

Senate Bill 181

By: Senator Carter of the 13th

AS PASSED SENATE

**A BILL TO BE ENTITLED
AN ACT**

To amend Article 7 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle license fees and classes, so as to provide for the imposition of a fee by motor vehicle rental companies with respect to certain motor vehicle fees and taxes; to provide for definitions; to provide for procedures, conditions, and limitations; to provide for applicability of sales and use taxation with respect to such fees; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 7 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to motor vehicle license fees and classes, is amended by adding a new Code section to read as follows:

"40-2-167.

(a) As used in this Code section, the term:

(1) 'Motor vehicle rental company' means an individual or business entity whose primary business activity is renting motor vehicles to consumers under rental agreements for periods of 90 days or less.

(2) 'Recoverable facility charges' means governmental and private concession fees, including airport concession fees, consolidated facility charges, and the fees and charges incurred thereon, actually paid by a motor vehicle rental company.

(3) 'Recoverable fees and taxes' means costs incurred by a motor vehicle rental company to license, title, register, plate, and inspect rental motor vehicles and ad valorem taxes imposed in connection with the registration of rental motor vehicles.

(4) 'Rental agreement' means an agreement under which a rental motor vehicle is rented or leased.

(5) 'Rental motor vehicle' means a motor vehicle that is rented or leased without a driver.

(b) Pursuant to a written rental agreement between a motor vehicle rental company and a rental customer, a motor vehicle rental company may include separately stated fees in a rental agreement, which may include, but shall not be limited to, recoverable facility charges and recoverable fees and taxes, as provided in this Code section.

(c) If a motor vehicle rental company includes a charge for recoverable fees and taxes as a separately stated fee in a rental transaction, the amount of the charge shall represent the motor vehicle rental company's good faith estimate of the motor vehicle rental company's daily charge as calculated by the motor vehicle rental company to recover its actual total annual recoverable fees and taxes on its rental motor vehicle fleet for the corresponding calendar year.

(d) If the total amount of the recoverable fees and taxes collected by a motor vehicle rental company under this Code section in any calendar year exceeds the motor vehicle rental company's actual recoverable fees and taxes for that calendar year, the motor vehicle rental company shall:

(1) Retain the excess amount; and

(2) Adjust the estimated average per vehicle fee for recoverable fees and taxes for the following calendar year by a corresponding amount.

Nothing herein shall prevent a motor vehicle rental company from making adjustments to the per vehicle recoverable fees and taxes charge during the calendar year to reflect interim developments affecting the motor vehicle rental company's prior estimated per vehicle fee for such calendar year.

(e) The recovery fee authorized by this Code section for recoverable fees and taxes shall be subject to state and local sales and use tax in the manner and to the same extent as the fee charged for the lease or rental of the rental motor vehicle provided that such fees are disclosed on the face of the contract in a conspicuous location and the lessee(s) initials their acknowledgment. "

SECTION 2.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.