CHAPTER 31

Rental of Private Passenger Automobiles

**SECTION 56‑31‑10.** Application of chapter.

 This chapter applies to the rental of a private passenger automobile or rental vehicle from a location in this State.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

**SECTION 56‑31‑20.** Definitions.

 As used in this chapter:

 (1) "Rental company" means a person in the business of providing private passenger automobiles or rental vehicles to the public under the terms of a rental agreement.

 (2) "Renter" means a person obtaining the use of a private passenger automobile or rental vehicle from a rental company under the terms of a rental agreement.

 (3) "Rental agreement" means a written agreement setting forth the terms and conditions governing the use of a private passenger automobile or rental vehicle provided by a rental company.

 (4) "Damage" means a loss or damage to a rented vehicle or rental vehicle including the loss of use and costs and expenses incident to the damage, loss, and loss of use.

 (5) "Private passenger automobile" or " vehicle" means a private passenger motor vehicle including passenger vans and minivans that are intended primarily for the transport of persons.

 (6) "Rental vehicle" means a truck under 26,001 pounds gross vehicle weight and used in the transportation of personal property that is rented without a driver, and is not used by the customer for business purposes, or a trailer with a gross weight of not more than 6,000 pounds.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

**SECTION 56‑31‑30.** Rental rates; permitted and prohibited charges; waiver prohibited.

 (A) A rental company may advertise, quote, or charge only a rental rate that includes the entire amount, except taxes, airport fees, and a mileage charge, if any, that a renter pays to rent the vehicle or rental vehicle for the period of time to which the rate applies. Airport fees must be disclosed clearly and conspicuously in all advertisements of a rental rate for an applicable location either as a specific fee or as a range of fees. Only airport fees that are remitted to the airport management entity are permitted to be separately stated and collected. The company may charge an additional fee for an item or service provided for in the rental agreement if the charge is optional for the renter. The items and services include, but are not limited to, insurance and accessories requested by the renter unless otherwise prohibited as provided in this chapter, charges incident to the renter's optional return of the vehicle or rental vehicle to a location other than to where it was rented, and charges for refueling the vehicle or rental vehicle at the conclusion of the rental period if the renter did not return the vehicle or rental vehicle with the same amount of fuel that was in the vehicle at the beginning of the rental period. A company also may impose an additional charge based on reasonable age criteria it establishes.

 (B) If a rental company delivers a vehicle or rental vehicle to a renter at a location other than where the company normally conducts its business, the company may not charge for the rental for the time before the vehicle or rental vehicle is delivered. If the company picks up a rented vehicle or rental vehicle from a renter at a location other than the location where the company normally conducts its business, the company may not charge for the rental for the time after the rental company has been notified that the vehicle or rental vehicle is available.

 (C) If a rental company quotes a rental rate in a personal or computer communication or a print advertisement, it shall disclose the terms of mileage conditions relating to the rate including, but not limited to, the amount of mileage and fuel charges, the number of miles for which no charge is imposed, and a description of geographic driving limitations, if any.

 (D) A waiver of the requirements of the provisions of this section is unenforceable as contrary to public policy.

HISTORY: 1989 Act No. 177, Section 2; 2000 Act No. 284, Section 1; 2001 Act No. 37, Section 1.

**SECTION 56‑31‑40.** Violations; application for restraining order; penalties.

 If the Attorney General has reasonable cause to believe that a rental company has violated a provision of this chapter and that action is needed to serve the public interest, he may apply for a restraining order in the court of common pleas of Richland County. The court may grant appropriate final injunctive relief and impose a civil penalty of not more than one thousand dollars for each violation.

HISTORY: 1989 Act No. 177, Section 2; 2001 Act No. 37, Section 1.

**SECTION 56‑31‑50.** Surcharge on rental of private passenger motor vehicles for 31 days or less; use; reports; violations and penalties.

Section effective until January 1, 2017. See, also, section 56‑31‑50 effective January 1, 2017.

 (A) Rental companies engaged in the business of renting private passenger motor vehicles or rental vehicles for periods of thirty‑one days or less shall collect, at the time the vehicle or rental vehicle is rented in South Carolina, a five percent surcharge in each rental contract. For purposes of this section, a vehicle or rental vehicle is rented in South Carolina if it is picked up by the renter in South Carolina. The surcharge is a sales tax subject to the provisions of this chapter and must be computed on the total amount stated in the rental agreement, except that taxes imposed by Chapter 36 of Title 12 must not be used in computing the surcharge, and the surcharge is not subject to the taxes imposed by Chapter 36 of Title 12.

 (B) The surcharge must be noted in the rental contract and collected in accordance with the terms of the contract. The surcharges must be retained by the vehicle owner, rental vehicle owner, or the rental company engaged in the business of renting private passenger motor vehicles or rental vehicles. The surcharges must be placed in a segregated account by the vehicle owner, rental vehicle owner, or rental company once they are collected. Surcharges collected belong to the State and are not subject to creditor liens of the vehicle owner, rental vehicle owner, or rental company. Surcharges collected pursuant to this section may be used only by the vehicle owner, rental vehicle owner, or the rental company for reimbursement of the amount of personal property taxes imposed and paid upon these vehicles by the vehicle owner, rental vehicle owner, or rental company as provided by law. The collection and use of the surcharges are not gross receipts or revenue to the vehicle owner, rental vehicle owner, or rental company. A person or entity may not impose a fee, penalty, or expense on a vehicle owner, rental vehicle owner, or rental company for complying with the provisions contained in this chapter.

 (C) On February fifteenth of each year all rental companies engaged in the business of renting private passenger motor vehicles or rental vehicles which collect surcharges pursuant to this section shall file a report with the Department of Revenue stating the total amount of South Carolina personal property taxes on private passenger motor vehicles or rental vehicles paid in the previous calendar year, the total amount of private passenger motor vehicle rental or rental vehicle revenues earned on rentals in South Carolina for the previous calendar year, and the amount by which the total amount of the surcharges for the previous year exceeds the total amount of personal property taxes on private passenger motor vehicles or rental vehicles paid for the previous calendar year. All surcharge revenues collected in excess of the total amount of personal property taxes on private passenger motor vehicles or rental vehicles must be remitted to the Department of Revenue's office for deposit in the state general fund.

 (D) Any rental company which makes a false report to the Department of Revenue with the intent to misrepresent the amount of personal property taxes on private passenger motor vehicles or rental vehicles paid or the amount of surcharges collected is guilty of a misdemeanor and, upon conviction, must be punished by a fine not exceeding one thousand dollars or by a term of imprisonment not exceeding one year, or both. Each violation constitutes a separate offense.

HISTORY: 1992 Act No. 501, Part II Section 69A; 1993 Act No. 181, Section 1502; 1996 Act No. 333, Section 1; 1996 Act No. 459, Section 245; 1997 Act No. 114, Section 10; 2001 Act No. 37, Section 1.

**SECTION 56‑31‑50.** Motor vehicle rental fees; definitions; good faith estimates; disclosures; excess fees; taxes.

Section effective January 1, 2017. See, also, section 56‑31‑50 effective until January 1, 2017.

 (A) As used in this section:

 (1) "Motor vehicle rental company" means an individual or business entity whose business activity is renting motor vehicles to consumers under rental agreements for periods of ninety days or less.

 (2) "Vehicle license fee" means a charge that may be separately stated and charged on the rental contract in a vehicle rental transaction originating in this State to recover the motor vehicle rental company's costs incurred for:

 (a) licensing, titling, registering, plating, and inspecting of its rental vehicles; and

 (b) taxes paid in connection with registering its rental vehicles.

 (B) Rental companies engaged in the business of renting vehicles for periods of ninety days or less may charge, at the time the vehicle or rental vehicle is rented in South Carolina, separately stated fees which may include, but must not be limited to, vehicle license fees, airport access fees, airport concession fees, and all applicable taxes. For purposes of this section, a vehicle or rental vehicle is rented in South Carolina if it is picked up by the renter in South Carolina.

 (C) If a motor vehicle rental company includes a vehicle license fee for a rental transaction disclosed on the rental agreement, the amount of the charge must represent the good faith estimate by the motor vehicle rental company of its daily charge calculated to recover its actual total annual recoverable costs, pursuant to subsection (A)(2), on its rental motor vehicle fleet for the corresponding calendar year.

 (D)(1) If the total amount of the vehicle license fees collected by a motor vehicle rental company pursuant to this section in any calendar year exceeds the actual costs of the car rental company, as allowed under subsection (A)(2), for that calendar year, the car rental company shall:

 (a) retain the excess amount; and

 (b) adjust the estimated average per vehicle charge for the following calendar year by a corresponding amount.

 (2) Nothing in this section may prevent a motor vehicle rental company from making adjustments to a vehicle license fee per vehicle charge during the calendar year to reflect interim developments affecting the motor vehicle rental company's prior estimated per vehicle fee for that calendar year.

 (E)(1) If a motor vehicle rental company charges a vehicle license fee, the amount of the fee must be:

 (a) disclosed at the time of reservation and as part of any estimated pricing provided to the renter; and

 (b) shown as a separately itemized charge on the rental agreement.

 (2) The vehicle license fee must be described in the terms and conditions of the rental agreement as the estimated average per day portion of the motor vehicle company's costs incurred for:

 (a) licensing, titling, registering, plating, and inspecting its rental vehicles; and

 (b) taxes paid in connection with registering its rental vehicles.

 (F) The vehicle license fee authorized by this section is subject to state and local sales and use tax in the manner and to the same extent as the fee charged for the lease or rental of the rental vehicle.

HISTORY: 1992 Act No. 501, Part II Section 69A; 1993 Act No. 181, Section 1502; 1996 Act No. 333, Section 1; 1996 Act No. 459, Section 245; 1997 Act No. 114, Section 10; 2001 Act No. 37, Section 1; 2016 Act No. 224 (H.3891), Section 1, eff January 1, 2017.

Effect of Amendment

2016 Act No. 224, Section 1, rewrote the section, adding definitions, deleting existing surcharge provisions and instead providing that rental companies engaged in the business of renting vehicles for periods of ninety days or less may charge certain motor vehicle license fees, providing that fees charged must represent good faith estimates by motor vehicle rental companies of their daily charges calculated to recover their actual total annual recoverable costs, providing requirements for when vehicle license fees annually collected by motor vehicle rental companies exceed the actual annual costs, imposing disclosure requirements in rental agreements, and subjecting these vehicle license fees to certain sales and use taxes.

**SECTION 56‑31‑60.** Heavy equipment rental fees; definitions; applicability and exemptions; tax exemption.

Section effective January 1, 2017.

 (A) As used in this section:

 (1) "Qualified heavy equipment property" means any construction, earthmoving, or industrial equipment that is mobile and rented by a qualified renter, including attachments for the equipment or other ancillary equipment or tools. Qualified heavy equipment property is mobile if it is not permanently affixed to real property and is moved amongst worksites.

 (2) "Qualified renter" means a renter:

 (i) whose primary business is renting out qualified heavy equipment property. Primary business means over fifty‑one percent of the annual revenue of the business in any given year; and

 (ii) that is engaged in a line of business described in Code 532412 or 532310 of the North American Industry Classification System published by the U.S. Census Bureau, 2012 edition.

 (3) "Qualified rental" means qualified heavy equipment property rented for three hundred sixty‑five days or less, qualified heavy equipment property rented pursuant to an open‑ended contract, or qualified heavy equipment property rented via a contract without a specified time period.

 (4) "Rental price" means the amount of the charge for renting the qualified heavy equipment, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental fees, sales tax, or any other ancillary charge.

 (B)(1) Except as provided in subsection (2), a person or company in the business of renting qualified heavy equipment property located in this State shall include on the rental invoice a two and one‑half percent heavy equipment rental fee on the rental price for any item of qualified heavy equipment property rented to a customer by a qualified renter. The total amount of the heavy equipment rental fee collected shall be remitted to the state Department of Revenue on a quarterly basis. The Department of Revenue shall distribute the remitted fee to the local jurisdiction where the qualified heavy equipment was rented. The local jurisdiction shall distribute the received funds in the same manner as the personal property tax is distributed.

 (2) Notwithstanding subsection (1), the heavy equipment rental fee shall not apply to the rental of heavy equipment property directly rented to the federal government, the State, or any political subdivision of the State. There are no other exemptions from this fee.

 (3) The heavy equipment rental fee shall be levied on all qualified rentals.

 (4) Qualified heavy equipment property subject to the heavy equipment rental fee is exempt from personal property tax.

 (5) The Department of Revenue may promulgate regulations relating to the administration and enforcement of this section.

 (C) The heavy equipment rental fee applies to all qualified rentals made from a rental location in South Carolina where the customer picks up the equipment, or all qualified rentals from a rental location in the State where the qualified heavy equipment property is delivered in the State. The heavy equipment rental fee does not apply to rentals made from a rental location in the State and delivered outside the State.

 (D) The heavy equipment rental fee is not subject to state or local sales tax.

HISTORY: 2016 Act No. 224 (H.3891), Section 2, eff January 1, 2017.