

House Bill 378 (COMMITTEE SUBSTITUTE)

By: Representatives Williamson of the 115th, Harrell of the 106th, and Dollar of the 45th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 5 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated,
2 relating to excise taxes on rental motor vehicles, so as to revise the definition of rental motor
3 vehicle concern; to define the term "rental motor vehicle facilitator"; to require the collection
4 and remittance of taxes by certain persons that facilitate certain rentals of motor vehicles; to
5 provide for conditions and limitations; to provide for related matters; to provide for an
6 effective date and applicability; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 5 of Chapter 13 of Title 48 of the Official Code of Georgia Annotated, relating to
10 excise taxes on rental motor vehicles, is amended by revising Code Section 48-13-91,
11 relating to definitions regarding excise taxes on rental motor vehicles, as follows:

12 "48-13-91.

13 As used in this article, the term:

14 (1) 'Rental charge' means the total value received by a rental motor vehicle concern for
15 the rental or lease for 31 or fewer consecutive days of a rental motor vehicle, including
16 the total cash and nonmonetary consideration for the rental or lease, including, but not
17 limited to, charges based on time or mileage and charges for insurance coverage or
18 collision damage waiver but excluding all charges for motor fuel taxes or sales taxes.

19 (2) 'Rental motor vehicle' means a motor vehicle designed to carry ten or fewer
20 passengers and used primarily for the transportation of persons that is rented or leased
21 without a driver regardless of whether such vehicle is licensed in this state.

22 (3) 'Rental motor vehicle concern' means a:

23 (A) A person or legal entity which owns or leases five or more rental motor vehicles
24 and which regularly rents or leases such vehicles to the public for value; or

25 (B) A dealer as defined in subparagraph (M.3) of paragraph (8) of Code Section 48-8-2
26 that is required to collect and remit the tax imposed by Article 1 of Chapter 8 of this

27 title for acting as a marketplace facilitator as such term is defined in paragraph (18.1)
 28 of Code Section 48-8-2 to facilitate the rental or lease of five or more rental motor
 29 vehicles in total to the public for value on behalf of itself or one or more persons or
 30 legal entities combined.

31 (4) 'Rental motor vehicle facilitator' means a rental motor vehicle concern as defined in
 32 subparagraph (B) of paragraph (3) of this Code section."

33 **SECTION 2.**

34 Said article is further amended in Code Section 48-13-93, relating to the levy and collection
 35 of excise taxes upon motor vehicle rental charges, expenditure of taxes, and purpose, by
 36 revising paragraph (1) of subsection (a) as follows:

37 "(a)(1) The governing authority of each municipality in this state may levy and collect
 38 an excise tax upon the rental charge collected by a rental motor vehicle concern whether
 39 on its own behalf or on behalf of another person when such charge constitutes a taxable
 40 event for purposes of sales and use tax under Article 1 of Chapter 8 of this title. Within
 41 the territorial limits of the special district located within the county, each county in this
 42 state may levy and collect an excise tax upon the rental charge collected by a rental motor
 43 vehicle concern whether on its own behalf or on behalf of another person when such
 44 charge constitutes a taxable event for purposes of sales and use tax under Article 1 of
 45 Chapter 8 of this title. The tax levied pursuant to this article shall be levied or collected
 46 at the rate of 3 percent of the rental charges. The tax levied pursuant to this article shall
 47 be imposed only at the time when and place where a customer pays sales tax with respect
 48 to the rental charge. The customer who pays a rental charge that is subject to a tax levied
 49 as provided in this article shall be liable for the tax. The tax shall be paid by the customer
 50 to the rental motor vehicle concern. The tax shall be a debt of the customer to the rental
 51 motor vehicle concern until it is paid and shall be recoverable at law in the same manner
 52 as authorized for the recovery of other debts. The rental motor vehicle concern collecting
 53 the tax shall remit the tax to the governing authority imposing the tax, and the tax
 54 remitted shall be a credit against the tax imposed on the rental motor vehicle concern.
 55 Every rental motor vehicle concern subject to a tax levied as provided in this article shall
 56 be liable for the tax at the applicable rate on the charges actually collected or the amount
 57 of taxes collected from the customers, whichever is greater."

58 **SECTION 3.**

59 Said article is further amended by adding a new Code section to read as follows:

60 "48-13-93.1.

61 (a) A rental motor vehicle facilitator shall constitute the rental motor vehicle concern with
62 respect to the transactions taxable pursuant to this article that it facilitates on behalf of
63 another person. All taxes levied or imposed by this article on transactions facilitated by a
64 rental motor vehicle facilitator shall be paid by the purchaser to the rental motor vehicle
65 facilitator.

66 (b) The rental motor vehicle facilitator shall remit the taxes in the manners provided for
67 in this article and, when received by the taxing authority, such taxes shall be credited
68 against the taxes imposed by this article on rental charges.

69 (c) Each rental motor vehicle facilitator shall be liable for the full amount of taxes levied
70 or imposed by this article on its transactions or the amount of tax collected by such rental
71 motor vehicle facilitator from all purchasers on all such transactions, whichever is greater.

72 (d) A transaction that is not taxable to the purchaser shall not be taxable to the rental motor
73 vehicle facilitator. Taxes collected and remitted by a rental motor vehicle facilitator
74 pursuant to this article shall be subject to the credit otherwise granted by this article for like
75 taxes previously paid in another state.

76 (e) This Code section shall not be construed to require a duplication in the payment of any
77 tax.

78 (f) A person shall not be obligated to collect and remit or be liable for the taxes levied or
79 imposed by this article on any transaction for which its rental motor vehicle facilitator is
80 obligated and liable.

81 (g) A taxing authority shall only audit the rental motor vehicle facilitator for sales made
82 by it on behalf of another person except to the extent the rental motor vehicle facilitator
83 seeks relief through subsection (h) of this Code section.

84 (h) A rental motor vehicle facilitator is relieved of liability for failure to collect and remit
85 the correct amount of tax imposed by this article to the extent that the rental motor vehicle
86 facilitator demonstrates to the satisfaction of the taxing authority that the error was due to
87 insufficient or incorrect information given to the rental motor vehicle facilitator by the
88 person on whose behalf the sale was facilitated and the rental motor vehicle facilitator
89 made a reasonable effort to obtain correct and sufficient information from such person;
90 provided, however, that this subsection shall not apply if the rental motor vehicle facilitator
91 and such person are related members as defined in Code Section 48-7-28.3. If a rental
92 motor vehicle facilitator is relieved of liability under this subsection, the person on whose
93 behalf the sale was facilitated shall be solely liable for the amount of uncollected tax."

94 **SECTION 4.**

95 This Act shall become effective on July 1, 2020, and shall apply to all taxable leases or
96 rentals occurring on or after July 1, 2020.

97 **SECTION 5.**

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