

Department of Legislative Services
Maryland General Assembly
2022 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 142
Finance

(Senator Beidle)

State Airports - Commercial Activity - Rental Vehicles and Peer-to-Peer Car
Sharing

This bill makes various changes to the Maryland Aviation Administration's (MAA) authorities and duties in regulating the offer of rental vehicles by rental vehicle companies and peer-to-peer car sharing programs in and around the airports it operates. **The bill takes effect July 1, 2022.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF) revenues increase, potentially significantly, beginning in FY 2023. Expenditures are not directly affected.

Local Effect: The bill does not directly affect local government operations and finances.

Small Business Effect: Minimal.

Analysis

Bill Summary: In its duty to monitor the charges, fees, or prices of any goods or services offered to the public at an airport, airport facility, or air navigation facility owned by the State, MAA *may* (instead of *must*) consider the charges, fees, or prices for the same goods or services at comparable airports.

In carrying out its powers and duties with respect to the offer for rental vehicles by either a rental vehicle company or a peer-to-peer car sharing program, MAA must (1) treat entities or businesses that engage in like services as being the same class; (2) provide services and grant privileges in a consistent manner to entities or businesses that engage in like services;

(3) ensure the terms and conditions of agreements, including all access and fee requirements, are reasonable and uniform, as specified; and (4) take into consideration MAA's long-term investment in the consolidated rental vehicle facility and associated structures and improvements.

The definition of "commercial activity," in reference to MAA's authority to approve when commercial activity is allowed at an airport it operates, is modified to include the offer or arrangement by a rental vehicle company or a peer-to-peer car sharing program of the rental or use of a motor vehicle by (1) listing, publishing, or advertising the rental or use by mentioning the formal or informal name of an airport operated by MAA, as specified; (2) listing, publishing, or advertising the rental or use of a motor vehicle parked on or located at airport property or facilities; (3) facilitating the use of motor vehicles to transport airport customers to or from airport property or facilities, as specified; or (4) promoting or marketing motor vehicles to transport airport customers to or from airport property or facilities, as specified.

MAA's authority over commercial activity at the Baltimore-Washington International Thurgood Marshall Airport (BWI Marshall Airport) must extend to a commercial zone that is within a seven-mile radius of the main terminal. MAA must establish rules and requirements for the conduct of airport-related commercial activity within this zone.

The bill also clarifies that commercial activity is *allowed* (instead of *permitted*) at an airport operated by MAA only when expressly authorized by and in a manner prescribed by MAA and that "rental vehicle company" means *an entity* (rather than *a person*) that rents a motor vehicle to a consumer.

Current Law:

Maryland Aviation Administration

MAA, as a unit of the Maryland Department of Transportation, has responsibility for fostering, developing, and regulating aviation activity throughout the State. MAA is responsible for operating, maintaining, and developing BWI Marshall Airport, a State-owned airport, as a major center of commercial air carrier service in the State.

With the approval of the Secretary of Transportation, MAA has broad authority to contract, lease, or otherwise arrange with any person to (1) provide services to that person through the airport or MAA-operated facility or (2) use or improve for commercial purposes any part of the airport or facility or supply services, facilities, goods, commodities, or other things at the airport or facility. In doing so, MAA may establish terms and conditions and fix any charges, rentals, or fees that are reasonable and uniform for the same class of privilege or service and meet specified requirements. In determining reasonableness, MAA

must consider the charges, fees, or prices for the same goods or services at comparable airports.

Commercial activity (meaning the sale, merchandising, marketing, or promotion of any goods or services) at an airport operated by MAA is permitted only when expressly authorized by and in a manner prescribed by MAA.

Rental Vehicles

The Maryland Vehicle Law governs rental vehicles and details the requirements, rules, and procedures for motor vehicle rental companies operating in the State. For example, a vehicle may only be rented to an individual who holds a legal driver's license, and the company must keep detailed records about each individual to whom a vehicle is rented. "Motor vehicle rental company" means a person that is in the business of providing motor vehicles to the public under a rental agreement for a period of 180 days or less. The sales and use tax rate for short-term vehicle rentals in the State is 11.5%; revenue generated from the tax is distributed to the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund (55%) and TTF (45%).

Peer-to-peer Car Sharing Programs

A peer-to-peer car sharing program is an online platform that connects vehicle owners with drivers to enable the sharing of motor vehicles for financial consideration. Chapter 852 of 2018 established a (1) regulatory framework for peer-to-peer car sharing in the State; (2) a sales and use tax rate of 8% for related sales and charges, which was set to terminate June 30, 2020, reverting to the standard 6% rate; and (3) regulatory processes for rates and fees charged to a renter through a program. Chapter 567 of 2020 extended the termination date of the 8% tax rate through June 30, 2021.

Chapter 9 of the 2021 special session (pursuant to a veto override of House Bill 1209 of 2021) repealed the termination date, reinstating the 8% tax rate and making it permanent. In addition, Chapter 9 imposed a sales and use tax rate of 11.5% on peer-to-peer car sharing if the vehicle is part of a fleet of vehicles that includes more than 10 vehicles owned by the same person. The sales and use tax revenue from peer-to-peer car sharing is distributed to TTF and the Chesapeake and Atlantic Coastal Bays 2010 Trust Fund in the same manner as the sales and use tax revenue from short-term vehicle rentals.

State Revenues: Under current law and practice, MAA contracts with various motor vehicle rental companies that pay fees to maintain a physical presence at the airport; for many years, these rental cars were the primary avenue for travelers flying into the State to rent a vehicle. Each vehicle that is rented through an airport rental company is subject to a customer facility charge of \$3.75 per day; in addition, the rental companies pay fees to

MAA equal to 10% of gross sales receipts from vehicle rentals. As peer-to-peer car sharing programs have begun operating in the State in recent years, travelers have been more easily able to rent vehicles outside of the airport. When this occurs, MAA foregoes revenue as it does not collect fees from peer-to-peer rentals.

MAA advises that, under the bill, it plans to seek 10% of gross receipts from peer-to-peer rentals, consistent with the fees charged for traditional rentals. Thus, TTF revenues increase, potentially significantly, as MAA begins to collect fees for peer-to-peer rentals. A preliminary estimate provided by MAA estimates initial increased revenues of hundreds of thousands of dollars annually, increasing significantly over time as MAA identifies and collects fees for additional peer-to-peer rentals; however, a precise estimate cannot be reliably provided without actual experience under the bill.

Additional Comments: The Department of Legislative Services advises that the bill could be interpreted to require MAA to regulate car rental businesses that are only tangentially related to BWI Marshall Airport. For example, a car rental company that operates in south Baltimore (which is near the edge of the seven-mile radius commercial zone established by the bill) that mentions proximity to BWI Marshall Airport in its advertising, but otherwise does not have any connection to the airport, could be subject to regulation by MAA under the bill.

Additional Information

Prior Introductions: SB 705 of 2021, a similar bill, passed the Senate with amendments and was referred to the House Economic Matters Committee and the House Environment and Transportation Committee, but no further action was taken. Its cross file, HB 1304, received a hearing in the House Economic Matters Committee, but no further action was taken.

Designated Cross File: HB 393 (Delegate Rogers, *et al.*) - Economic Matters and Environment and Transportation.

Information Source(s): Maryland Department of Transportation; Maryland Insurance Administration; Public Service Commission; Department of Legislative Services

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