

CAR RENTAL TRANSACTION FEE

House Bill 4741 as passed by the House Second Analysis (1-13-97)

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 seven 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. (It should be noted that this view is disputed by some. See *Arguments*.) 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. However, if a vehicle were rented for more than one consecutive period within a 31-day interval, the transaction fee could only be collected once during time. 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.

Finally, where a customer reserved rental of a vehicle in advance for a specific time and date and had received a confirmation number for a qualified guaranteed rental reservation, the bill would require the rental company to

provide the type of vehicle that had been reserved or a vehicle of upgraded value.

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. (1-13-98)

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 without a thorough review

of the appropriate records from each company. Furthermore, the claim that the bill will increase state revenue by \$1.4 million is based on the figures of the car rental industry and is by no means certain. The actual results could be far lower.

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.

Response:

If this transaction fee is common practice in many other states, how will it help increase the rental car fleets in Michigan? Wouldn't Michigan still be a less attractive place for rental companies to register their vehicle if other states are also collecting a transaction fee for the companies? It would seem that Michigan would have offer a higher transaction fee to the rental companies in order to increase its appeal.

For:

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. The bill would help remedy this.

Against:

According to the secretary of state's office, Michigan law does not require rental car companies to purchase 12-month title and registrations. Rental car companies are allowed to set the expiration date for the registration of a vehicle with a six-month minimum. Thus, a car rental company that only intended to keep a car for seven months could set the expiration date seven months after the purchase date. The company would then only have to pay a prorated amount for the seven months that it owned the car. On the other hand, even if the car rental company paid for a 12-month title and registration, the company could transfer the title and registration of the vehicle when it is sold to another vehicle. The transfer fee is only \$8 and would prevent the companies from paying 12 months worth of title and registration and only getting seven months worth of use.

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 losing business, then perhaps the other more efficiently run and competitive companies should take their place.

Response:

It should be noted that 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).

Against:

The bill would prohibit the transaction fee from being collected more than once where a vehicle was rented for more than one consecutive period within a 31-day interval. The bill should be changed to limit this

prohibition to situations where the same customer rents the vehicle for more than one consecutive period during a 31-day interval. If a different customer rents the vehicle, he or she should not be able to avoid paying the transaction fee simply because someone else had rented that vehicle during the preceding 31 days.

POSITIONS:

Avis Rent A Car supports the bill. (1-9-98)

Budget Rent-a-Car supports the bill. (1-9-98)

Hertz Rent A Car supports the bill. (1-9-98)

National Car Rental supports the bill. (1-9-98)

The Truck Rental and Leasing Association supports the bill. (1-9-98)

The Michigan Vehicle Leasing and Renting Association supports the bill. (1-12-98)

The Department of State opposes the bill. (1-12-98)

The City of Detroit - Consumers Affairs Department opposes the bill. (1-13-98)

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.