



94TH GENERAL ASSEMBLY
State of Illinois
2005 and 2006
SB2369

Introduced 1/18/2006, by Sen. Kwame Raoul - Don Harmon

SYNOPSIS AS INTRODUCED:

35 ILCS 155/2	from Ch. 120, par. 1702
35 ILCS 155/3	from Ch. 120, par. 1703
35 ILCS 155/4	from Ch. 120, par. 1704
625 ILCS 5/6-305	from Ch. 95 1/2, par. 6-305

Amends the Automobile Renting Occupation and Use Tax Act. Defines "car-sharing organization". Exempts car-sharing organizations from taxation under the Act. Amends the Illinois Vehicle Code. Exempts car-sharing organizations from certain requirements concerning the renting of automobiles. Effective immediately.

LRB094 16695 BDD 51965 b

FISCAL NOTE ACT
MAY APPLY

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 Automobile Renting Occupation and Use Tax
5 Act is amended by changing Sections 2, 3, and 4 as follows:

6 (35 ILCS 155/2) (from Ch. 120, par. 1702)

7 Sec. 2. Definitions. "Renting" means any transfer of the
8 possession or right to possession of an automobile to a user
9 for a valuable consideration for a period of one year or less.

10 "Renting" does not include making a charge for the use of
11 an automobile where the rentor, either himself or through an
12 agent, furnishes a service of operating an automobile so that
13 the rentor remains in possession of the automobile, because
14 this does not constitute a transfer of possession or right to
15 possession of the automobile.

16 "Renting" does not include the making of a charge by an
17 automobile dealer for the use of an automobile as a
18 demonstrator in connection with the dealer's business of
19 selling, where the charge is merely made to recover the costs
20 of operating the automobile as a demonstrator and is not
21 intended as a rental or leasing charge in the ordinary sense.

22 "Automobile" means any motor vehicle of the first division,
23 a motor vehicle of the second division which is a
24 self-contained motor vehicle designed or permanently converted
25 to provide living quarters for recreational, camping or travel
26 use, with direct walk through access to the living quarters
27 from the driver's seat, or a motor vehicle of the second
28 division which is of the van configuration designed for the
29 transportation of not less than 7 nor more than 16 passengers,
30 as defined in Section 1-146 of the Illinois Vehicle Code.

31 "Department" means the Department of Revenue.

32 "Person" means any natural individual, firm, partnership,

1 association, joint stock company, joint adventure, public or
2 private corporation, limited liability company, or a receiver,
3 executor, trustee, conservator or other representative
4 appointed by order of any court.

5 "Rentor" means any person, firm, corporation or
6 association engaged in the business of renting or leasing
7 automobiles to users. For this purpose, the objective of making
8 a profit is not necessary to make the renting activity a
9 business.

10 "Rentee" means any user to whom the possession, or the
11 right to possession, of an automobile is transferred for a
12 valuable consideration for a period of one year or less,
13 whether paid for by the "rentee" or by someone else.

14 "Gross receipts" from the renting of tangible personal
15 property or "rent" means the total rental price or leasing
16 price. In the case of rental transactions in which the
17 consideration is paid to the rentor on an installment basis,
18 the amounts of such payments shall be included by the rentor in
19 gross receipts or rent only as and when payments are received
20 by the rentor.

21 "Gross receipts" does not include receipts received by an
22 automobile dealer from a manufacturer or service contract
23 provider for the use of an automobile by a person while that
24 person's automobile is being repaired by that automobile dealer
25 and the repair is made pursuant to a manufacturer's warranty or
26 a service contract where a manufacturer or service contract
27 provider reimburses that automobile dealer pursuant to a
28 manufacturer's warranty or a service contract and the
29 reimbursement is merely made to recover the costs of operating
30 the automobile as a loaner vehicle.

31 "Rental price" means the consideration for renting or
32 leasing an automobile valued in money, whether received in
33 money or otherwise, including cash credits, property and
34 services, and shall be determined without any deduction on
35 account of the cost of the property rented, the cost of
36 materials used, labor or service cost, or any other expense

1 whatsoever, but does not include charges that are added by a
2 rentor on account of the rentor's tax liability under this Act
3 or on account of the rentor's duty to collect, from the rentee,
4 the tax that is imposed by Section 4 of this Act. The phrase
5 "rental price" does not include compensation paid to a rentor
6 by a rentee in consideration of the waiver by the rentor of any
7 right of action or claim against the rentee for loss or damage
8 to the automobile rented and also does not include a separately
9 stated charge for insurance or recovery of refueling costs or
10 other separately stated charges that are not for the use of
11 tangible personal property.

12 "Car-sharing organization" means a membership-based
13 organization: (i) with a qualified fleet of automobiles that
14 are rented or leased to members primarily for hourly use
15 through a self-service, fully automated reservation system;
16 (ii) that charges a membership fee separately from the hourly
17 charge for the rental or lease of a specific vehicle; and (iii)
18 does not require a separate written agreement each time a
19 member rents or leases a specific automobile. For the purposes
20 of this definition, "qualified fleet" means a distributed fleet
21 of automobiles:

22 (1) at least 10% of which is comprised of automobiles
23 that have hybrid engines (with a minimum goal of at least
24 20% within 3 years after the effective date of this
25 amendatory Act of the 94th General Assembly); and

26 (2) at least 50% of which is comprised of automobiles
27 that are ultra-low emission vehicles.

28 The Department of Commerce and Economic Opportunity shall, by
29 rule, define the terms "hybrid engine" and "ultra-low emission
30 vehicle".

31 (Source: P.A. 90-14, eff. 7-1-97; 91-193, eff. 7-20-99.)

32 (35 ILCS 155/3) (from Ch. 120, par. 1703)

33 Sec. 3. A tax is imposed upon persons engaged in this State
34 in the business of renting automobiles in Illinois at the rate
35 of 5% of the gross receipts received from such business. The

1 tax herein imposed does not apply to the renting of automobiles
2 to any governmental body, nor to any corporation, society,
3 association, foundation or institution organized and operated
4 exclusively for charitable, religious or educational purposes,
5 nor to any not for profit corporation, society, association,
6 foundation, institution or organization which has no
7 compensated officers or employees and which is organized and
8 operated primarily for the recreation of persons 55 years of
9 age or older. Every person engaged in this State in the
10 business of renting automobiles shall apply to the Department
11 (upon a form prescribed and furnished by the Department) for a
12 certificate of registration under this Act. The certificate of
13 registration which is issued by the Department to a retailer
14 under the Retailers' Occupation Tax Act shall permit such
15 rentor to engage in a business which is taxable under this
16 Section without registering separately with the Department.
17 The tax imposed by this Section does not apply to the charges
18 for the use of vehicles by a member of a car-sharing
19 organization.

20 The Department shall have full power to administer and
21 enforce this Section, to collect all taxes and penalties due
22 hereunder, to dispose of taxes and penalties so collected in
23 the manner hereinafter provided, and to determine all rights to
24 credit memoranda, arising on account of the erroneous payment
25 of tax or penalty hereunder. In the administration of, and
26 compliance with, this Section, the Department and persons who
27 are subject to this Section shall have the same rights,
28 remedies, privileges, immunities, powers and duties, and be
29 subject to the same conditions, restrictions, limitations,
30 penalties and definitions of terms, and employ the same modes
31 of procedure, as are prescribed in Sections 1, 1a, 2 through
32 2-65 (in respect to all provisions therein other than the State
33 rate of tax), 2a, 2b, 2c, 3 (except provisions relating to
34 transaction returns and quarter monthly payments), 4, 5, 5a,
35 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11,
36 11a, 12 and 13 of the Retailers' Occupation Tax Act and Section

1 3-7 of the Uniform Penalty and Interest Act as fully as if
2 those provisions were set forth herein.

3 (Source: P.A. 86-1475; 87-205; 87-895.)

4 (35 ILCS 155/4) (from Ch. 120, par. 1704)

5 Sec. 4. A tax is imposed upon the privilege of using, in
6 this State, an automobile which is rented from a rentor. Such
7 tax is at the rate of 4% of the rental price of such automobile
8 prior to July 1, 1985 and at the rate of 5% of the rental price
9 of such automobile on and after July 1, 1985 paid to the rentor
10 under any rental agreement. The tax herein imposed shall not
11 apply to any governmental body, nor to any corporation,
12 society, association, foundation or institution, organized and
13 operated exclusively for charitable, religious or educational
14 purposes, nor to any not for profit corporation, society,
15 association, foundation, institution or organization which has
16 no compensated officers or employees and which is organized and
17 operated primarily for the recreation of persons 55 years of
18 age or older, when using tangible personal property as a
19 rentee. The tax imposed by this Section does not apply to any
20 activity of a car-sharing organization.

21 The tax hereby imposed shall be collected from the rentee
22 by a rentor maintaining a place of business in this State and
23 remitted to the Department.

24 The tax hereby imposed and not paid to a rentor pursuant to
25 the preceding paragraph of this Section shall be paid to the
26 Department directly by any person using such automobile within
27 this State.

28 Rentors shall collect the tax from rentees by adding the
29 tax to the rental price of the automobile, when rented for use,
30 in the manner prescribed by the Department. The Department
31 shall have the power to adopt and promulgate reasonable rules
32 and regulations for the adding of such tax by rentors to rental
33 prices by prescribing bracket systems for the purpose of
34 enabling such rentors to add and collect, as far as
35 practicable, the amount of such tax.

1 The tax imposed by this Section shall, when collected, be
2 stated as a distinct item separate and apart from the rental
3 price of the automobile.

4 The Department shall have full power to administer and
5 enforce this Section; to collect all taxes, penalties and
6 interest due hereunder; to dispose of taxes, penalties and
7 interest so collected in the manner hereinafter provided, and
8 to determine all rights to credit memoranda or refunds arising
9 on account of the erroneous payment of tax, penalty or interest
10 hereunder. In the administration of, and compliance with, this
11 Section, the Department and persons who are subject to this
12 Section shall have the same rights, remedies, privileges,
13 immunities, powers and duties, and be subject to the same
14 conditions, restrictions, limitations, penalties and
15 definitions of terms, and employ the same modes of procedure,
16 as are prescribed in Sections 2, 3 through 3-80, 4, 6, 7, 8, 9
17 (except provisions relating to transaction returns and quarter
18 monthly payments), 10, 11, 12, 12a, 12b, 13, 14, 15, 19, 20, 21
19 and 22 of the Use Tax Act, and are not inconsistent with this
20 Section, as fully as if those provisions were set forth herein.
21 (Source: P.A. 86-1475.)

22 Section 10. The Illinois Vehicle Code is amended by
23 changing Section 6-305 as follows:

24 (625 ILCS 5/6-305) (from Ch. 95 1/2, par. 6-305)

25 Sec. 6-305. Renting motor vehicle to another.

26 (a) No person shall rent a motor vehicle to any other
27 person unless the latter person, or a driver designated by a
28 nondriver with disabilities and meeting any minimum age and
29 driver's record requirements that are uniformly applied by the
30 person renting a motor vehicle, is then duly licensed hereunder
31 or, in the case of a nonresident, then duly licensed under the
32 laws of the State or country of his residence unless the State
33 or country of his residence does not require that a driver be
34 licensed.

1 (b) No person shall rent a motor vehicle to another until
2 he has inspected the drivers license of the person to whom the
3 vehicle is to be rented, or by whom it is to be driven, and
4 compared and verified the signature thereon with the signature
5 of such person written in his presence unless, in the case of a
6 nonresident, the State or country wherein the nonresident
7 resides does not require that a driver be licensed.

8 (c) No person shall rent a motorcycle to another unless the
9 latter person is then duly licensed hereunder as a motorcycle
10 operator, and in the case of a nonresident, then duly licensed
11 under the laws of the State or country of his residence, unless
12 the State or country of his residence does not require that a
13 driver be licensed.

14 (d) (Blank).

15 (e) (Blank).

16 (f) Subject to subsection (l), any person who rents a motor
17 vehicle to another shall only advertise, quote, and charge a
18 rental rate that includes the entire amount except taxes and a
19 mileage charge, if any, which a renter must pay to hire or
20 lease the vehicle for the period of time to which the rental
21 rate applies. The person must provide, on the request of the
22 renter, based on the available information, an estimated total
23 of the daily rental rate, including all applicable taxes, fees,
24 and other charges, or an estimated total rental charge, based
25 on the return date of the vehicle noted on the rental
26 agreement. Further, if the rental agreement does not already
27 provide an estimated total rental charge, the following
28 statement must be included in the rental agreement:

29 "NOTICE: UNDER ILLINOIS LAW, YOU MAY REQUEST, BASED ON
30 AVAILABLE INFORMATION, AN ESTIMATED TOTAL DAILY RENTAL
31 RATE, INCLUDING TAXES, FEES, AND OTHER CHARGES, OR AN
32 ESTIMATED TOTAL RENTAL CHARGE, BASED ON THE VEHICLE RETURN
33 DATE NOTED ON THIS AGREEMENT."

34 Such person shall not charge in addition to the rental
35 rate, taxes, and mileage charge, if any, any fee which must be
36 paid by the renter as a condition of hiring or leasing the

1 vehicle, such as, but not limited to, required fuel or airport
2 surcharges, nor any fee for transporting the renter to the
3 location where the rented vehicle will be delivered to the
4 renter. In addition to the rental rate, taxes, and mileage
5 charge, if any, such person may charge for an item or service
6 provided in connection with a particular rental transaction if
7 the renter can avoid incurring the charge by choosing not to
8 obtain or utilize the optional item or service. Items and
9 services for which such person may impose an additional charge
10 include, but are not limited to, optional insurance and
11 accessories requested by the renter, service charges incident
12 to the renter's optional return of the vehicle to a location
13 other than the location where the vehicle was hired or leased,
14 and charges for refueling the vehicle at the conclusion of the
15 rental transaction in the event the renter did not return the
16 vehicle with as much fuel as was in the fuel tank at the
17 beginning of the rental.

18 (g) Every person renting a motor vehicle to another shall
19 keep a record of the registration number of the motor vehicle
20 so rented, the name and address of the person to whom the
21 vehicle is rented, the number of the license, if any, of said
22 latter person, and the date and place when and where the
23 license, if any, was issued. Such record shall be open to
24 inspection by any police officer or designated agent of the
25 Secretary of State.

26 (h) A person licensed as a new car dealer under Section
27 5-101 of this Code shall not be subject to the provisions of
28 this Section regarding the rental of private passenger motor
29 vehicles when providing, free of charge, temporary substitute
30 vehicles for customers to operate during a period when a
31 customer's vehicle, which is either leased or owned by that
32 customer, is being repaired, serviced, replaced or otherwise
33 made unavailable to the customer in accordance with an
34 agreement with the licensed new car dealer or vehicle
35 manufacturer, so long as the customer orally or in writing is
36 made aware that the temporary substitute vehicle will be

1 covered by his or her insurance policy and the customer shall
2 only be liable to the extent of any amount deductible from such
3 insurance coverage in accordance with the terms of the policy.

4 (i) This Section, except the requirements of subsection
5 (g), also applies to rental agreements of 30 continuous days or
6 less involving a motor vehicle that was delivered by an out of
7 State person or business to a renter in this State.

8 (j) A public airport may, if approved by its local
9 government corporate authorities or its airport authority,
10 impose a customer facility charge upon customers of rental car
11 companies for the purposes of financing, designing,
12 constructing, operating, and maintaining consolidated car
13 rental facilities and common use transportation equipment and
14 facilities, which are used to transport the customer,
15 connecting consolidated car rental facilities with other
16 airport facilities.

17 Notwithstanding subsection (f) of this Section, the
18 customer facility charge shall be collected by the rental car
19 company as a separate charge, and clearly indicated as a
20 separate charge on the rental agreement and invoice. Facility
21 charges shall be immediately deposited into a trust account for
22 the benefit of the airport and remitted at the direction of the
23 airport, but not more often than once per month. The charge
24 shall be uniformly calculated on a per-contract or per-day
25 basis. Facility charges imposed by the airport may not exceed
26 the reasonable costs of financing, designing, constructing,
27 operating, and maintaining the consolidated car rental
28 facilities and common use transportation equipment and
29 facilities and may not be used for any other purpose.

30 Notwithstanding any other provision of law, the charges
31 collected under this Section are not subject to retailer
32 occupation, sales, use, or transaction taxes.

33 (k) When a rental car company states a rental rate in any
34 of its rate advertisements, its proprietary computer
35 reservation systems, or its in-person quotations intended to
36 apply to an airport rental, a company that collects from its

1 customers a customer facility charge for that rental under
2 subsection (j) shall do all of the following:

3 (1) Clearly and conspicuously disclose in any radio,
4 television, or other electronic media advertisements the
5 existence and amount of the charge if the advertisement is
6 intended for rentals at an airport imposing the charge or,
7 if the advertisement covers an area with multiple airports
8 with different charges, a range of amounts of customer
9 facility charges if the advertisement is intended for
10 rentals at an airport imposing the charge.

11 (2) Clearly and conspicuously disclose in any print
12 rate advertising the existence and amount of the charge if
13 the advertisement is intended for rentals at an airport
14 imposing the charge or, if the print rate advertisement
15 covers an area with multiple airports with different
16 charges, a range of amounts of customer facility charges if
17 the advertisement is intended for rentals at an airport
18 imposing the charge.

19 (3) Clearly and conspicuously disclose the existence
20 and amount of the charge in any telephonic, in-person, or
21 computer-transmitted quotation from the rental car
22 company's proprietary computer reservation system at the
23 time of making an initial quotation of a rental rate if the
24 quotation is made by a rental car company location at an
25 airport imposing the charge and at the time of making a
26 reservation of a rental car if the reservation is made by a
27 rental car company location at an airport imposing the
28 charge.

29 (4) Clearly and conspicuously display the charge in any
30 proprietary computer-assisted reservation or transaction
31 directly between the rental car company and the customer,
32 shown or referenced on the same page on the computer screen
33 viewed by the customer as the displayed rental rate and in
34 a print size not smaller than the print size of the rental
35 rate.

36 (5) Clearly and conspicuously disclose and separately

1 identify the existence and amount of the charge on its
2 rental agreement.

3 (6) A rental car company that collects from its
4 customers a customer facility charge under subsection (j)
5 and engages in a practice which does not comply with
6 subsections (f), (j), and (k) commits an unlawful practice
7 within the meaning of the Consumer Fraud and Deceptive
8 Business Practices Act.

9 (1) Notwithstanding subsection (f), any person who rents a
10 motor vehicle to another may, in connection with the rental of
11 a motor vehicle to (i) a business renter or (ii) a business
12 program sponsor under the sponsor's business program, do the
13 following:

14 (1) separately quote, by telephone, in person, or by
15 computer transmission, additional charges for the rental;
16 and

17 (2) separately impose additional charges for the
18 rental.

19 (m) As used in this Section:

20 (1) "Additional charges" means charges other than: (i)
21 a per period base rental rate; (ii) a mileage charge; (iii)
22 taxes; or (iv) a customer facility charge.

23 (2) "Business program" means:

24 (A) a contract between a person who rents motor
25 vehicles and a business program sponsor that
26 establishes rental rates at which the person will rent
27 motor vehicles to persons authorized by the sponsor; or

28 (B) a plan, program, or other arrangement
29 established by a person who rents motor vehicles at the
30 request of, or with the consent of, a business program
31 sponsor under which the person offers to rent motor
32 vehicles to persons authorized by the sponsor on terms
33 that are not the same as those generally offered by the
34 rental company to the public.

35 (3) "Business program sponsor" means any legal entity
36 other than a natural person, including a corporation,

1 limited liability company, partnership, government,
2 municipality or agency, or a natural person operating a
3 business as a sole proprietor.

4 (4) "Business renter" means, for any business program
5 sponsor, a person who is authorized by the sponsor to enter
6 into a rental contract under the sponsor's business
7 program. "Business renter" does not include a person
8 renting as:

9 (A) a non-employee member of a not-for-profit
10 organization;

11 (B) the purchaser of a voucher or other prepaid
12 rental arrangement from a person, including a tour
13 operator, engaged in the business of reselling those
14 vouchers or prepaid rental arrangements to the general
15 public;

16 (C) an individual whose car rental is eligible for
17 reimbursement in whole or in part as a result of the
18 person being insured or provided coverage under a
19 policy of insurance issued by an insurance company; or

20 (D) an individual whose car rental is eligible for
21 reimbursement in whole or in part as a result of the
22 person purchasing motor vehicle repair services from a
23 person licensed to perform those services.

24 (n) This Section does not apply to a car-sharing
25 organization, as defined in Section 2 of the Automobile Renting
26 Occupation and Use Tax Act.

27 (Source: P.A. 93-118, eff. 1-1-04; 94-717, eff. 12-19-05.)

28 Section 99. Effective date. This Act takes effect upon
29 becoming law.