

By Mr. Havern, petition (accompanied by bill, Senate, No. 1308) of Robert A. Havern for legislation relative to imposing a gross receipts tax on leased vehicles. Taxation.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Three.

AN ACT RELATIVE TO IMPOSING A GROSS RECEIPTS TAX ON LEASED VEHICLES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 60A of the General Laws as most
2 recently amended by Section 1 of Chapter 336 of the Acts of 1990
3 is hereby further amended by addition a new section: —

4 Section 8. The provisions of this Chapter are inapplicable to
5 vehicles declared to be part of a vehicle fleet of at least five vehicles
6 used primarily as a short-term rental vehicle, that each term of
7 rental or lease will not exceed 31 days, registered in this
8 Commonwealth.

1 SECTION 2. The General Laws are hereby amended by
2 inserting after 60B the following Chapter.

3 **Chapter 60C.**

4 **Gross Receipts on Leased Vehicles.**

5 Section 1. Definitions. As used in the following chapter the
6 following words shall have the following meanings:

7 a) "collector or tax collector", the taxation and revenue section
8 of any city, town or municipality exercising lawful authority
9 delegated to that municipality, city or town to collect taxes such
10 as the motor vehicle excise tax.

11 b) "engaging in business" carrying on or causing to be carried
12 on the leasing of vehicles with the purpose of direct or indirect
13 benefit.

14 c) "gross receipts", the total amount of money or the value or
15 other consideration received from leasing vehicles used in the
16 Commonwealth but excludes cash discounts allowed and taken
17 and leased vehicles gross receipts tax payable on transactions for
18 the reporting period. In an exchange which the money or other
19 consideration received does not represent the value of the lease
20 of the vehicle gross receipts means the reasonable value of the lease
21 of the vehicle. When the leasing of vehicles is made under a leasing
22 contract the seller or lessor may elect to treat all receipts under
23 those contracts as gross receipts as and when the payments are
24 actually received. Gross receipts also include amounts paid by
25 members of any cooperative association or any similar
26 organization for the lease of vehicles by that organization.

27 d) "leasing", any arrangement whereby for consideration a
28 vehicle without a driver furnished by the lessor or owner is
29 employed for or by any person other than the owner of the vehicle
30 for a period of not more than 31 days.

31 e) "person", any individual, estate, trust, receiver, cooperative,
32 association, club, organization, corporation, company, firm,
33 partnership, joint venture, syndicate or other entity.

34 f) "vehicle", a passenger automobile designed to accommodate
35 six or fewer adult human beings that is part of a fleet of five or
36 more passenger automobiles owned by the same person or entity.

1 SECTION 3. An excise tax equal to 5% (five percent) of gross
2 receipts per vehicle is hereby imposed on any person engaging in
3 business in the Commonwealth. The tax imposed by this section
4 shall be referred to as the "Leased Vehicle Gross Receipts Tax".
5 It shall be presumed that receipts of a person engaging in business
6 are subject to the leased vehicle gross receipts tax. A report shall
7 be prepared quarterly in a form prescribed by the Department of
8 Revenue subject to the provisions of Section 6.

1 SECTION 4. Gross receipts taxes collected shall be used only
2 by the vehicle owner or rental company for reimbursement of the
3 total of excise taxes normally due and payable under the
4 provisions of Chapter 60A and said taxes shall be apportioned
5 under the terms of said chapter. Once the total amount of the gross

6 receipts tax exceeds the amounts normally due and payable under
7 the provisions of Chapter 60A for the excise tax, the total amount
8 of the excess shall be remitted to the General Fund.

1 SECTION 5. When the leased vehicle gross receipts tax is
2 stated separately on the books of the lessor and if the total amount
3 of tax that is stated separately on transactions reportable without
4 one reporting period is in excess of the amount of leased vehicle
5 gross receipts tax otherwise payable on transactions on which the
6 tax was separately stated, the excess amount of tax stated on the
7 transactions within the reporting period shall be included in gross
8 receipts, however, receipts represented by allowances granted for
9 vehicle trade-ins may be deducted from gross receipts. When the
10 leasing of vehicles is made under a leasing contract the lessor may
11 elect to treat all receipts under those contracts as gross receipts
12 as and when the payments are actually received.

1 SECTION 6. The tax shall be due the end of the month
2 following the end of each calendar quarter and calculation of said
3 tax shall be on a form prescribed by the Department of Revenue.
4 The report shall show for each vehicle owned at the end of the
5 calendar quarter for which payment of the gross receipts tax is
6 due: a) the date upon which a certificate of title was issued by
7 the Registry of Motor Vehicles b) the amount of leased vehicle
8 gross receipts tax due, the cumulative amount of gross vehicle
9 receipts tax applicable to such vehicles and any other information
10 that the Department of Revenue shall require.

1 SECTION 7. The receipts from the leasing by the owners of
2 vehicles that are acquired by the owner prior to January 1, 1993,
3 with respect to with excise tax pursuant to Chapter 60A was paid,
4 and a Certificate of Title issued, prior January 1, 1993, are exempt
5 from the tax imposed by this act.

1 SECTION 8. The tax collector for the cities and towns in
2 which the motor vehicles are rented shall administer and enforce
3 the collection of the leased vehicle gross receipts tax subject to
4 regulations set forth by the Department of Revenue.

1 SECTION 9. Receipts for transactions in interstate commerce
2 may be deducted from gross receipts to the extent that the
3 imposition of the leased vehicle gross receipts tax would be
4 unlawful under law.

1 SECTION 10. The Department of Revenue shall administer
2 and the Tax Collector shall enforce the collection of sums due
3 under this chapter and interest shall accrue at the rate of twelve
4 percent per annum on amounts subsequently found to be due and
5 payable upon audit of the Department of Revenue from the time
6 said tax was due and payable until paid. The provisions of
7 Chapter 62C shall apply to the gross receipts tax assessed by the
8 commissioner and where conflicting the provisions of this chapter
9 shall apply. In collection of the "gross receipts tax" the tax
10 collectors shall have all of the remedies provided in Chapter 60.

1 SECTION 11. The effective date of the provision of this act
2 is January 1, 1993.