

House Bill 225 (COMMITTEE SUBSTITUTE)

By: Representatives Powell of the 171<sup>st</sup>, Kelley of the 16<sup>th</sup>, England of the 116<sup>th</sup>, Harrell of the 106<sup>th</sup>, Powell of the 32<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 7 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated,  
2 relating to motor vehicle license fees and classes, so as to repeal inoperable provisions  
3 related to licensing of ride share networks; to amend Article 1 of Chapter 8 of Title 48 of the  
4 Official Code of Georgia Annotated, relating to state sales and use tax, so as to modify the  
5 definition of dealer; to repeal an inoperable sales tax exemption related to ride share  
6 networks; to impose collection and remittance of sales tax on certain persons that facilitate  
7 or broker and accept or process payment for certain sales; to provide for related matters; to  
8 provide for an effective date and applicability; to repeal conflicting laws; and for other  
9 purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 7 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to  
13 motor vehicle license fees and classes, is amended by repealing and reserving subsection (b)  
14 of Code Section 40-2-168, relating to registration and licensing of taxicabs and limousines.

15 **SECTION 2.**

16 Article 1 of Chapter 8 of Title 48 of the Official Code of Georgia Annotated, relating to state  
17 sales and use tax, is amended in paragraph (8) of Code Section 48-8-2, relating to definitions,  
18 by adding a new subparagraph to read as follows:

19 “(L.1)(i) Facilitates or brokers together with, directly or through a related member,  
20 for itself or on behalf of the seller, accepts payment for sales of tangible personal  
21 property or services that are taxable under this chapter if such tangible personal  
22 property is delivered or held at a location for pickup within this state or such services  
23 are performed within this state. Accepting a payment does not mean or include the  
24 service of processing such payment. Related member shall have the same meaning  
25 as set forth in Code Section 48-7-28.3.

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26 (ii) A person described in this subparagraph shall have a substantial nexus in this  
 27 state if such person facilitates or brokers and accepts payment for sales of goods or  
 28 services that are taxable under this chapter in an aggregate gross amount exceeding  
 29 \$250,000.00 in the previous or current calendar year;"

30 **SECTION 3.**

31 Said article is further amended by adding a new paragraph in Code Section 48-8-2, relating  
 32 to definitions, to read as follows:

33 "(15.1) 'Facilitates' means provides services, with respect to sales of tangible personal  
 34 property or services that are taxable under this chapter, that include, but are not limited  
 35 to, promoting, marketing, advertising, providing an internet platform for, taking orders  
 36 or reservations for, or otherwise similarly assisting the seller of taxable tangible personal  
 37 property or services in making the sale. Such services do not include processing of  
 38 payments for such sales."

39 **SECTION 4.**

40 Said article is further amended by revising subparagraph (A) of paragraph (34) in Code  
 41 Section 48-8-2, relating to definitions, to read as follows:

42 "(34)(A) 'Sales price' applies to the measure subject to sales tax and means the total  
 43 amount of consideration, including cash, credit, property, and services, for which  
 44 personal property or services are sold, leased, or rented, valued in money, whether  
 45 received in money or otherwise without any deduction for the following:

- 46 (i) The seller's cost of the property sold;
- 47 (ii) The cost of materials used, labor, or service cost, interest, losses, all costs of  
 48 transportation to the seller, all taxes imposed on the seller, and any other expense of  
 49 the seller;
- 50 (iii) Charges by the seller for any services necessary to complete the sale; ~~and~~
- 51 (iv) Charges by any dealer for any services described in paragraph (15.1) of this Code  
 52 section; and
- 53 ~~(iv)~~(v) Delivery charges."

54 **SECTION 5.**

55 Said article is further amended by repealing and reserving paragraph (25) of Code Section  
 56 48-8-3, relating to exemptions from sales and use taxes.

57

**SECTION 6.**

58 Said article is further amended by revising subsection (f) in Code Section 48-8-30, relating  
59 to imposition of tax, rates, and collection, as follows:

60 "(f)(1) Every person purchasing or receiving any service within this state, the purchase  
61 of which is a retail sale, shall be liable for tax on the purchase at the rate of 4 percent of  
62 the sales price made for the purchase. The tax shall be paid by the person purchasing or  
63 receiving the service to the person furnishing the service. The person furnishing the  
64 service, as a dealer under this article, shall remit the tax to the commissioner as provided  
65 in this article; and, when received by the commissioner, the tax shall be a credit against  
66 the tax imposed on the person furnishing the service. Every person furnishing a service,  
67 the purchase of which is a retail sale, shall be a dealer and shall be liable for a tax on the  
68 sale at the rate of 4 percent of the sales price made for furnishing the service, or the  
69 amount of taxes collected by ~~him~~ such person furnishing a service from the person to  
70 ~~whom~~ which the service is furnished, whichever is greater.

71 (2) Every person that furnishes a service facilitating or brokering a retail sale in this  
72 state, and also, directly or through a related member, for itself or on behalf of the seller,  
73 accepts payment for such retail sale, shall be a dealer and shall be liable for a tax on such  
74 retail sale at the rate of 4 percent of the sales price or the amount of taxes collected by  
75 such person with respect to the retail sale, whichever is greater. Related member shall  
76 have the same meaning as set forth in Code Section 48-7-28.3. This subsection shall not  
77 be construed to provide for a duplication in the payment of the tax.

78 ~~(2)(3)~~ (3) No sale of services shall be taxable to the person furnishing the service which is not  
79 taxable to the purchaser of the service."

80

**SECTION 7.**

81 This Act shall become effective upon its approval by the Governor or upon its becoming law  
82 without such approval and shall apply to all sales made on or after July 1, 2017.

83

**SECTION 8.**

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