



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3968

Introduced 11/13/2019, by

SYNOPSIS AS INTRODUCED:

35 ILCS 525/10-5
35 ILCS 525/10-20

Amends the Parking Excise Tax Act. Removes provisions from the Act providing that a booking intermediary is not considered an operator. Provides that separately stated charges that are not optional are presumed to be part of the purchase price unless proven otherwise. Provides that the tax does not apply to: (1) parking in a lot or garage that is owned or operated by a federal, State, or local government entity if the purchase price does not exceed a stated amount; or (2) if the purchase price is paid by any federal, State, or local government entity. Effective immediately.

LRB101 14456 HLH 63347 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Parking Excise Tax Act is amended by
5 changing Sections 10-5 and 10-20 as follows:

6 (35 ILCS 525/10-5)

7 Sec. 10-5. Definitions.

8 ~~"Booking intermediary" means any person or entity that~~
9 ~~facilitates the processing and fulfillment of reservation~~
10 ~~transactions between an operator and a person or entity~~
11 ~~desiring parking in a parking lot or garage of that operator.~~

12 ~~"Charge or fee paid for parking" means the gross amount of~~
13 ~~consideration for the use or privilege of parking a motor~~
14 ~~vehicle in or upon any parking lot or garage in the State,~~
15 ~~collected by an operator and valued in money, whether received~~
16 ~~in money or otherwise, including cash, credits, property, and~~
17 ~~services, determined without any deduction for costs or~~
18 ~~expenses, but not including charges that are added to the~~
19 ~~charge or fee on account of the tax imposed by this Act or on~~
20 ~~account of any other tax imposed on the charge or fee. "Charge~~
21 ~~or fee paid for parking" excludes separately stated charges not~~
22 ~~for the use or privilege of parking and excludes amounts~~
23 ~~retained by or paid to a booking intermediary for services~~

1 ~~provided by the booking intermediary. If any separately stated~~
2 ~~charge is not optional, it shall be presumed that it is part of~~
3 ~~the charge for the use or privilege or parking.~~

4 "Department" means the Department of Revenue.

5 "Operator" means any person who engages in the business of
6 operating a parking area or garage, or who, directly or through
7 an agreement or arrangement with another party, collects the
8 consideration for parking or storage of motor vehicles,
9 recreational vehicles, or other self-propelled vehicles, at
10 that parking place. This includes, but is not limited to, any
11 facilitator or aggregator that collects from the purchaser the
12 charge or fee paid for parking. "Operator" does not include a
13 bank, credit card company, payment processor, ~~booking~~
14 ~~intermediary,~~ or person whose involvement is limited to
15 performing functions that are similar to those performed by a
16 bank, credit card company, or payment processor, ~~or booking~~
17 ~~intermediary.~~

18 "Parking area or garage" means any real estate, building,
19 structure, premises, enclosure or other place, whether
20 enclosed or not, except a public way, within the State, where
21 motor vehicles, recreational vehicles, or other self-propelled
22 vehicles, are stored, housed or parked for hire, charge, fee or
23 other valuable consideration in a condition ready for use, or
24 where rent or compensation is paid to the owner, manager,
25 operator or lessee of the premises for the housing, storing,
26 sheltering, keeping or maintaining motor vehicles,

1 recreational vehicles, or other self-propelled vehicles.
2 "Parking area or garage" includes any parking area or garage,
3 whether the vehicle is parked by the owner of the vehicle or by
4 the operator or an attendant.

5 "Person" means any natural individual, firm, trust,
6 estate, partnership, association, joint stock company, joint
7 venture, corporation, limited liability company, or a
8 receiver, trustee, guardian, or other representative appointed
9 by order of any court.

10 "Purchase price" means the consideration paid for the
11 purchase of a parking space in a parking area or garage, valued
12 in money, whether received in money or otherwise, including
13 cash, gift cards, credits, and property, and shall be
14 determined without any deduction on account of the cost of
15 materials used, labor or service costs, or any other expense
16 whatsoever.

17 "Purchase price" includes any and all charges that the
18 recipient pays related to or incidental to obtaining the use or
19 privilege of using a parking space in a parking area or garage,
20 including but not limited to any and all related markups,
21 service fees, convenience fees, facilitation fees,
22 cancellation fees, overtime fees, or other such charges,
23 regardless of terminology. However, "purchase price" shall not
24 include consideration paid for:

25 (1) ~~optional~~, separately stated charges not for the use
26 or privilege of using a parking space in the parking area

1 or garage; if any separately stated charge is not optional,
2 it shall be presumed until proven otherwise that it is part
3 of the charge for the use or privilege or parking;

4 (2) any charge for a dishonored check;

5 (3) any finance or credit charge, penalty or charge for
6 delayed payment, or discount for prompt payment;

7 (4) any purchase by a purchaser if the operator is
8 prohibited by federal or State Constitution, treaty,
9 convention, statute or court decision from collecting the
10 tax from such purchaser;

11 (5) the isolated or occasional sale of parking spaces
12 subject to tax under this Act by a person who does not hold
13 himself out as being engaged (or who does not habitually
14 engage) in selling of parking spaces; and

15 (6) any amounts added to a purchaser's bills, whether
16 or not separately stated, because of charges made pursuant
17 to the tax imposed by this Act, or on account of any other
18 tax imposed on the charge or fee. If credit is extended,
19 then the amount thereof shall be included only as and when
20 payments are made.

21 "Purchaser" means any person who acquires a parking space
22 in a parking area or garage for use for valuable consideration.

23 "Use" means the exercise by any person of any right or
24 power over, or the enjoyment of, a parking space in a parking
25 area or garage subject to tax under this Act.

26 (Source: P.A. 101-31, eff. 6-28-19.)

1 (35 ILCS 525/10-20)

2 Sec. 10-20. Exemptions. The tax imposed by this Act shall
3 not apply to:

4 (1) parking in a parking area or garage operated by the
5 federal government or its instrumentalities that has been
6 issued an active tax exemption number by the Department
7 under Section 1g of the Retailers' Occupation Tax Act; for
8 this exemption to apply, the parking area or garage must be
9 operated by the federal government or its
10 instrumentalities; the exemption under this paragraph (1)
11 does not apply if the parking area or garage is operated by
12 a third party, whether under a lease or other contractual
13 arrangement, or any other manner whatsoever;

14 (2) residential off-street parking for home or
15 apartment tenants or condominium occupants, if the
16 arrangement for such parking is provided in the home or
17 apartment lease or in a separate writing between the
18 landlord and tenant, or in a condominium agreement between
19 the condominium association and the owner, occupant, or
20 guest of a unit, whether the parking charge is payable to
21 the landlord, condominium association, or to the operator
22 of the parking spaces; this paragraph (2) is intended to
23 exempt from tax not only written agreements for residential
24 off-street parking directly between the landlord or
25 condominium association and the apartment occupant or

1 condo owner, occupant, or guest, but also any written
2 parking agreement between the landlord's or association's
3 designated parking lot or garage operator and the apartment
4 occupant or the condo owner, occupant, or guest, whether or
5 not coterminous with the lease or ownership period of the
6 residence;

7 (3) parking by hospital employees in a parking space
8 that is owned and operated by the hospital for which they
9 work; ~~and~~

10 (4) parking in a parking area or garage where 3 or
11 fewer motor vehicles are stored, housed, or parked for
12 hire, charge, fee or other valuable consideration, if the
13 operator of the parking area or garage does not act as the
14 operator of more than a total of 3 parking spaces located
15 in the State; if any operator of parking areas or garages,
16 including any facilitator or aggregator, acts as an
17 operator of more than 3 parking spaces in total that are
18 located in the State, then this exemption shall not apply
19 to any of those spaces; ~~;~~

20 (5) parking in a lot or garage that is owned or
21 operated by the federal government, the State, a
22 municipality, the Regional Transportation Authority or any
23 of its service boards, the Chicago Park District, or any
24 other government entity, if the purchase price for the
25 privilege of parking does not exceed \$3 for a 24-hour
26 period or less, \$15 for a weekly period, or \$60 for a

1 monthly period; and
2 (6) parking when the purchase price is paid by any
3 federal, State, or local government entity.

4 (Source: P.A. 101-31, eff. 6-28-19.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.