

Department of Legislative Services
 Maryland General Assembly
 2021 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 705

(Senator Beidle, *et al.*)

Finance

Economic Matters and Environment and
Transportation

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

This bill makes various change to the Maryland Aviation Administration’s (MAA) authorities and duties in regulating the offer of rental vehicles by either a rental vehicle company or a peer-to-peer car sharing program in and around the airports it operates. Broadly, the bill (1) requires MAA to treat the two types of car rental services in a similar manner; (2) alters the definition of “commercial activity,” in reference to MAA’s authority to approve when commercial activity is allowed at an airport it operates, to add specificity and expressly include peer-to-peer car sharing program activities in the definition; and (3) establishes a commercial zone around the Baltimore-Washington International Thurgood Marshall Airport’s (BWI Marshall Airport) main terminal and requires MAA to regulate airport-related commercial activity within that commercial zone. **The bill takes effect July 1, 2021.**

Fiscal Summary

State Effect: Transportation Trust Fund (TTF), Chesapeake and Atlantic Coastal Bays 2010 Trust Fund (2010 Trust Fund), and general fund revenues may be affected beginning in FY 2022, as discussed below. Expenditures are not directly affected.

Local Effect: Local government revenues may be affected, as discussed below. Local expenditures are not directly affected.

Small Business Effect: Minimal.

Analysis

Bill Summary: 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 like services as being of the same class; (2) provide services and grant privileges in a consistent manner; (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 operating 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 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.

Current Law:

Maryland Aviation Administration

MAA, as a unit of the Maryland Department of Transportation (MDOT), has responsibility for fostering, developing, and regulating aviation activity throughout the State. MAA is responsible for operating, maintaining, and developing the 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.

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 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 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. Revenues from the sales and use tax on peer-to-peer car sharing accrues to the general fund.

Chesapeake and Atlantic Coastal Bays 2010 Trust Fund

The 2010 Trust Fund was established in 2008 and is funded with a portion of revenues from the motor fuel tax and the sales and use tax on short-term vehicle rentals (which, collectively, generate approximately \$50.0 million each year for the trust fund). The trust fund is used for nonpoint source pollution control projects to help meet Chesapeake Bay restoration goals and to improve the health of the Atlantic Coastal Bays and their tributaries. Examples of nonpoint source projects that can be funded with the trust fund include cover crops, natural filters, and local watershed restoration projects, including stormwater management projects.

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 \$3.25 per day and, as noted above, the 11.5% sales and use tax on short-term vehicle rentals. As peer-to-peer car sharing programs have begun operating in the State in recent years, travelers have been able to more easily rent vehicles outside of the airport. When this occurs, MAA foregoes the facility charge and the tax revenues that it would otherwise collect, since peer-to-peer rentals are only subject to an 8% sales and use tax that is distributed to the general fund.

The State collected \$70.4 million from the sales and use tax on short-term vehicle rentals in fiscal 2020; 55% of the revenues (\$38.7 million) accrue to the 2010 Trust Fund, and 45% of the revenues (\$31.7 million) accrue to TTF. The State collected \$414,000 in sales and use taxes from peer-to-peer car sharing in fiscal 2019, which accrue to the general fund. Accordingly, TTF revenues, 2010 Trust Fund revenues, and general fund revenues may be affected depending on how the bill affects the balance between motor vehicle rental companies and peer-to-peer car sharing programs operating in and around BWI Marshall Airport; however, the direction and magnitude of the potential effect, if any, cannot be reliably estimated.

For example, if the bill results in the airport's traditional motor vehicle rental companies taking business from peer-to-peer car sharing programs, general fund revenues decrease, while TTF revenues and 2010 Trust Fund revenues increase. Conversely, because the bill requires MAA to treat the two types of rental vehicles with greater parity, MDOT advises that the bill may increase the market share of peer-to-peer car sharing companies. To the extent that occurs, general fund revenues increase, while TTF revenues and 2010 Trust Fund revenues decrease.

Local Revenues: A portion of the taxes collected on short-term vehicle rentals accrues to the Gasoline and Motor Vehicle Revenue Account within TTF and is shared with local governments through capital transportation grants. Therefore, similar to the potential effect on State revenues discussed above, local revenues are affected to the extent the bill affects the balance between traditional motor vehicle rental companies and peer-to-peer car sharing programs.

Additional Comments: MDOT advises, and the Department of Legislative Services concurs, 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: None.

Designated Cross File: HB 1304 (Delegate Fraser-Hidalgo) - Economic Matters and Environment and Transportation.

Information Source(s): Maryland Department of Transportation; Maryland Insurance Administration; Maryland Commission on Civil Rights; Department of Legislative Services

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