Department of Planning and Budget
2020 Fiscal Impact Statement

1. **Bill Number:** SB735

House of Origin	☒	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Newman

3. **Committee:** Commerce and Labor

4. **Title:** Peer-to-peer vehicle sharing platforms.

5. **Summary:** Establishes insurance, taxation, recordkeeping, disclosure, and safety recall requirements for peer-to-peer vehicle sharing platforms, defined in the bill. This bill would establish a new four percent additional tax on peer-to-peer vehicle sharing in the Commonwealth. Under current law, peer-to-peer vehicle sharing transactions are subject to the Motor Vehicle Rental Tax at the same 10 percent total rate as all other motor vehicles offered for rent in the Commonwealth.

Budget Amendment Necessary: Yes. Item 284

7. **Fiscal Impact Estimates:** Preliminary. See Item 8.

7a. Expenditure Impact:

Fiscal Year	*Dollars*	*Positions*	*Fund*
2020	$510,000	0	General Fund
2021	$142,000	0	General Fund

8. **Fiscal Implications:**

<u>Administrative Costs</u>

As a result of this bill, the Department of Taxation would incur costs of $510,000 in fiscal year 2020 and $142,000 in fiscal year 2021 for developing new forms, locality schedules, and systems changes related to the new tax. The Department would need the following budget amendment to recover its costs from the revenues collected:

"Y. The Department of Taxation is hereby appropriated revenues from Peer-to-Peer Vehicle Sharing Tax to recover any administrative costs for collecting the tax incurred by the Department of Taxation as provided by § 58.1-1748, Code of Virginia.

The State Corporation Commission and the Department of Motor Vehicles do not anticipate any fiscal implications to their operations because of this legislation.

Revenue Impact

This bill would result in an unknown positive impact to state and local revenues. The amount of the impact is unknown due to an unavailability of data on the industry.

Under the terms of this bill, after the Department of Taxation has recovered the direct costs of administering the tax, the remaining revenues equal to a two percent tax would be distributed to the locality wherein the vehicle began its delivery journey or the shared driver took custody. Two-thirds of revenues equal to a one percent tax would be paid into the Rail Enhancement Fund, with the remaining one-third paid to the Washington Metropolitan Area Transit Authority ("WMATA") Capital Fund. Revenue from the remaining one percent component would be dedicated to pay debt service on bonds issued for the Statewide Agencies Radio System ("STARS") for the Department of State Police.

9. **Specific Agency or Political Subdivisions Affected:** Department of Motor Vehicles, Department of Taxation, State Corporation Commission, localities

10. **Technical Amendment Necessary:** Yes. Page 2, line 109, after "peer-to-peer" insert "shared".

    In addition, as drafted, this bill would impose the four percent tax in addition to the existing ten percent Motor Vehicle Rental Tax that applies under current law. If the intent of this bill is to impose the new four percent tax in lieu of the existing ten percent Motor Vehicle Rental Tax for peer-to-peer transactions, then a technical amendment would be necessary.

11. **Other Comments:**

    Motor Vehicle Rental Tax

    The Motor Vehicle Rental Tax is levied on motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less at a rate of four percent of the gross proceeds. An additional motor vehicle rental tax is imposed on the rental of every daily rental vehicle regardless of the weight, except for motorcycles and manufactured homes, at a rate of four percent of the gross proceeds. A two percent rental fee is also levied on the gross proceeds from the rental of daily rental vehicles, except for motorcycles and manufactured homes. Most passenger vehicles that are rented are subject to both the taxes and the fee at a combined rate of ten percent of the gross proceeds.

    The revenues from the vehicle rental tax of four percent that is imposed on motor vehicles with a gross vehicle weight rating or gross combined weight rating of 26,000 pounds or less are dedicated to the Rail Enhancement Fund and the Transportation Trust Fund. The revenues from the additional vehicle rental tax imposed on the rental of every motor vehicle at the rate of four percent are distributed quarterly to the city, town, or county where the vehicle was delivered to the rentee. The revenues from the two percent vehicle rental fee are dedicated to pay the debt service on bonds issued for the Statewide Agencies Radio System.

Collection of the Motor Vehicle Rental Tax

The Department of Taxation notes that Motor Vehicle Rental Taxes are currently to be paid by the person renting the vehicle, and collected and remitted by the "rentor" of such vehicles. The rentor under current law is the person engaged in the rental of a motor vehicle for consideration. This is generally the rental car company that owns and rents the car to the customer or, for peer-to-peer rentals, the owner of a peer-to-peer shared vehicle.

As drafted, this bill would not change the definition of "rentor," nor would it provide an exemption from the Motor Vehicle Rental Tax for peer-to-peer transactions. The bill would, however, allow vehicle owners as well peer-to-peer vehicle sharing platforms to collect and remit the new Peer-to-Peer Vehicle Sharing Tax, provided that such platforms meet the minimum requirements to be designated as a dealer. This would create a taxing regime where, on a peer-to-peer vehicle sharing transaction, one taxpayer could be collecting the Peer-to-Peer Vehicle Sharing Tax and another could be collecting the Motor Vehicle Rental Tax on the same transaction.

In order to qualify as a dealer for the Retail Sales and Use Tax, a marketplace facilitator must conduct retail sale transactions to Virginia customers generating more than $100,000 in annual gross revenue or numbering 200 or more separate transactions annually. Remote sellers that conduct rather than facilitate sales meeting the same thresholds are also deemed to be dealers. As this bill does not reference the statutory requirements for dealers who are facilitating sales but rather it references the ones for dealers that are themselves engaging in retail sales, it does not clarify whether peer-to-peer vehicle sharing platforms would be required to collect the new tax created by this bill.

Peer-to-Peer Vehicle Sharing Study

The Department of Motor Vehicles conducted a Peer-to-Peer Vehicle Sharing Study in 2019 to determine the appropriate way to handle registration, insurance, and taxation of the peer-to-peer vehicle sharing industry. The stakeholders that took part in the study discussed the possibility of a different tax regime for peer-to-peer vehicles to account for the different local tax consequences for peer-to-peer vehicles upon which personal property tax is levied as opposed to vehicles that are commercially rented and upon which no personal property tax is due. The stakeholders were unable to reach a consensus on the taxation issue.

Similar Legislation

House Bill 891 and Senate Bill 749 would require peer-to-peer vehicle sharing platforms to collect the current ten percent Motor Vehicle Rental Taxes due on peer-to-peer vehicle sharing transactions, and would also make changes to the insurance requirements that would apply to such transactions.

House Bill 892 and Senate Bill 750 would require peer-to-peer vehicle sharing platforms to collect the current ten percent Motor Vehicle Rental Taxes due on peer-to-peer vehicle sharing transactions.

House Bill 1539 would impose a six percent tax, collectible only by peer-to-peer platforms that qualify as dealers, on peer-to-peer shared vehicles.