OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 161
133rd General Assembly

# Fiscal Note & Local Impact Statement

Click here for S.B. 161's Bill Analysis

**Version:** As Introduced

**Primary Sponsors:** Sens. Hottinger and Dolan

**Local Impact Statement Procedure Required:** No

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## Highlights

- The bill provides for the regulation of peer-to-peer (P2P) car sharing programs and agreements and specifies a set of requirements guiding P2P car sharing services and the vehicles utilized to provide the service.
- The bill establishes specific insurance requirements, such as minimum coverage limits, and makes P2P car sharing programs ultimately responsible for ensuring that insurance requirements are met.
- The bill specifies that any technology platform which connects a consumer to another person, including a transportation network company or a peer-to-peer car sharing program, is the vendor for purposes of collecting and remitting sales taxes.
- The bill is to apply retroactively to all taxable transportation services taking place either before or after the bill's effective date. This provision may result in undetermined additional sales tax revenue if transportation service providers have not been remitting sales and use tax.
- P2P car sharing vendors are anticipated to increase sales and use tax revenue by up to $1.0 million in both FY 2020 and FY 2021.
- Transportation network companies (TNCs) are estimated to remit between $12.0 million and $24.0 million in state sales and use taxes in FY 2020, and between $13.0 million and $26.0 million in state sales and use taxes in FY 2021.
- Counties' and transit authorities' sales and use tax revenue coming from P2P car sharing and TNC vendors affected by S.B. 161 is estimated to be between $3.0 million and $6.6 million in both FY 2020 and FY 2021.

# Detailed Analysis

## Overview

The bill authorizes peer-to-peer (P2P) car sharing rentals which adhere to P2P car sharing agreements, and classifies P2P rentals as services. The bill establishes quality requirements and other responsibilities which apply to P2P car sharing agreements. Responsibilities of P2P car sharing programs are to include collection and verification of maintenance records, as well as maintaining insurance policies which meet minimum coverage specifications.

The bill clarifies that the operator of any technology platform which connects a consumer with another person who is providing a service is to be considered the vendor of the service in such transactions, and that the vendor is responsible for the remittance of sales and use taxes. Regarding transportation services, this requires P2P sharing programs and transportation network companies (TNCs) to remit sales and use taxes. S.B. 161 applies retrospectively to all cases pending on or transactions occurring before, on, or after the effective date of the bill.

The bill includes several other provisions that do not have a fiscal impact. Details of law changes are available in the LSC bill analysis.

The fiscal effects for each section of the bill are provided under their respective headings below. The bill does not change the definition of "price" as defined in section 5739.01(H) of the Ohio Revised Code. Current law specifies that "price" is the total amount of consideration required for the exchange of goods or services. Therefore, the sales and use tax estimates below assume that all vendors' revenue for providing a transportation service is taxable under sales and use tax law.

## P2P car sharing services

The bill authorizes P2P car sharing programs, establishes the P2P car sharing program as the vendor of service transactions, and introduces a set of requirements which apply to P2P car sharing programs. The bill requires vendors to collect and maintain records on the vehicles utilized by the program, the owners of said vehicles, registration and maintenance records of the vehicles, vehicle renters, as well as any financial and geolocation data for the vehicle, and shall maintain those records for a minimum of three years. The bill specifies minimum financial responsibility and insurance policies for the vendor and shared vehicle owner. The bill subjects any violations of P2P car sharing agreements to the Consumer Sales Practices Law, placing enforcement of the law under the purview of the Ohio Attorney General's Office.

The bill is expected to increase sales and use tax revenues remitted by P2P car sharing programs by up to $1 million in FY 2020 and in FY 2021. Of the revenue gain, up to $0.9 million will be deposited in the GRF, and the remainder will be deposited in both the Public Library Fund (PLF) and Local Government Fund (LGF).

The sales tax provision would increase revenue from permissive county and transit authorities' sales taxes. These local taxes share the same base as the state sales and use tax. Revenue gain to counties and to transit authorities would range from $115,000 to $230,000 in FY 2020 and from $127,000 to $255,000 in FY 2021.

## Transportation network company services

The bill specifies that TNCs are vendors for purposes of the sales and use tax law. It is estimated that TNCs will contribute between $12.0 million and $24.0 million to sales and use tax collections in FY 2020 and between $13.0 million and $26.0 million in FY 2021. Of the FY 2020 revenue, between $11.7 million and $23.5 million will be deposited in the GRF, and between $0.15 million and $0.30 million will be deposited in each of the PLF and LGF.

The sales tax provision would increase revenue from permissive county and transit authorities' sales taxes. These local taxes share the same base as the state sales and use tax. Revenue gain to counties and to transit authorities would range from $2.9 million to $5.8 million in FY 2020 and from $3.2 million to $6.4 million in FY 2021.

The retroactive provision of the bill would increase state and permissive local sales and use tax revenues by an uncertain amount, potentially several millions of dollars if providers of transportation services have not been collecting and remitting sales taxes.

## Insurance requirements

The bill requires all shared vehicles to maintain minimum insurance coverage as specified in section 4516.10 of the Revised Code, and specifies that the required insurance can be satisfied by the vehicle owner, vehicle driver, the vendor, or by multiple policies combined to meet the minimum insurance coverage requirements. Vendors are required to maintain insurance in an amount of at least $1.0 million in cases of bodily injuries, deaths, or property damage as a result of an accident. The bill may incidentally increase state revenue from domestic and foreign insurance taxes; however, this amount is estimated to be negligible.

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