

House Bill 105 (AS PASSED HOUSE AND SENATE)

By: Representatives Watson of the 172nd, Powell of the 171st, Meeks of the 178th, McCall of the 33rd, and Pirkle of the 155th

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 48 of the Official Code of Georgia Annotated, relating to revenue and
2 taxation, so as to exempt from state income tax certain income received by taxpayers as
3 payments from a federal disaster relief or assistance grant program administered by this state
4 or its instrumentalities or the United States Department of Agriculture in connection with
5 Hurricane Michael; to exempt from all sales and use taxes certain sales of transportation that
6 are subject to an excise tax; to provide for a new excise tax on certain sales of transportation;
7 to provide for the intended disposition of the proceeds of such tax; to provide for reporting
8 of certain information; to provide for legislative intent; to provide for definitions, procedures,
9 and conditions; to provide for a penalty; to provide for automatic repeal; to provide for
10 quarterly reporting; to provide for authority to establish rules and regulations; to amend Code
11 Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
12 disclosure is not required under open records requirements, so as to exempt certain reports
13 from public disclosure; to amend Article 7 of Chapter 2 of Title 40 and Article 3 of
14 Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to motor vehicle
15 license fees and classes and excise tax on rooms, lodgings, and accommodations,
16 respectively, so as to provide for the disbursement of certain fees; to provide for related
17 matters; to provide for effective dates and applicability; to repeal conflicting laws; and for
18 other purposes.

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

20 PART I
21 SECTION 1-1.

22 Title 48 of the Official Code of Georgia Annotated, relating to revenue and taxation, is
23 amended in subsection (a) of Code Section 48-7-27, relating to the computation of taxable
24 net income, by adding a new paragraph to read as follows:

25 "(11.2) For taxable years beginning on or after January 1, 2019, and ending on or before
 26 December 31, 2023, income received as payments from a federal disaster relief or
 27 assistance grant program administered by this state or its instrumentalities or the United
 28 States Department of Agriculture, if such federal grant program was established
 29 specifically to address agricultural losses suffered due to Hurricane Michael which was
 30 a weather event declared to be a major disaster in this state by the President of the United
 31 States during the 2018 calendar year, to the extent such income is included in federal
 32 adjusted gross income or federal taxable income;"

33 **PART II**

34 **SECTION 2-1.**

35 Said title is further amended in Code Section 48-8-3, relating to exemptions from state sales
 36 and use tax, by revising paragraph (25) as follows:

37 "(25) Transportation that is subject to the tax imposed by Article 8 of Chapter 13 of this
 38 title Reserved;"

39 **SECTION 2-2.**

40 Said title is further amended by adding a new article to Chapter 13, relating to specific,
 41 business, and occupation taxes, to read as follows:

42 "ARTICLE 8

43 48-13-140.

44 As used in this article, the term:

45 (1) 'For-hire ground transport service provider' means a limousine carrier, ride share
 46 network service, taxi service, and transportation referral service as such terms are defined
 47 in Code Section 40-1-190.

48 (2) 'For-hire ground transport trip' means any request for a journey by passenger vehicle
 49 as such term is defined in Code Section 40-8-76.1 provided by a for-hire ground transport
 50 service provider for which an individual is charged a fee, whether such journey was
 51 completed or not.

52 (3) 'Shared for-hire ground transport trip' means any for-hire ground transport trip in
 53 which an individual has been matched with another individual by a for-hire ground
 54 transport service provider for purposes of such journey.

55 (4) 'Transit' means regular, continuing shared-ride or shared-use surface transportation
 56 services that are made available by or funded by a public entity or quasi-public entity and

57 are open to the general public or open to a segment of the general public defined by age,
 58 disability, or low income. Such term includes services or systems operated by or under
 59 contract with the state, a state agency or authority, a local government, a community
 60 improvement district, or any other similar entity of this state and all accompanying
 61 infrastructure and services necessary to provide access to these modes of transportation.
 62 Such term excludes charter or sightseeing services; school bus services; courtesy shuttle
 63 and intrafacility or terminal services; limousine carriers; and ride share network services,
 64 transportation referral services, and taxi services as such terms are defined in Chapter 1
 65 of Title 40 and which are not paid for by a public entity.

66 (5) 'Transit projects' means a capital project to establish, enhance, maintain, or improve
 67 transit.

68 (6) 'Transit provider' means the Department of Transportation, the Atlanta-region Transit
 69 Link 'ATL' Authority, or a system providing transit or a jurisdiction operating such a
 70 system that receives federal transit formula funding.

71 48-13-141.

72 (a) On and after April 1, 2020, an excise tax in the amount of 50¢ shall be levied upon any
 73 for-hire ground transport trip and 25¢ upon any shared for-hire ground transport trip. Such
 74 excise tax shall be collected and remitted by the for-hire ground transport service provider
 75 itself and not the vehicle driver. Such excise tax shall be administered, collected, and due
 76 and payable in the same manner as would otherwise be required by the tax imposed under
 77 Article 1 of Chapter 8 of this title.

78 (b) The department shall annually adjust the amount of the excise tax levied pursuant to
 79 subsection (a) of this Code section to reflect the effect of annual inflation or deflation for
 80 the cost of living that consumers in this state experienced on average during the
 81 immediately preceding calendar year in accordance with rules and regulations. Such rules
 82 and regulations may use for this purpose the Consumer Price Index for All Urban
 83 Consumers rate published by the Bureau of Labor Statistics of the United States
 84 Department of Labor or any other similar index established by the federal government, if
 85 the department determines that such federal index reflects the effect of inflation and
 86 deflation for the cost of living that consumers in this state experienced on average during
 87 the preceding calendar year.

88 (c) It is the intention of the General Assembly, subject to appropriations, that the proceeds
 89 of the tax levied pursuant to subsection (a) of this Code section shall be appropriated to a
 90 transit provider to be used exclusively for transit projects.

91 (d) If the amount collected under this Code section is ever not appropriated for a fiscal
 92 year as provided by subsection (c) of this Code section, as determined jointly by the House

93 Budget and Research Office and the Senate Budget and Evaluation Office, then the amount
 94 levied shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in
 95 which the amount collected is not so appropriated, this Code section shall stand repealed
 96 and reserved, and such fees shall cease to be levied on the date the appropriations Act for
 97 such fiscal year becomes effective. Such budget offices shall certify any such lack of
 98 appropriations to the Code Revision Commission for purposes of updating the Code in
 99 accordance with this subsection.

100 48-13-142.

101 Any for-hire ground transport service provider that knowingly and willfully violates the
 102 requirements of this article shall be assessed a civil penalty of not more than \$10,000.00
 103 in addition to the amount of tax due.

104 48-13-143.

105 Each for-hire ground transport service provider shall submit a quarterly report that
 106 identifies the number of for-hire ground transport trips provided by county of origin and
 107 destination to the department, the Atlanta-region Transit Link 'ATL' Authority, and the
 108 Department of Transportation. All such reports shall be treated as confidential and shall
 109 not be subject to Article 4 of Chapter 18 of Title 50, relating to open records.

110 48-13-144.

111 The department is authorized to adopt rules and regulations necessary for the enforcement
 112 and implementation of the provisions of this article."

113 **SECTION 2-3.**

114 Code Section 50-18-72 of the Official Code of Georgia Annotated, relating to when public
 115 disclosure is not required under open records requirements, is amended by revising
 116 paragraphs (49) and (50) of and adding a new paragraph to subsection (a) to read as follows:

117 "(49) Data, records, or information acquired by the Commissioner of Labor or the
 118 Department of Labor as part of any investigation required pursuant to Code Section
 119 39-2-18, relating to minors employed as actors or performers; ~~or~~

120 (50) Held by the Georgia Superior Court Clerks' Cooperative Authority or any other
 121 public or private entity for and on behalf of a clerk of superior court; provided, however,
 122 that such records may be obtained from a clerk of superior court unless otherwise
 123 exempted from disclosure; ~~or~~

124 (51) Reports submitted to the Department of Revenue, the Atlanta-region Transit Link
 125 'ATL' Authority, or the Department of Transportation by a for-hire ground transport
 126 service provider as required pursuant to Code Section 48-13-143."

127 **PART III**

128 **SECTION 3-1.**

129 Article 7 of Chapter 2 of Title 40 of the Official Code of Georgia Annotated, relating to
 130 motor vehicle license fees and classes, is amended by revising Code Section 40-2-151.1,
 131 relating to highway impact fees for heavy vehicles and use of funds, as follows:

132 "40-2-151.1.

133 (a) As used in this Code section, the term: ~~'transportation purposes' means and includes~~
 134 ~~roads, bridges, public transit, rails, airports, buses, seaports, including without limitation~~
 135 ~~road, street, and bridge purposes pursuant to paragraph (1) of subsection (b) of Code~~
 136 ~~Section 48-8-121, and all accompanying infrastructure and services necessary to provide~~
 137 ~~access to these transportation facilities, including general obligation debt and other~~
 138 ~~multiyear obligations issued to finance such purposes.~~

139 (1) 'Transportation purposes' means activities incident to providing and maintaining an
 140 adequate system of public roads and bridges in this state and for grants to counties for
 141 road construction and maintenance.

142 (2) 'Transit' means regular, continuing shared-ride or shared-use surface transportation
 143 services that are made available by or funded by a public entity or quasi-public entity and
 144 are open to the general public or open to a segment of the general public defined by age,
 145 disability, or low income. Such term includes services or systems operated by or under
 146 contract with the state, a state agency or authority, a local government, a community
 147 improvement district, or any other similar entity of this state and all accompanying
 148 infrastructure and services necessary to provide access to these modes of transportation.
 149 Such term excludes charter or sightseeing services; school bus services; courtesy shuttle
 150 and intrafacility or terminal services; limousine carriers; and ride share network services,
 151 transportation referral services, and taxi services as such terms are defined in Chapter 1
 152 of Title 40 and which are not paid for by a public entity.

153 (3) 'Transit projects' means and includes purposes to establish, enhance, operate, and
 154 maintain, or improve access to transit, including the issuance of grants for the provision
 155 of transit, the issuance of general obligation debt and other multiyear obligations to
 156 finance such projects, the financing of operations and maintenance of such projects once
 157 constructed, and the contracted purchase of transit from providers without direct capital
 158 investment.

159 (b) In conjunction with the payment of fees for the licensing of the operation of vehicles
 160 pursuant to Code Section 40-2-151, certain heavy vehicles registered in Georgia shall pay
 161 a highway impact fee. The annual fees shall be as follows for each such vehicle registered:

162 (1) 15,500 lbs. up to 26,000 lbs. \$ 50.00

163 (2) Greater than 26,001 lbs. 100.00

164 (c) It is the intention of the General Assembly, subject to appropriations, that the fees
 165 collected pursuant to subsection (b) of this Code section shall be made available and used
 166 exclusively for transportation purposes in this state with up to 10 percent of the fees
 167 collected to be appropriated for transit projects.

168 (d) If the amount collected under this Code section is ever not appropriated for a fiscal
 169 year as provided by subsection (c) of this Code section, as determined jointly by the House
 170 Budget and Research Office and the Senate Budget and Evaluation Office, then the amount
 171 collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in
 172 which an amount is not so appropriated, this Code section shall stand repealed and
 173 reserved, and such fees shall cease to be collected, on the date the appropriations Act for
 174 such fiscal year becomes effective. Such budget offices shall certify any such lack of
 175 appropriation to the Code Revision Commission for purposes of updating the Code in
 176 accordance with this subsection."

177 **SECTION 3-2.**

178 Article 3 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
 179 excise tax on rooms, lodgings, and accommodations, is amended by revising Code Section
 180 48-13-50.3, relating to additional tax imposed by innkeepers, forms for reporting, use of
 181 funds from additional taxes, and provisions for termination, as follows:

182 "48-13-50.3.

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

184 (1) 'Extended stay rental' means providing for value to the public a hotel or motel room
 185 for longer than 30 consecutive days to the same customer.

186 (2) 'Innkeeper' means any person who is subject to taxation under this article for the
 187 furnishing for value to the public a hotel or motel room.

188 (3) 'Transportation purposes' means ~~and includes roads, bridges, public transit, rails,~~
 189 ~~airports, buses, seaports, including without limitation road, street, and bridge purposes~~
 190 ~~pursuant to paragraph (1) of subsection (b) of Code Section 48-8-121, and all~~
 191 ~~accompanying infrastructure and services necessary to provide access to these~~
 192 ~~transportation facilities, including general obligation debt and other multiyear obligations~~
 193 ~~issued to finance such purposes~~ activities incident to providing and maintaining an

194 adequate system of public roads and bridges in this state and for grants to counties for
 195 road construction and maintenance.

196 (4) 'Transit' means regular, continuing shared-ride or shared-use surface transportation
 197 services that are made available by or funded by a public entity or quasi-public entity and
 198 are open to the general public or open to a segment of the general public defined by age,
 199 disability, or low income. Such term includes services or systems operated by or under
 200 contract with the state, a state agency or authority, a local government, a community
 201 improvement district, or any other similar entity of this state and all accompanying
 202 infrastructure and services necessary to provide access to these modes of transportation.
 203 Such term excludes charter or sightseeing services; school bus services; courtesy shuttle
 204 and intrafacility or terminal services; limousine carriers; and ride share network services,
 205 transportation referral services, and taxi services as such terms are defined in Chapter 1
 206 of Title 40 and which are not paid for by a public entity.

207 (5) 'Transit projects' means and includes purposes to establish, enhance, operate, and
 208 maintain, or improve access to transit, including the issuance of grants for the provision
 209 of transit, the issuance of general obligation debt and other multiyear obligations to
 210 finance such projects, the financing of operations and maintenance of such projects once
 211 constructed, and the contracted purchase of transit from providers without direct capital
 212 investment.

213 (b) On or after July 1, 2015, each innkeeper in this state shall charge a \$5.00 per night fee
 214 to the customer, unless it is an extended stay rental, for each calendar day a hotel or motel
 215 room is rented or leased. The innkeeper shall collect the fee at the time the customer pays
 216 for the rental or lease of such hotel or motel room. The innkeeper collecting the fee shall
 217 remit the fee on a monthly basis to the department.

218 (c) The commissioner shall promulgate and make available forms for the use of innkeepers
 219 to assist in compliance with this Code section. The commissioner shall promulgate rules
 220 and regulations as necessary to implement and administer the provisions of this Code
 221 section.

222 (d) It is the intention of the General Assembly, subject to appropriations, that the fees
 223 collected pursuant to subsection (b) of this Code section shall be made available and used
 224 exclusively for transportation purposes in this state with up to 10 percent of the fees
 225 collected to be appropriated for transit projects.

226 (e) If the amount collected under this Code section is ever not appropriated for a fiscal year
 227 as provided by subsection (d) of this Code section, as determined jointly by the House
 228 Budget and Research Office and the Senate Budget and Evaluation Office, then the amount
 229 collected shall be reduced by 50 percent. Upon the conclusion of a second fiscal year in
 230 which the amount collected is not so appropriated, this Code section shall stand repealed

231 and reserved, and such fees shall cease to be collected, on the date the appropriations Act
232 for such fiscal year becomes effective. Such budget offices shall certify any such lack of
233 appropriation to the Code Revision Commission for purposes of updating the Code in
234 accordance with this subsection."

235 **PART IV**

236 **SECTION 4-1.**

237 This Act shall become effective upon its approval by the Governor or upon its becoming law
238 without such approval; provided, however, that Part 2 of this Act shall become effective on
239 April 1, 2020, and shall apply to sales of transportation on or after April 1, 2020.

240 **SECTION 4-2.**

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