

HB7303



93RD GENERAL ASSEMBLY
State of Illinois
2003 and 2004
HB7303

Introduced 5/12/2004, by Rep. Lovana Jones

SYNOPSIS AS INTRODUCED:

35 ILCS 155/2

from Ch. 120, par. 1702

Amends the Automobile Renting Occupation and Use Tax Act. In a provision that excludes from the definition of "gross receipts" certain receipts received by an automobile manufacturer or service contract provider for the use of an automobile by a person while that person's automobile is being repaired, provides that the exclusion applies whether the automobile is provided from the automobile dealer's inventory or provided by a lease from a car rental or car leasing company.

LRB093 22066 MKM 50565 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning taxes.

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 Section 2 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, whether the automobile
24 is provided from the automobile dealer's inventory or provided
25 by a lease from a car rental or car leasing company, by a
26 person while that person's automobile is being repaired by that
27 automobile dealer and the repair is made pursuant to a
28 manufacturer's warranty or a service contract where a
29 manufacturer or service contract provider reimburses that
30 automobile dealer pursuant to a manufacturer's warranty or a
31 service contract and the reimbursement is merely made to
32 recover the costs of operating the automobile as a loaner
33 vehicle.

34 "Rental price" means the consideration for renting or
35 leasing an automobile valued in money, whether received in
36 money or otherwise, including cash credits, property and

1 services, and shall be determined without any deduction on
2 account of the cost of the property rented, the cost of
3 materials used, labor or service cost, or any other expense
4 whatsoever, but does not include charges that are added by a
5 rentor on account of the rentor's tax liability under this Act
6 or on account of the rentor's duty to collect, from the rentee,
7 the tax that is imposed by Section 4 of this Act. The phrase
8 "rental price" does not include compensation paid to a rentor
9 by a rentee in consideration of the waiver by the rentor of any
10 right of action or claim against the rentee for loss or damage
11 to the automobile rented and also does not include a separately
12 stated charge for insurance or recovery of refueling costs or
13 other separately stated charges that are not for the use of
14 tangible personal property.

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