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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1629 Session of  
2007

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INTRODUCED BY FRANKEL, DERMODY, WALKO, RAMALEY, PETRONE,  
MARKOSEK AND GERGELY, JUNE 25, 2007

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REFERRED TO COMMITTEE ON URBAN AFFAIRS, JUNE 25, 2007

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AN ACT

1 Amending the act of July 28, 1953 (P.L.723, No.230), entitled,  
2 as amended, "An act relating to counties of the second class  
3 and second class A; amending, revising, consolidating and  
4 changing the laws relating thereto," authorizing certain  
5 counties of the second class to impose a vehicle rental tax,  
6 realty transfer tax and liquor sales tax.

7 The General Assembly of the Commonwealth of Pennsylvania  
8 hereby enacts as follows:

9 Section 1. The act of July 28, 1953 (P.L.723, No.230), known  
10 as the Second Class County Code, is amended by adding sections  
11 to read:

12 Section 1977. Authorization of Vehicle Rental Tax by Certain  
13 Counties of the Second Class.--(a) Notwithstanding any  
14 provision of this act or any law to the contrary, each county of  
15 the second class having a home rule charter is hereby authorized  
16 to impose an excise tax on the rental of a rental vehicle in  
17 that county. The tax may be imposed on any person renting a  
18 rental vehicle at a rate of up to and including two per centum  
19 of the purchase price of the rental. For purposes of this

1 section, the situs of the rental of the vehicle is the place  
2 where the renter takes possession of the rental vehicle.

3 (b) The vehicle rental tax shall be collected by each  
4 vehicle rental company in the county imposing the tax. The tax  
5 shall be collected at the time the rental vehicle is rented by  
6 that vehicle rental company and shall be remitted by the vehicle  
7 rental company to the county that imposed the tax in accordance  
8 with rules and regulations established by the county or the tax  
9 collection agencies of that county for collection and remittance  
10 of the tax. Any person required to collect or pay over any tax  
11 authorized by this section and who fails to collect or pay over  
12 the tax shall be liable for the full amount of the tax,  
13 including any interest or penalties which may be imposed by a  
14 county of the second class.

15 (c) The county and its tax collection agencies are  
16 authorized to promulgate and enforce rules and regulations not  
17 inconsistent with the provisions of this section relating to any  
18 matter or thing pertaining to the collection, administration and  
19 enforcement of the provisions of this section.

20 (d) As used in this section, the following words and phrases  
21 shall have the meanings given to them in this subsection:

22 "Rental vehicle" shall mean a private passenger motor vehicle  
23 designed to transport fifteen or fewer passengers or a truck,  
24 trailer or semitrailer used in the transportation of property  
25 other than commercial freight, that is rented without a driver,  
26 is part of a fleet of five or more rental vehicles that are used  
27 for that purpose and owned or leased by the same person or  
28 entity and is rented for a period of twenty-nine or fewer  
29 consecutive days.

30 "Vehicle rental company" shall mean any business entity

1 engaged in the business of renting motor vehicles in this  
2 Commonwealth.

3 Section 1978. Realty Transfer Tax for Counties of the Second  
4 Class.--(a) From and after the effective date of this section,  
5 the council of any county of the second class having a home rule  
6 charter may, by ordinance, for general revenue purposes, levy,  
7 assess and collect or provide for the levying, assessment and  
8 collection of a tax of up to one per centum upon a transfer of  
9 real property or an interest in real property within the  
10 geographical limits of a county of the second class, regardless  
11 of where the instruments making the transfer are made, executed  
12 or delivered or where the actual settlements on the transfer  
13 take place, to the extent that the transactions are subject to  
14 the tax imposed by Article XI-C of the act of March 4, 1971  
15 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

16 (b) In addition, a county of the second class may impose a  
17 local real estate transfer tax upon additional classes of types  
18 of transactions and may establish standards to be used by the  
19 county of the second class to determine the monetary value to be  
20 applied to a transaction for the purpose of taxation.

21 (c) If the collector of taxes for any county of the second  
22 class determines that any part of any underpayment of tax  
23 imposed pursuant to this section is due to conduct prescribed by  
24 the ordinance imposing a tax on the transfer of real estate or  
25 an interest in real property, the county shall have the  
26 authority to add to the tax an amount equal to fifty per centum  
27 of the underpayment. In the case of failure to record any  
28 document in a timely manner as prescribed by ordinance, unless  
29 it is shown that the failure is due to reasonable cause, the  
30 county may, by ordinance, require to be added to the tax five

1 per centum of the amount of the tax if the failure is not more  
2 than one month, with an additional five per centum for each  
3 additional month or fraction thereof during which the failure  
4 continues, not exceeding fifty per centum in the aggregate.

5 Section 1979. Liquor Sales Tax in Counties of the Second  
6 Class.--(a) For the tax year beginning on or after July 1,  
7 2007, every county of the second class, if authorized to do so  
8 by the county council of the county, shall levy and collect a  
9 tax in the manner and at the rates set forth in this section.  
10 The tax shall be in addition to any other tax the county council  
11 is empowered to levy and collect under any existing law. The  
12 taxes, interest and penalties collected under the provisions of  
13 this section shall be used by the county of the second class for  
14 general government purposes.

15 (b) Any council of any county of the second class may levy a  
16 tax imposed upon each separate sale at retail within the county  
17 of the second class of ten per centum of the sale price, which  
18 tax shall be collected by the vendor from the purchaser and  
19 shall be paid over by the vendor to the tax collector.

20 (c) Every vendor required to collect and remit the tax to  
21 the tax collector shall file monthly returns with respect to the  
22 tax on or before the twenty-fifth day of the month succeeding  
23 the month with respect to which the return is made. The returns  
24 shall be filed with the tax collector on forms provided by the  
25 tax collector. Every vendor filing a return shall pay over to  
26 the tax collector the amount of tax shown as due thereon at the  
27 time such return is filed. The failure of a vendor to procure or  
28 receive a return form shall not excuse the vendor from filing a  
29 return and paying over the tax due.

30 (d) The tax collector shall collect and receive the taxes,

1 interest and penalties authorized by this section as follows:

2 (1) The tax collector shall enforce the provisions of this  
3 section and may prescribe, adopt, promulgate and enforce rules  
4 and regulations governing the administration and enforcement of  
5 the provisions of this section, including the reexamination and  
6 correction of returns and payments alleged or found to be  
7 incorrect or as to which an overpayment is claimed or found to  
8 have occurred.

9 (2) The county controller may examine the books, papers and  
10 records of any vendor in order to verify the accuracy of any  
11 return filed or ascertain the amount of the tax due. Every  
12 vendor shall give to the tax collector the means, facilities and  
13 opportunities for such examinations. The county controller may  
14 examine any person concerning the amount of tax due and to this  
15 end compel the production of books, papers and records and the  
16 attendance of all persons before him, whether as parties or  
17 witnesses, whom the county controller believes to have knowledge  
18 relating to the amount of tax due.

19 (e) The county council of a county of the second class  
20 levying a tax under this section shall provide a method of  
21 appeals for persons aggrieved by any decision of the tax  
22 collector and for review of petitions for abatement of interest  
23 and penalties, compromise and refund of taxes authorized by this  
24 section.

25 (f) (1) Any vendor who fails to pay over to the tax  
26 collector any amount of tax due on or before the last date  
27 prescribed for payment shall pay interest on such amount at the  
28 rate of one-half of one per centum per month or fraction thereof  
29 from such last date to the date paid, without regard to any  
30 extension of time for payment.

1       (2) Any vendor who fails to pay over to the tax collector  
2 any amount of tax due on or before the last date prescribed for  
3 payment shall be liable to pay a penalty of one per centum per  
4 month or fraction thereof from such last date to the date paid.

5       (3) The interest and penalties provided for in this  
6 subsection shall be added to the tax assessed and collected at  
7 the same time, in the same manner, and as part of the tax.

8       (g) The tax collector shall file an action for the recovery  
9 of all taxes due under this section and not paid when due. Any  
10 action to recover any tax, together with interest and penalties,  
11 authorized under this section from any vendor shall be begun  
12 within six years after the tax is due or within six years after  
13 a return has been filed, whichever date is later; but this  
14 limitation shall not apply:

15       (1) Where a vendor has failed to file a report required  
16 under the provisions of this section.

17       (2) Where an examination of a return filed by a vendor and  
18 of other evidence relating to the return reveals a fraudulent  
19 evasion of taxes, including, but not limited to, substantial  
20 understatement of sales at retail taxed under this section.  
21 Where suit is brought for recovery of any tax, the vendor shall  
22 be liable for, and the tax collector shall collect, in addition  
23 to the tax assessed against the vendor, the costs of such  
24 collection and the interest and penalties provided under this  
25 section.

26       (h) (1) Any vendor who wilfully makes any false or untrue  
27 statement on his return shall be guilty of a misdemeanor and,  
28 upon conviction, shall be sentenced to pay a fine of not more  
29 than three hundred dollars (\$300), or to undergo imprisonment  
30 for not more than ninety days, or both.

1       (2) Any vendor who wilfully fails or refuses to appear  
2 before the tax collector in person with his books, records or  
3 accounts for examination when required under the provisions of  
4 this section to do so, or who wilfully refuses to permit  
5 inspection of the books, records or accounts in his custody or  
6 control when the right to make such inspection by the tax  
7 collector is requested shall be guilty of a misdemeanor and,  
8 upon conviction, shall be sentenced to pay a fine of not more  
9 than three hundred dollars (\$300), or to undergo imprisonment  
10 for not more than ninety days, or both.

11       (3) Any vendor who wilfully fails or refuses to file a  
12 return required by this section or to collect and pay over to  
13 the tax collector any tax imposed under this section shall be  
14 guilty of a misdemeanor and, upon conviction, shall be sentenced  
15 to pay a fine of not more than three hundred dollars (\$300), or  
16 to undergo imprisonment for not more than ninety days, or both.

17       (i) The following terms when used in this section shall have  
18 the meanings ascribed to them in this subsection, except where  
19 the context clearly indicates or requires a different meaning:

20       "Person," any individual, limited partnership, partnership,  
21 association or corporation. Whenever used in a clause  
22 prescribing or imposing a penalty, the term "person" as applied  
23 to "limited partnership" or "partnership," shall mean the  
24 partners thereof, as applied to "association," the members  
25 thereof, and as applied to "corporation," the officers thereof,  
26 except that, as to incorporated clubs, the term "person" shall  
27 mean such individual or individuals who, under the bylaws of  
28 such clubs, have jurisdiction over the possession and sale of  
29 liquor in the club.

30       "Tax collector," the county treasurer of a county of the

1 second class.

2       Section 2. This act shall take effect July 1, 2007, or  
3 immediately, whichever is later.