**South Carolina General Assembly**

121st Session, 2015-2016

**A224, R256, H3891**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Toole, Long, Bedingfield, J.E. Smith, Anderson, Forrester, Rutherford and Sandifer

Document Path: l:\council\bills\agm\18557ab15.docx

Introduced in the House on March 24, 2015

Introduced in the Senate on May 4, 2015

Last Amended on May 11, 2016

Passed by the General Assembly on June 1, 2016

Governor's Action: June 3, 2016, Signed

Summary: Surcharges on passenger motor vehicles

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 3/24/2015 House Introduced and read first time ([House Journal‑page 14](file:///h%3A%5CHJ%20Archive%5C2015%5C03-24-15.docx))

 3/24/2015 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 14](file:///h%3A%5CHJ%20Archive%5C2015%5C03-24-15.docx))

 4/23/2015 House Committee report: Favorable **Labor, Commerce and Industry** ([House Journal‑page 12](file:///h%3A%5CHJ%20Archive%5C2015%5C04-23-15.docx))

 4/29/2015 House Requests for debate‑Rep(s). GR Smith ([House Journal‑page 37](file:///h%3A%5CHJ%20Archive%5C2015%5C04-29-15.docx))

 4/29/2015 House Read second time ([House Journal‑page 39](file:///h%3A%5CHJ%20Archive%5C2015%5C04-29-15.docx))

 4/29/2015 House Roll call Yeas‑102 Nays‑0 ([House Journal‑page 39](file:///h%3A%5CHJ%20Archive%5C2015%5C04-29-15.docx))

 4/30/2015 House Read third time and sent to Senate ([House Journal‑page 7](file:///h%3A%5CHJ%20Archive%5C2015%5C04-30-15.docx))

 5/4/2015 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2015%5C05-04-15.docx))

 5/4/2015 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2015%5C05-04-15.docx))

 4/14/2016 Senate Committee report: Favorable with amendment **Transportation** ([Senate Journal‑page 8](file:///h%3A%5CSJ%20Archive%5C2016%5C04-14-16.docx))

 4/15/2016 Scrivener's error corrected

 5/11/2016 Senate Committee Amendment Adopted ([Senate Journal‑page 31](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/11/2016 Senate Read second time ([Senate Journal‑page 31](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/11/2016 Senate Roll call Ayes‑36 Nays‑5 ([Senate Journal‑page 31](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/12/2016 Scrivener's error corrected

 5/17/2016 Senate Read third time and returned to House with amendments ([Senate Journal‑page 15](file:///h%3A%5CSJ%20Archive%5C2016%5C05-17-16.docx))

 5/19/2016 House Debate adjourned until Tues., 5‑24‑16 ([House Journal‑page 101](file:///h%3A%5CHJ%20Archive%5C2016%5C05-19-16.docx))

 5/26/2016 House Debate adjourned until Tues., 5‑31‑16 ([House Journal‑page 40](file:///h%3A%5CHJ%20Archive%5C2016%5C05-26-16.docx))

 5/31/2016 House Debate adjourned until Wed., 6‑1‑16 ([House Journal‑page 21](file:///h%3A%5CHJ%20Archive%5C2016%5C05-31-16.docx))

 6/1/2016 House Concurred in Senate amendment and enrolled ([House Journal‑page 81](file:///h%3A%5CHJ%20Archive%5C2016%5C06-01-16.docx))

 6/1/2016 House Roll call Yeas‑95 Nays‑0 ([House Journal‑page 82](file:///h%3A%5CHJ%20Archive%5C2016%5C06-01-16.docx))

 6/2/2016 Ratified R 256

 6/3/2016 Signed By Governor

 6/9/2016 Effective date 01/01/17

 6/9/2016 Act No. 224

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=3891&session=121&summary=B) at the website

**VERSIONS OF THIS BILL**

[3/24/2015](file:///p%3A%5Cpprever%5C2015-16%5C3891_20150324.docx)

[4/23/2015](file:///p%3A%5Cpprever%5C2015-16%5C3891_20150423.docx)

[4/14/2016](file:///p%3A%5Cpprever%5C2015-16%5C3891_20160414.docx)

[4/15/2016](file:///p%3A%5Cpprever%5C2015-16%5C3891_20160415.docx)

[5/11/2016](file:///p%3A%5Cpprever%5C2015-16%5C3891_20160511.docx)

[5/12/2016](file:///p%3A%5Cpprever%5C2015-16%5C3891_20160512.docx)

(A224, R256, H3891)

**AN ACT** **TO AMEND SECTION 56‑31‑50, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SURCHARGES ON RENTAL OR PRIVATE PASSENGER MOTOR VEHICLES FOR THIRTY‑ONE DAYS OR LESS, SO AS TO DEFINE NECESSARY TERMS, TO DELETE EXISTING SURCHARGE PROVISIONS AND INSTEAD PROVIDE RENTAL COMPANIES ENGAGED IN THE BUSINESS OF RENTING VEHICLES FOR PERIODS OF NINETY DAYS OR LESS MAY CHARGE CERTAIN MOTOR VEHICLE LICENSE FEES, TO PROVIDE 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, TO PROVIDE REQUIREMENTS FOR WHEN VEHICLE LICENSE FEES ANNUALLY COLLECTED BY MOTOR VEHICLE RENTAL COMPANIES EXCEED THE ACTUAL ANNUAL COSTS, TO IMPOSE DISCLOSURE REQUIREMENTS IN RENTAL AGREEMENTS, AND TO SUBJECT THESE VEHICLE LICENSE FEES TO CERTAIN SALES AND USE TAXES; BY ADDING SECTION 56‑31‑60 SO AS TO PROVIDE MANDATORY RENTAL FEES FOR QUALIFIED HEAVY EQUIPMENT, TO PROVIDE EXCEPTIONS, TO DEFINE NECESSARY TERMS, AND TO EXEMPT QUALIFIED HEAVY DUTY PROPERTY EQUIPMENT SUBJECT TO HEAVY EQUIPMENT RENTAL FEES FROM PERSONAL PROPERTY TAXES; AND TO REPEAL SECTION 12‑37‑717 RELATING TO SURCHARGES ON HEAVY EQUIPMENT RENTAL CONTRACTS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Motor vehicle rental fees, definitions, good faith estimates, disclosures, excess fees, taxes**

SECTION 1. Section 56‑31‑50 of the 1976 Code is amended to read:

 “Section 56‑31‑50. (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.”

**Heavy equipment rental fees, definitions, applicability and exemptions, tax exemption**

SECTION 2. Chapter 31, Title 56 of the 1976 Code is amended by adding:

 “Section 56‑31‑60. (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 51 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.”

**Repeal**

SECTION 3. Section 12‑37‑717 of the 1976 Code is repealed.

**Time effective**

SECTION 4. This act takes effect on January 1, 2017.

Ratified the 2nd day of June, 2016.

Approved the 3rd day of June, 2016.

\_\_\_\_\_\_\_\_\_\_