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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2407 Session of  
1990

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INTRODUCED BY BOYES, PETRONE, HECKLER, KUKOVICH, GANNON,  
ANGSTADT, MERRY, TELEK, J. H. CLARK, SCHULER, ROBBINS, BLACK,  
HERMAN, KENNEY AND FLICK, MARCH 28, 1990

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REFERRED TO COMMITTEE ON FINANCE, MARCH 28, 1990

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AN ACT

1 Imposing a tax on the lease or rental of certain motor vehicles;  
2 providing for the payment, collection, administration and  
3 enforcement thereof; and providing for the use of the  
4 proceeds.

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5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Rental Car  
9 Tax Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall  
12 have the meanings given to them in this section unless the  
13 context clearly indicates otherwise:

14 "Department." The Department of Revenue of the Commonwealth.

15 "For-hire passenger motor vehicle." Any automobile designed  
16 to carry ten passengers or less let or rented to another for  
17 consideration; offered for lease or rent as a means of  
18 transportation for compensation; advertised; or generally held  
19 out as being for lease or rent. The term does not include any  
20 motorcycle, motor-driven cycle, motorized pedalcycle, truck,  
21 truck trailer or semi-trailer truck-camper, travel trailer,  
22 camping trailer, recreational vehicle with living facilities or  
23 mobile home.

24 Section 3. Rental car tax.

25 (a) Imposition.--A tax of 50¢ per day or any part of a day  
26 is hereby imposed upon the lease or rental of a for-hire  
27 passenger motor vehicle regardless of whether such motor vehicle  
28 is licensed in this Commonwealth. The tax applies to only the  
29 first 30 days of the term of any lease or rental.

30 (b) Collection.--The tax shall be collected by the person

1 engaged in or conducting the business in this Commonwealth of  
2 leasing or renting any for-hire passenger motor vehicle, from  
3 the lessee or renter, and shall be paid over to the Commonwealth  
4 as herein provided.

5 Section 4. Application.

6 (a) General rule.--The tax applies to each lease or rental  
7 of a for-hire passenger motor vehicle, specified in the lease or  
8 rental agreement, on the first 30 days the vehicle is  
9 continuously leased or rented to one lessee or renter.

10 (b) Lease or rental for 30 days or less, or unspecified  
11 continuous duration.--If a for-hire passenger motor vehicle is  
12 leased or rented to one lessee or renter under an agreement for  
13 30 continuous days or fewer, or for an unspecified continuous  
14 duration, the tax shall be collected and remitted on the lease  
15 or rental payments due, up to the first 30 days. If the lease or  
16 rental agreement is renewed at any time for an additional  
17 period, the renewal constitutes a new lease or rental, and,  
18 therefore, the tax is due until 30 continuous days is reached on  
19 the renewed lease or rental agreement.

20 (c) Lease or rental for specified duration in excess of 30  
21 days.--If a for-hire passenger motor vehicle is leased or rented  
22 to one lessee or renter under an agreement for a specified  
23 duration in excess of 30 continuous days, the tax shall be  
24 collected and remitted on lease or rental payments due for 30  
25 continuous days. If the lease or rental agreement is renewed for  
26 an additional period, the renewal constitutes a new lease or  
27 rental, and, therefore, the tax is due until the 30-continuous-  
28 day maximum is reached on the renewed lease or rental agreement.

29 (d) Replacement vehicle.--If a for-hire passenger motor  
30 vehicle is leased or rented to one lessee or renter and under

1 terms of the agreement the lessee or renter received a  
2 replacement vehicle based upon some predetermined standard, such  
3 as the odometer mileage reading or age of the vehicle, such  
4 replacement constitutes a new lease or rental, and, therefore,  
5 the tax is due for 30 continuous days on the replacement  
6 vehicle. However, the replacement of a vehicle does not  
7 constitute a new lease or rental when such replacement is  
8 necessitated by the failure of or damage to any mechanical or  
9 other component part of the vehicle, listed in the agreement,  
10 that impairs the use or safety of such vehicle.

11 Section 5. Absorbing or refunding of tax prohibited.

12 A person engaged in the business of leasing or renting for-  
13 hire passenger motor vehicles shall not advertise or hold out to  
14 the public in any manner, directly or indirectly, that he will  
15 absorb all or any part of the tax, or that he will relieve the  
16 lessee or renter of the payment of all or any part of the tax,  
17 or that, when added to the lease or rental price, the tax or any  
18 part thereof will be refunded either directly or indirectly by  
19 any method whatsoever.

20 Section 6. Separate charge.

21 The amount of the tax shall be separately stated on any  
22 charge ticket, invoice or other tangible evidence of lease or  
23 rental, and shall be a debt from the lessee or renter to the  
24 dealer until paid.

25 Section 7. Collection.

26 Each person engaged in the business of leasing or renting  
27 for-hire passenger motor vehicles is required to collect and  
28 remit the tax. The tax is due and payable when the lease or  
29 rental payments are to be made by the lessee or renter as they  
30 accrue under the terms of the lease or rental agreement.

1 Section 8. Interstate use.

2 (a) Term less than 12 months.--When the term of the lease or  
3 rental agreement is for less than 12 months the following shall  
4 apply:

5 (1) If the lease or rental of a for-hire passenger motor  
6 vehicle, leased or rented in another state and driven into  
7 this Commonwealth, is paid in this Commonwealth, the tax  
8 applies. If a credit card is used in lieu of cash payments,  
9 the Pennsylvania dealer honoring the credit card is liable  
10 for the collection and remittance of the tax.

11 (2) If the lease or rental of a for-hire passenger motor  
12 vehicle leased in this Commonwealth and driven to another  
13 state is paid in the other state, the lease or rental is not  
14 subject to the tax. If a motor vehicle is leased or rented in  
15 this Commonwealth and the lease or rental is paid in this  
16 Commonwealth, the surcharge applies even though the motor  
17 vehicle is removed from this Commonwealth while the lessee or  
18 renter has the vehicle.

19 (b) Term of 12 months or more and leased or rented in this  
20 Commonwealth.--When the term of a lease or rental is for 12  
21 months or more and the vehicle is leased or rented in this  
22 Commonwealth, the surcharge is due and payable when the vehicle  
23 is registered, licensed or titled in this Commonwealth,  
24 regardless of where the vehicle is to be used.

25 (c) Term of 12 months or more and leased or rented outside  
26 this Commonwealth.--When the term of a lease or rental is for 12  
27 months or more and the vehicle is leased or rented from a person  
28 outside this Commonwealth, it is presumed subject to the tax if  
29 it is registered, licensed or titled in this Commonwealth. This  
30 presumption may be rebutted only by documentary evidence that

1 the vehicle was used outside this Commonwealth continuously for  
2 30 days or more before it was brought into this Commonwealth.

3 Section 9. Direct liability of lessee or renter.

4 Any person who has leased or rented a for-hire passenger  
5 motor vehicle and cannot prove the tax has been paid to his  
6 lessor or other person shall be directly liable to the  
7 Commonwealth for any tax, interest or penalty due on such  
8 transaction.

9 Section 10. Exclusion.

10 The tax does not apply to a vehicle continuously leased to  
11 one lessee prior to the effective date of this act when the  
12 initial day of the lease or rental occurs prior to the effective  
13 date of this act, regardless of whether the 30-day maximum is  
14 not reached until on or after the effective date of this act.

15 Section 11. Licenses.

16 (a) Application.--Before any person may continue to engage  
17 in or conduct or hereafter commence to engage in or conduct the  
18 business in this Commonwealth of leasing or renting any for-hire  
19 passenger motor vehicles, he must make application to the  
20 department, on a form prescribed by the department, for a  
21 license. If such person maintains more than one place of  
22 business in this Commonwealth, the license shall be issued for  
23 the principal place of business in this Commonwealth.

24 (b) Issuance.--The department shall, after the receipt of an  
25 application, issue the license applied for under subsection (a)  
26 without cost. The license shall be nonassignable and of  
27 permanent duration.

28 (c) Penalty.--Any person who, upon the expiration of 60 days  
29 after the effective date of this act, shall engage in or conduct  
30 a business in this Commonwealth of leasing or renting any for-

1 hire passenger motor vehicle which lease or rental is subject to  
2 the tax imposed by this act, without having first been licensed  
3 by the department, commits a summary offense, and upon  
4 conviction thereof in a summary proceeding, shall be sentenced  
5 to pay a fine of not less than \$100 nor more than \$300, and in  
6 default thereof, to undergo imprisonment of not less than five  
7 days nor more than 30 days. The penalties imposed by this  
8 section shall be in addition to any other penalties imposed by  
9 this act.

10 (d) Liability regardless of license.--Failure of any person  
11 to obtain a license shall not relieve him of liability to  
12 collect and remit the tax imposed by this act.

13 Section 12. Returns and payment of tax.

14 (a) Persons required to make returns.--Every person required  
15 to pay or collect and remit tax to the department under this act  
16 shall file returns with respect to such tax.

17 (b) Form of returns.--The returns required by this section  
18 shall be on forms prescribed by the department and shall show  
19 such information with respect to the tax imposed by this act as  
20 the department may reasonably require.

21 (c) Time for filing returns.--For the year in which this act  
22 becomes effective and in each year thereafter, a return shall be  
23 filed quarterly by every licensee on or before the 20th day of  
24 April, July, October and January for the three months ending the  
25 last day of March, June, September and December.

26 (d) Payment.--When a return of tax is required under this  
27 section, the person required to make the return shall pay the  
28 tax to the department.

29 (e) Time of payment.--The tax imposed by this act and  
30 collected by a license shall be due and payable by the licensee

1 on the day the return is required to be filed, and such payment  
2 must accompany the return for the preceding period.

3 Section 13. Certain provisions of Tax Reform Code of 1971  
4 applicable.

5 The provisions of Chapter IV (relating to assessment and  
6 collection of tax), Chapter V (relating to refunds and credits),  
7 Chapter VI (relating to limitations), Chapter VII (relating to  
8 interest, additions, penalties and crimes) and Chapter VIII  
9 (relating to enforcement and examinations) of Article II of the  
10 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code  
11 of 1971, shall be applicable to the tax imposed under this act  
12 insofar as such provisions are not inconsistent with the  
13 provisions of this act.

14 Section 14. Rules and regulations.

15 The department is hereby charged with the enforcement of the  
16 provisions of this act, and is hereby authorized and empowered  
17 to prescribe, adopt, promulgate and enforce, rules and  
18 regulations not inconsistent with the provisions of this act,  
19 relating to any matter or thing pertaining to the administration  
20 and enforcement of the provisions of this act and the collection  
21 of taxes, penalties and interest imposed by this act.

22 Section 15. State Park System Operating Account.

23 (a) Creation.--There is hereby created, for the purpose of  
24 this act, a special restricted receipts account within the  
25 General Fund to be known as the State Park System Operating  
26 Account.

27 (b) Transfer.--The Department of Revenue shall determine  
28 annually the total amount of revenue derived from the tax  
29 imposed by this act, less reasonable administrative costs, and  
30 shall report such amount to the State Treasurer, who shall



1 transfer such amount from the General Fund to the State Park  
2 System Operating Account.

3 (c) Use.--All funds in the State Park System Operating  
4 Account shall be used by the Department of Environmental  
5 Resources for the operation and maintenance of the State park  
6 system, and are hereby appropriated to the Department of  
7 Environmental Resources on a continuing basis.

8 Section 16. Effective date.

9 This act shall take effect as follows:

10 (1) Section 14 shall take effect immediately.

11 (2) Section 11 shall take effect November 1, 1990.

12 (3) The remainder of this act shall take effect January  
13 1, 1991.