

**ALASKA STATE LEGISLATURE**  
**SENATE TRANSPORTATION STANDING COMMITTEE**

April 20, 2023

1:46 p.m.

**MEMBERS PRESENT**

Senator James Kaufman, Chair  
Senator Löki Tobin  
Senator Jesse Kiehl

**MEMBERS ABSENT**

Senator David Wilson, Vice Chair  
Senator Robert Myers

**COMMITTEE CALENDAR**

SENATE BILL NO. 127

"An Act relating to vehicle rental taxes; relating to the issuance of subpoenas related to tax records; and providing for an effective date."

- HEARD & HELD

HOUSE BILL NO. 8

"An Act relating to electric-assisted bicycles."

- BILL HEARING CANCELED

**PREVIOUS COMMITTEE ACTION**

BILL: SB 127

SHORT TITLE: TAXATION: VEHICLE RENTALS

SPONSOR(S): SENATOR(S) CLAMAN

04/12/23	(S)	READ THE FIRST TIME - REFERRALS
04/12/23	(S)	TRA, FIN
04/20/23	(S)	TRA AT 1:30 PM BUTROVICH 205

**WITNESS REGISTER**

SENATOR MATT CLAMAN, District H  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Sponsor of SB 127.

LIZZIE KUBITZ, Staff  
Senator Matt Claman  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Provided a sectional analysis for SB 127 on behalf of the sponsor.

FADIL LIMANI, Deputy Commissioner  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Presented a departmental overview of SB 127.

BRANDON SPANOS, Deputy Director  
Tax Division  
Department of Revenue (DOR)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions on SB 127.

CARRIGAN GRIGSBY, Executive Vice President  
AVIS Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified by invitation on SB 127.

SEAN VINCK, Associate General Counsel  
Turo Incorporated  
San Francisco, California

**POSITION STATEMENT:** Testified by invitation on SB 127.

#### **ACTION NARRATIVE**

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**CHAIR JAMES KAUFMAN** called the Senate Transportation Standing Committee meeting to order at 1:46 p.m. Present at the call to order were Senators Tobin, Kiehl and Chair Kaufman.

#### **SB 127-TAXATION: VEHICLE RENTALS**

[1:47:03 PM](#)

**CHAIR KAUFMAN** announced the consideration of SENATE BILL NO. 127 "An Act relating to vehicle rental taxes; relating to the issuance of subpoenas related to tax records; and providing for an effective date."

This is the first hearing and the intention is to hear the introduction, take invited testimony, and hold the bill for future consideration.

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SENATOR MATT CLAMAN, District H, Alaska State Legislature, Juneau, Alaska, sponsor of SB 127, introduced the legislation by speaking to the following sponsor statement:

[Original punctuation provided.]

Senate Bill 127 requires vehicle rental platform companies, such as Turo and Getaround, to collect the existing state vehicle rental tax and remit the tax to the Department of Revenue. Additionally, Senate Bill 127 revises the subpoena provisions that relate to Department of Revenue tax collections.

Senate Bill 127 was introduced at the request of the Department of Revenue. The department informed our office that vehicle rental platform companies, specifically peer-to-peer, car-sharing networks, owe the vehicle rental tax under existing law, but the law requires a new section to specify that the vehicle rental platform companies are responsible for collecting and remitting the tax.

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LIZZIE KUBITZ, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, provided the following sectional analysis for SB 127:

[Original punctuation provided.]

Section 1 AS 43.05.040. Inspection of records or premises and issuance of subpoenas. Amends AS 43.05.040(c) by removing unnecessary language regarding the issuance of out-of-state subpoenas related to tax records.

Section 2 AS 43.52.050. Liability for payment of vehicle rental taxes. Amends AS 43.52.050(a) by adding language clarifying that vehicle rental platform companies and other companies that arrange vehicle rentals and leases shall collect the existing state vehicle rental tax and remit the tax to the Department of Revenue.

### **Section 3**

AS 43.52.050. *Liability for payment of vehicle rental taxes.*

Amends AS 43.52.050 by adding a new section (c) defining "motor vehicle" and "vehicle rental platform."

#### **Section 4**

*Uncodified law - assessment and collection limitation.*  
The Department of Revenue shall have one year from the effective date of this Act to assess and collect the vehicle rental taxes that were imposed before the effective date of this Act on a transaction arranged or executed through a vehicle rental platform. If the tax is not assessed and collected before one year after the effective date of this Act, proceedings may not be instituted in court for the assessment or collection of the tax.

#### **Section 5**

*Effective Date*

This Act takes effect immediately.

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FADIL LIMANI, Deputy Commissioner, Department of Revenue (DOR), Anchorage, Alaska, presented a departmental overview of SB 127.

MR. LIMANI began with slide 3, "SB 127 - Objective."

- The intent of this legislation is to move the responsibility for collecting and remitting tax from the individual owners to the vehicle rental platform company if the lease or rental was arranged or executed through a platform.
- The proposed legislation **does not impose a new tax.**
- The legislation provides for a streamlined process for the Department of Revenue in collecting the peer-to-peer rental tax.
- AS 43.52.010: "There is imposed an excise tax on the charge for the lease or rental of a passenger vehicle in this state if the lease or rental of the passenger vehicle does not exceed a period of 90 consecutive days."

- AS 43.52.050: taxes "shall be collected and paid to the department by the person who provides the leased or rented vehicle."

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MR. LIMANI moved to slide 4, "SB 127 - Bottom Line."

- The tax burden already exists - AS 43.52.010
- This bill compels the vehicle rental platforms to collect and remit the tax on behalf of vehicle owners

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MR. LIMANI continued with slide 5, "SB 127 - Background."

- Alaska levies an excise tax on fees and costs charged for the lease or rental of a passenger or recreational vehicle if the lease or rental does not exceed a period of 90 consecutive days.
- The person working for the rental/lease agency that provides the leased or rental vehicle collects the tax from the individual renting or leasing the vehicle. The rental/lease agency in turn remits the tax to the Department of Revenue's Tax Division.
- For passenger vehicles, the rate is 10% of the total fees and costs for renting or leasing. For recreational vehicles, the rate is 3% of the total fees and costs for renting or leasing.
- Vehicle rental/lease agencies file tax returns and remit taxes quarterly.

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MR. LIMANI moved to slide 6, "SB 127 - Legislative History."

- 2003 - The Legislature enacted the vehicle rental tax on Aug. 20, 2003. The tax became effective January 1, 2004.
- 2004 - The Legislature exempted the rental of taxicabs by taxicab drivers from the vehicle rental tax.

- 2006 - The Legislature exempted trucks rented by individuals for moving personal property and for vehicles provided to customers by automobile dealers as replacement transportation during warranty, recall, or service contract repairs.
- 2013 - The Legislature excluded motorcycles and motor-driven cycles as defined by AS 28.90.990 from the tax.
- 2020 - The municipality of Anchorage passed ordinance AO No. 2020-55 to establish the duties and responsibilities of a rental vehicle hosting platform; and to establish the rules and responsibilities of rental agencies who use a hosting platform to conduct motor vehicle rental transactions.

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SENATOR TOBIN asked if peer-to-peer vehicle rental companies collect local tax per the Anchorage ordinance.

[1:57:02 PM](#)

MR. LIMANI replied yes, the tax is collected through the posting platform and transferred to the municipality.

SENATOR TOBIN asked if SB 127 extends the tax collection to the state.

MR. LIMANI affirmed that the legislation facilitates tax remittance to the state.

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MR. LIMANI turned to slide 7, "Legal Framework."

- **AS 43.52.010:** "There is imposed an excise tax on the charge for the lease or rental of a passenger vehicle in this state if the lease or rental of the passenger vehicle does not exceed a period of 90 consecutive days."
- **AS 43.52.050:** taxes "shall be collected and paid to the department by the person who provides the leased or rented vehicle."

- **AS 44.23.020(b)(2)**: "The attorney general shall... (2) bring, prosecute, and defend all necessary and proper actions in the name of the state for the collection of revenue."
- **AS 44.25.020(1) & (2)**: "The Department of Revenue shall (1) enforce the tax laws of the state; (2) collect, account for, have custody of, invest, and manage all state funds and all revenues of the state [with certain exceptions like the permanent fund]."
- Dick Fischer Development No. 2 Inc. v. DOA, superior court case: Neither a commissioner nor any other state official has the authority to deprive the state treasury of public monies unless authorized by law.

MR. LIMANI stated that without SB 127 the department would collect the tax from each vehicle owner rather than the vehicle rental platform.

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CHAIR KAUFMAN surmised that the tax liability exists, and the proposed legislation addresses the methods and means of collecting state taxes.

MR. LIMANI responded that is correct.

CHAIR KAUFMAN asked about the final bullet point on slide 7:

- Dick Fischer Development No. 2 Inc. v. DOA, superior court case: Neither a commissioner nor any other state official has the authority to deprive the state treasury of public monies unless authorized by law.

[1:58:58 PM](#)

MR. LIMANI informed the committee about a Superior Court case that said that neither a commissioner nor any other state official has the authority to deprive the treasury of public monies unless authorized by law.

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MR. LIMANI moved to slide 8, "Fiscal Impacts."

- The Department of Revenue has collected an average of \$10.7 million per year in vehicle rental taxes over the past four years.
- The proposed legislation would capture unreported vehicle rentals that are arranged or executed through a vehicle rental platform and, therefore, would have a positive effect on revenue.
- The Department of Revenue currently does not have enough data on peer-to-peer rental information in Alaska to provide for an estimative revenue impact.
- Currently the Department of Revenue has approximately \$470K in delinquent accounts spread across 25 taxpayers.

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CHAIR KAUFMAN asked if the department had a breakdown of the delinquent accounts.

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MR. LIMANI replied that the department had a breakdown, but taxpayer confidentiality limits the data accessible via the peer-to-peer platform network.

[2:00:57 PM](#)

SENATOR KIEHL surmised that more than 25 people rented vehicles through the car-share platforms. He wondered if the remaining vendors collect and remit the required tax.

MR. LIMANI replied that some taxpayers voluntarily report. He noted that DOR seized the collection process to introduce SB 127. He noted that the additional taxpayer population is thus far undetermined.

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SENATOR KIEHL asked for an estimate of platform users who collect and remit taxes to the state.

MR. LIMANI offered to provide the estimate to the committee shortly.

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CHAIR KAUFMAN surmised that the vendors must pay the required tax from the net charge collected during the transaction if tax

was not levied at the point of sale. He asked if the tax burden falls on the owners of the rented vehicles. He wondered if the peer-to-peer platform would also incur responsibility.

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MR. LIMANI deferred the question to Mr. Spanos.

[2:03:17 PM](#)

BRANDON SPANOS, Deputy Director, Tax Division, Department of Revenue (DOR), Anchorage, Alaska, responded that the vehicle owner is the legal taxpayer.

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CHAIR KAUFMAN asked about the presence of an intermediary. He wondered if a facilitator of the sale was liable for the tax.

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MR. SPANOS queried whether Senator Kaufman referred to Alaska's current statute.

CHAIR KAUFMAN expressed his interest in both the current and proposed statutes.

MR. SPANOS responded that the current statute was unclear. The department's interpretation was that the platform and vehicle owner were each liable for the tax. The department had not assessed a tax against the platform to date.

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MR. LIMANI informed the committee that the proposed legislation is not comprehensive. The legislation mimics other states' municipal codes and state statutes related to peer-to-peer, car-sharing platforms. He stated that the legislation intended to address tax components and DOR was committed to working with the Department of Transportation and Public Facilities to address additional elements.

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CHAIR KAUFMAN moved to invited testimony on SB 127.

[2:06:34 PM](#)

CARRIGAN GRIGSBY, Executive Vice President, AVIS Alaska, Anchorage, Alaska, testified by invitation on SB 127. He stated that AVIS Alaska is the largest brick-and-mortar rental car company in Alaska. He stressed that AVIS took pride in meeting its ethical and legal obligations as a corporate citizen. He stated that taxes contribute to roads, snow removal, parks,

pull-offs and airport facilities. He stated that SB 127 is not a tax bill because it adds no new tax liability, makes no changes to current tax and does not expand or constrict any tax. He explained that SB 127 provides a tax policy adopted by the legislature for Alaskans using peer-to-peer car share networks.

MR. GRIGSBY referenced an earlier piece of legislation that addressed tax obligations for UBER. He informed the committee that Turo refuses to collect state or local taxes on behalf of their host, leaving the state to collect taxes separate from the car rental payment. He noted that AVIS Alaska does not pay the rental car tax and Turo would not pay the car rental tax. The person who pays the tax is the person who rents the vehicle. The question is whether Turo should collect state taxes via their app when the renter pays or should Turo place the burden on Alaskan businesses utilizing the app to independently collect from the renter.

MR. GRIGSBY remarked that Turo now collects the local Anchorage rental car tax via their app following the passage of a municipality ordinance similar to SB 127. The state determined that vehicle rental creates an obligation to collect rental car tax from the person renting the car. If the company fails to collect taxes from the renter, they create personal liability. He opined that Turo looks out for its interests without considering Alaskan businesses. He added that AVIS Alaska supports state law requiring that all vehicle owners renting vehicles for less than 90 days' pay the 10 percent car rental tax. He supported competition from Turo but sought an even playing field and fairness. He added that SB 127 will ensure that the person renting the car is charged the appropriate tax, the state receives the tax, and the car owner is protected from the liability of unpaid taxes.

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CHAIR KAUFMAN asked Mr. Grigsby to stand by for additional questions.

[2:13:07 PM](#)

SEAN VINCK, Associate General Counsel, Turo Incorporated, San Francisco, California, testified by invitation on SB 127. He offered suggestions to further refine and strengthen the bill's structure. He understood that the proposed legislation ensures that tax collection is transferred from the vehicle owner onto car-share platforms. He remarked that many other states adopted similar legislation with similar intent. He mentioned a Supreme Court case, Wayfair versus South Dakota in 2018, where the

ruling was that states could apply collection and remittance obligations to out-of-state businesses with certain safeguards and standards in place. Before 2018, the Supreme Court prohibited any tax collection obligations from being imposed on businesses not physically present. Currently, physical presence is not required. Businesses may be required to collect taxes provided they have substantial nexus.

MR. VINCK offered suggestions for strengthening and refining the bill. The first was to include a standard for substantial nexus, the euphemism utilized by the Supreme Court in the Wayfair case. He added that most states drafting similar legislation create a substantial nexus standard tied to a specific economic factor. He suggested including a clear numerical standard that creates a clear basis for the constitution of substantial nexus. The second suggestion related to clarification of the legislation to avoid any retroactive application of the tax collection obligations due for out-of-state businesses. His suggestion related to the Wayfair case where South Dakota law avoided retroactive application of tax collection obligations. The decision led the Supreme Court to conclude that the approach was constitutional. He opined that the Alaska Legislature would benefit from considering a similar bar to retroactive application of the tax as another mechanism to ensure the constitutionality of the proposed legislation.

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CHAIR KAUFMAN asked about the substantial nexus factor. He wondered if it would address a hypothetical car rental via Craigslist. He asked if the substantial nexus factor would capture incidental vehicle rentals.

MR. VINCK replied yes, the Supreme Court sought to communicate the permissibility for a state to impose the obligations on businesses with a large linkage and volume of business.

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CHAIR KAUFMAN expressed appreciation for the response.

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MR. VINCK suggested further clarification about tax collection. He noted that other states adopted provisions allowing platforms to utilize vehicle owner information. He stated that the information provided by the person renting the car facilitated an avenue for tax collection. He furthered that the platform should not be held liable for inaccurate renter information. He added his concern about collecting taxes due in the past. He

pointed to the bill's collection of back taxes without a proposed time period. He opined that the ambiguity might raise questions about the legality of the bill. He reminded the committee that before 2018, tax collection obligations did not exist for businesses not physically present. He clarified that the Supreme Court was clear that the nonretroactivity provision was a key factor in determining whether a bill met constitutional obligations. He therefore raised the concern about the impact of retroactivity.

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SENATOR TOBIN asked how many states require Turo to collect taxes from an individual and remit them to the state.

MR. VINCK replied that 40 states enacted marketplace facilitator laws. He added that approximately 24 jurisdictions collect and remit tax for car-sharing transactions. In those states, marketplace facilitator bills require Turo to collect and remit sales taxes. He mentioned the separate addition of rental excise taxes applied by states. He noted that jurisdictions do not apply the same aggregate tax to peer-to-peer, car-sharing as to car rental businesses. He added that Turo collects some transactional tax, whether sales or excise, in more than 24 jurisdictions.

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SENATOR TOBIN commented that the standard for a substantial nexus centers on \$100,000 or 200 separate transactions.

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MR. VINCK agreed with Senator Tobin's comment.

SENATOR TOBIN asked if Turo's transaction information was privileged.

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MR. VINCK responded that Turo's volume of business far exceeds the substantial nexus standard.

MR. LIMANI addressed the question related to the number of states utilizing peer-to-peer, car-sharing services. He cited a letter from Douglas Shinkle and Mia Geoly of the National Conference of State Legislatures confirming that 24 states enacted legislation facilitating tax collection from peer-to-peer, car-sharing platforms.

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SENATOR KIEHL referred to Mr. Vinck's suggestion to exclude the retroactive tax collection requirement. He assumed that Alaska required an explicit retroactive obligation requiring the platforms to collect and remit back taxes.

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MR. LIMANI responded that further legal interpretation from the Department of Law was necessary.

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SENATOR KIEHL suggested that the legislature sometimes places explicit retroactive application clauses into proposed legislation.

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SENATOR CLAMAN opined that excluding the retroactive tax provision might be problematic because the legislature is not imposing a new tax, but instead, Alaska is attempting to collect an existing tax.

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SENATOR KIEHL appreciated Senator Claman's legal opinion. He surmised that SB 127 did not create a retroactive burden via its requirement about who collects and remits the tax.

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CHAIR KAUFMAN asked the invited testifiers for final comments.

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MR. LIMANI stated that he would follow up with the committee with responses to the questions posed in the hearing.

MR. VINCK offered further commentary about the retroactivity provision in the bill. He appreciated Senator Claman's point about the established tax. The platforms do not have a mechanism to collect past taxes from prior customers. If the collection obligation is applied retroactively to the platforms, the platforms are liable for the tax payments.

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MR. GRIGSBY appreciated the opportunity to speak for AVIS. He stated that the company's intention is not to look backward or to penalize, but simply to level the playing field.

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SENATOR CLAMAN replied that he was willing to learn more about Mr. Vinck's suggestions.

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CHAIR KAUFMAN stated his intention to provide a fair hearing for the bill. He held SB 127 in committee.

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There being no further business to come before the committee, Chair Kaufman adjourned the Senate Transportation Standing Committee meeting at 2:35 p.m.