

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1194

Short Title: Rental Car User Surcharge.

(Public)

Sponsors: Representative McMahan.

Referred to: Finance.

May 1, 1997

A BILL TO BE ENTITLED

1 AN ACT TO IMPOSE A USER SURCHARGE ON CERTAIN SHORT-TERM CAR
2 RENTALS, TO USE THE PROCEEDS OF THE TAX TO COMPENSATE
3 RENTAL CAR COMPANIES FOR THE AMOUNT OF VEHICLE
4 REGISTRATION FEES AND PROPERTY TAXES PAID ON THEIR RENTAL
5 CARS, AND TO DISTRIBUTE ANY REMAINING PROCEEDS TO THE
6 HIGHWAY FUND AND THE HIGHWAY TRUST FUND.
7

8 The General Assembly of North Carolina enacts:

9 Section 1. The heading to Article 5A of Chapter 105 of the General Statutes
10 reads as rewritten:

11 "North Carolina Highway Use ~~Tax~~ Tax and Rental User Surcharge."

12 Section 2. G.S. 105-187.1 reads as rewritten:

13 **"§ 105-187.1. Definitions.**

14 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

15 (1) ~~'Commissioner'~~ ~~means the~~ Commissioner. – The Commissioner of Motor
16 Vehicles.

17 (2) ~~'Division'~~ ~~means the~~ Division. – The Division of Motor Vehicles,
18 Department of Transportation.

- 1 (3) ~~‘Long term lease or rental’ means a~~Long-term lease or rental. – A lease or
2 rental made under a written agreement to lease or rent property to the
3 same person for a period of at least 365 continuous days.
- 4 (4) ~~‘Short term lease or rental’ means a~~Short-term lease or rental. – A lease or
5 rental that is not a long-term lease or rental.
- 6 (5) Thirty-day lease or rental. – A lease or rental made under a written
7 agreement to lease or rent property to the same person for a period of no
8 more than 30 consecutive days.
- 9 (6) U-drive-it passenger vehicle. – A passenger vehicle that is registered
10 under G.S. 20-87(2) and has a passenger capacity of no more than 15
11 passengers."

12 Section 3. Article 5A of Chapter 105 of the General Statutes is amended by
13 adding a new section to read:

14 **"§ 105-187.5A. User surcharge on 30-day leases or rentals of u-drive-it passenger**
15 **vehicles.**

16 (a) User Surcharge. – A user surcharge is levied on a retailer who elects under
17 G.S. 105-187.5 to pay tax on the gross receipts of the lease or rental of a motor vehicle.
18 The user surcharge is four percent (4%) of the retailer's gross receipts from 30-day leases
19 or rentals of u-drive-it passenger vehicles. Except as provided in this section, the
20 Department of Revenue shall administer the user surcharge in the same manner as the
21 alternate gross receipts tax levied under G.S. 105-187.5.

22 The user surcharge is imposed on the retailer, but is to be added to the lease or rental
23 price of a u-drive-it passenger vehicle and thereby be paid by the person who leases or
24 rents the vehicle.

25 (b) Amount Retained by Retailer. – A retailer who is subject to the user surcharge
26 imposed by this section must report the following information to the Secretary of
27 Revenue by July 1 of each year:

- 28 (1) The amount of vehicle registration fees paid under G.S. 20-87(2) by the
29 retailer on u-drive-it passenger vehicles during the preceding fiscal year.
- 30 (2) The amount of property taxes paid under Subchapter II of this Chapter
31 by the retailer on u-drive-it passenger vehicles during the preceding
32 fiscal year.
- 33 (3) Any information required by the Secretary of Revenue to verify the
34 amount of vehicle registration fees and property taxes reported by the
35 retailer.

36 The Secretary of Revenue shall review each report filed under this subsection,
37 determine the accuracy of the amounts reported, and notify each retailer of the amount of
38 user surcharge the retailer may retain from user surcharge collections in the current fiscal
39 year. Each retailer may retain from current user surcharge collections the amount, as
40 determined by the Secretary of Revenue, of vehicle registration fees and property taxes
41 paid by the retailer on u-drive-it passenger vehicles during the preceding fiscal year.

42 (c) Amount for Highway Use. – When the amount of user surcharge collected by
43 a retailer during a fiscal year exceeds the amount the retailer may retain, the retailer must

1 remit the excess when remitting the alternate gross receipts tax imposed by G.S. 105-
2 187.5. A retailer who fails to remit the excess as required by this subsection is subject to
3 the penalties in G.S. 105-236. Amounts remitted under this subsection shall be credited
4 to the Highway Fund and the Highway Trust Fund in accordance with the percentages of
5 gas tax revenue that are credited to those Funds under G.S. 105-445."

6 Section 4. G.S. 105-187.9 reads as rewritten:

7 **"§ 105-187.9. Disposition of tax proceeds.**

8 ~~Taxes collected under this Article at the rate of eight percent (8%)~~ The alternate gross
9 receipts tax imposed by G.S. 105-187.5 on long-term leases or rentals shall be credited to
10 the General Fund. ~~Taxes collected under this Article at the rate of three percent (3%)~~ The
11 alternate gross receipts tax on short-term leases or rentals imposed by G.S. 105-187.5 and
12 the highway use tax imposed by this Article shall be credited to the North Carolina
13 Highway Trust Fund. The user surcharge on the gross receipts from 30-day leases or
14 rentals shall be credited to the Highway Fund and the Highway Trust Fund in accordance
15 with G.S. 105-187.5A. In each fiscal year the State Treasurer shall transfer the sum of
16 one hundred seventy million dollars (\$170,000,000) of the taxes deposited in the Trust
17 Fund to the General Fund. The transfer of funds authorized by this section may be made
18 by transferring one-fourth of the amount at the end of each quarter in the fiscal year or by
19 transferring the full amount annually on July 1 of each fiscal year, subject to the
20 availability of revenue."

21 Section 5. G.S. 105-130.5(a) is amended by adding a new subdivision to read:

22 "(14) The amount of personal property taxes deducted under section 164 of
23 the Code, to the extent this amount is retained by the taxpayer under
24 G.S. 105-187.5A."

25 Section 6. G.S. 105-134.6(c) is amended by adding a new subdivision to read:

26 "(8) The amount of personal property taxes deducted under section 164 of
27 the Code, to the extent this amount is retained by the taxpayer under
28 G.S. 105-187.5A."

29 Section 7. This act becomes effective July 1, 1998, and expires on June 30,
30 2000. The repeal of the user surcharge does not affect the rights or liabilities of the State,
31 a taxpayer, or another person that arose during the time the user surcharge was in effect.
32 Notwithstanding G.S. 105-187.5A(b), as enacted by this act, a retailer must submit the
33 report required by that subsection to the Department of Revenue by July 15, 1998.