

**TESTIMONY OF  
MICHAEL J. ALLEN, ASSOCIATE COMMISSIONER FOR TAX POLICY  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES**

Before the Joint Standing Committee on Taxation  
Hearing Date: *April 2, 2025, Wednesday at 1:00 P.M.*

LD 1211 – *“An Act Regarding Certain Definitions in the Sales and Use Tax Laws Affecting Rental Equipment and Automobiles Used in Transporting Goods”*

-----

Senator Grohoski, Representative Cloutier, and members of the Taxation Committee – good afternoon, my name is Michael Allen, Associate Commissioner for Tax Policy in the Department of Administrative and Financial Services. I am testifying at the request of the Administration Neither For Nor Against LD 1211, *“An Act Regarding Certain Definitions in the Sales and Use Tax Laws Affecting Rental Equipment and Automobiles Used in Transporting Goods.”*

This bill makes two changes. First, it amends the definition of “automobile” relevant to the 10% sales tax on short term automobile rentals. This change may be unnecessary. Second, it excludes certain rentals of tangible personal property from lease-stream taxation, with the result of shifting that category back to the historical upfront use taxation method applied to lease transactions. This change should be clarified.

With respect to the first change, section 1 would amend the definition of “automobile” in the Sales and Use Tax Law to provide that a pickup truck or van with a gross vehicle weight rating of 10,000 pounds or less, currently included within the defined term “automobile,” is not an “automobile” if the pickup truck or van is “used primarily to transport goods or freight.”

The lease or rental for a period of less than one year of an automobile is subject to sales tax at the rate of 10%. MRS Proposed Rule 326, “Leases and Rentals of Tangible Personal Property” (MAPA public comments due April 21, 2025), states in Section 7.1 that the “short-term rental rate does not apply to the rental of a cargo van.” The adoption of MRS Proposed Rule 326 would most likely address the sponsor’s concern of ensuring the short-term rental of a cargo van would be subject to the general 5.5% sales tax rate. If Section 1 remains in the bill, redefining “automobile” to exclude any “pickup truck or van [weighing] 10,000 pounds or less that is . . . used primarily to transport goods or freight” would present difficulties for retailers and MRS, as it is unclear how to measure whether a vehicle is “used primarily to transport goods or freight.”

The second change proposed by the bill would narrow the recent changeover to the national norm of lease-stream taxation. Sections 2 through 4 of LD 1211 would amend the definition of “lease or rental” to exclude any lease or rental of tangible personal property “used only at the primary business location of the lessor.” These leases would therefore be excluded from the lease-stream sales taxation reform enacted last year by P.L. 2023, c. 673 and c. 643, Pt. H. This change would result in no tax being due on the individual rental payments by the person renting the property – for example, a golf cart for use at a golf course – but the lessor would not be able to use their resale certificate to purchase the tangible personal property tax-free. Instead, the lessor would be required to pay sales tax to their vendor, or remit use tax if sales tax is not collected at the time of purchase of the tangible personal property.

If this Committee intends to move forward with LD 1211, the phrase “primary business location of the lessor” should be clearly defined. California has a similar exclusion to that proposed in LD 1211 in its lease and rental Regulation

1660, Section (e), where “premises” or “business location” “means a building or specific area owned or leased by a grantor or to which a grantor has an exclusive right or use of a space occupied by the personal property which a grantor allows other persons to use in place.” Additionally, California further limits the exclusion for property used at the business location of the lessor by duration of the rental, a 24-hour period, and dollar threshold.

In sum, the short-term automobile issue has already been addressed in the lease stream rule proposed by MRS last month. Further, the proposed change to the recently enacted lease stream law to exclude tangible personal property “used only at the primary business location of the lessor” seems perhaps unwarranted when balanced against the possible complexity for retailers and the need for further drafting clarification of the bill. The revenue impact estimate is under review.

The Administration looks forward to working with the Committee on the bill; representatives from MRS will be here for the Work Session to provide additional information and respond in detail to the Committee’s questions.