet. This is because the state currently sells annual plates, and rental car companies usually only keep each car they purchase for between seven and nine months. Thus, the company is required to pay a full twelve months' worth of fees even though it may only own the car for as little as seven months. This extra cost forces the companies to keep the number of cars that it has on hand low.

Rebuttal:

If the problem is that the state requires rental car companies to pay a twelve-month fee for seven months' ownership, then perhaps a better solution would be to allow these companies to purchase shorter term titles and registrations or allow the title and registration to be transferred without penalty when a car is replaced. Either of these suggestions would eliminate the unfair burden of paying a twelve-month fee for seven months' use without allowing the companies to attempt to deceive customers about how much they will have to pay to rent a vehicle. It should also be noted that on October 1, 1997, Public Act 551 of 1996 (enrolled House Bill 5989) will take effect, allowing the purchase of special registration plates for companies with fleets of 25 or more vehicles. This could help those companies with larger fleets and could be amended to included those with smaller fleets if necessary.

Against:

This bill will give an unfair competitive advantage to the larger nationally-owned companies who charge higher rates and get the most revenue for other items such as damage waiver, fuel and other miscellaneous expenses. Those companies will be better able to reimburse themselves for the entire cost of the registration and titling of their vehicles. Smaller companies will probably be less able to reimburse themselves for their entire costs due to their lower revenue base. This will help the larger companies lower their costs more significantly than the smaller companies, giving the larger companies a competitive edge.

Response:

Actually, the bigger national companies are currently better able to absorb the higher costs of doing business in Michigan by offsetting those costs against profits made in other states.

POSITIONS:

Avis Rent A Car supports the bill. (5-22-97)

Budget Rent-a-Car supports the bill. (5-22-97)

Hertz Rent A Car supports the bill. (5-22-97)

Ryder TRS Inc. supports the bill. (5-19-97)

National Car Rental supports the bill. (5-22-97)

Penske Truck Leasing supports the bill. (5-19-97)

The Truck Rental and Leasing Association supports the bill. (5-22-97)

A representative of Ford Motor Company testified in support of the bill. (5-21-97)

The Department of State opposes the bill. (5-23-97)

Analyst: W. Flory

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.