

From: Mottel, Haley <HaleyMottel@gov.sc.gov>
To: Soura, Christian <ChristianSoura@gov.sc.gov>
Date: 4/2/2014 3:13:59 PM
Subject: FW: Cleary Amendment

Senator CLEARY proposed the following amendment (3412R048.REC):

Amend the committee amendment, as and if amended, by striking the committee amendment in its entirety and inserting:

/ SECTION 1. A. Section 12-36-2110(A) of the 1976 Code is amended to read:

"Section 12-36-2110. (A) The maximum tax imposed by this chapter is three hundred dollars for each sale made after June 30, 1984, or lease executed after August 31, 1985, of each:

- (1) aircraft, including unassembled aircraft which is to be assembled by the purchaser, but not items to be added to the unassembled aircraft;
- (2) motor vehicle;
- (3) motorcycle;
- (4)(2) boat;
- (5)(3) trailer or semitrailer, pulled by a truck tractor, as defined in Section 56-3-20, and horse trailers, but not including house trailers or campers as defined in Section 56-3-710 or a fire safety education trailer;
- (6) recreational vehicle, including tent campers, travel trailer, park model, park trailer, motor home, and fifth wheel; or
- (7)(4) self-propelled light construction equipment with compatible attachments limited to a maximum of one hundred sixty net engine horsepower.

In the case of a lease, the total tax rate required by law applies on each payment until the total tax paid equals three hundred dollars. Nothing in this section prohibits a taxpayer from paying the total tax due at the time of execution of the lease, or with any payment under the lease. To qualify for the tax limitation provided by this section, a lease must be in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days."

B. Section 12-36-2120 of the 1976 Code is amended by adding an appropriately numbered new items to read:

"() sales of motor vehicles, motorcycles, and recreational vehicles, including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels;

() leases of motor vehicles, motorcycles, and recreational vehicles, including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels that are in writing and specifically state the term of, and remain in force for, a period in excess of ninety continuous days;"

C. Section 12-36-1710 of the 1976 Code is amended to read:

"Section 12-36-1710. (A) In addition to all other fees prescribed by law there is imposed an excise tax for the issuance of every certificate of title, or other proof of ownership, for every motor vehicle, motorcycle, boat, motor, or airplane, required to be registered, titled, or licensed. The tax is five percent of the fair market value of the motor vehicle, motorcycle, airplane, boat, and motor.

(B) Excluded from the tax are:

- (1) motor vehicles, motorcycles, boats, motors, or airplanes:
 - (a) transferred to members of the immediate family;
 - (b) transferred to a legal heir, legatee, or distributee;
 - (c) transferred from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;
 - (d) transferred to a licensed motor vehicle or motorcycle dealer for the purpose of resale;
 - (e) transferred to a financial institution for the purpose of resale;
 - (f) transferred as a result of repossession to any other secured party, for the purpose of resale;
- (2) the fair market value of a motor vehicle, motorcycle, boat, motor, or airplane, transferred to the seller or secured party in partial payment;
- (3) gross proceeds of transfers of motor vehicles, motorcycles, or airplanes specifically exempted by Section 12-36-2120 from the sales or use tax;
- (4) motor vehicles, motorcycles, boats, motors, or airplanes, where a sales or use tax has been paid on the transaction necessitating the transfer.

(C) 'Fair market value' means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(D) 'Total purchase price' means the price of a motor vehicle, motorcycle, boat, motor, or airplane agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

(E) 'Immediate family' means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(F) The department shall require every applicant for a certificate of title to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the excise tax is based upon total purchase price as defined in this section, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

(G) The Department of Motor Vehicles and the Division of Aeronautics of the Department of Commerce Budget and Control Board may not issue a license or transfer of title without first procuring from the Department of Revenue information showing that the excise tax has been collected. The Department of Natural Resources may not license any boat or register any motor without first procuring from the Department of Revenue

information showing that the excise tax has been collected."

D. Section 12-36-150 of the 1976 Code is amended to read:

"Section 12-36-150. 'Transient construction property' means motor vehicles, machines, machinery, tools, or other equipment, other tangible personal property brought, imported, or caused to be brought into this State for use, or stored for use, in constructing, building, or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, railway system, reservoir or dam, power plant, pipeline, transmission line, tower, dock, wharf, excavation, grading or other improvement or structure, or any part of it."

E. Section 12-36-930(A) of the 1976 Code is amended to read:

"Section 12-36-930. (A) The tax imposed by this article on sales of motor vehicles, as defined in Section 56-1-10, trailers, semitrailers, or pole trailers of a type to be registered and licensed, to a resident of another state, is the lesser of:

- (1) an amount equal to the sales tax, which would be imposed in the purchasers state of residence, or
- (2) the tax that would be imposed under this chapter."

F. Sections 12-36-90(1)(c)(v), 12-36-90(2)(e), and 12-36-110(1)(c)(v) are repealed.

G. Chapter 3, Title 56 of the 1976 Code is amended by adding:

"Section 56-3-450. (A) For the purposes of this section, 'recreational vehicle' shall include, but is not limited to tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels.

(B)(1) A person registering a motor vehicle, motorcycle, or recreational vehicle must pay an initial road impact registration fee equal to five percent of the gross proceeds of the sale of the motor vehicle, not to exceed three hundred dollars. The initial road impact registration fee shall not be collected on renewals of registration as required by law.

(2) In the case of a lease, a person registering the motor vehicle, motorcycle, or recreational vehicle must pay an initial road impact registration fee equal to five percent of the gross proceeds of the lease, not to exceed three hundred dollars.

(C)(1) Except for a person subject to the provisions contained in subsection (B), there is imposed a proof of ownership road maintenance fee for the issuance of every certificate of title, or other proof of ownership, for every motor vehicle, motorcycle, or recreational vehicle. The fee is equal to five percent of the fair market value of the motor vehicle, not to exceed three hundred dollars.

(2) Excluded from the fee are:

(a) motor vehicles, motorcycles, and recreational vehicles, including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels:

- (i) transferred to members of the immediate family;
- (ii) transferred to a legal heir, legatee, or distributee;
- (iii) transferred from an individual to a partnership upon formation of a partnership, or from a stockholder to a corporation upon formation of a corporation;
- (iv) transferred to a licensed motor vehicle or motorcycle dealer for the purpose of resale;
- (v) transferred to a financial institution for the purpose of resale;
- (vi) transferred as a result of repossession to any other secured party, for the purpose of resale;

(b) the fair market value of a motor vehicle, motor cycle, or recreational vehicle transferred to the seller or secured party in partial payment.

(3) For the purposes of this subsection:

(a) 'Fair market value' means the total purchase price less any trade-in, or the valuation shown in a national publication of used values adopted by the department, less any trade-in.

(b) 'Total purchase price' means the price of a motor vehicle, motorcycle, or recreational vehicle agreed upon by the buyer and seller with an allowance for a trade-in, if applicable.

(c) 'Immediate family' means spouse, parents, children, sisters, brothers, grandparents, and grandchildren.

(4) The department shall require every applicant for a certificate of title, or other proof of title, to supply information it considers necessary as to the time of purchase, the purchase price, and other information relative to the determination of fair market value. If the fee is based upon total purchase price as defined in this section, the department shall require a submission of a bill of sale and the signature of the owner subject to the perjury statutes of this State.

(5) The fees contained in this section apply only to the last sale before the application for title.

(D)(1) Upon the sale of a motor vehicle, motorcycle, or recreational vehicle to a resident of another state, the seller must collect from the purchaser a transfer fee equal to the lesser of:

- (a) an amount equal to a similar fee or tax on the transaction, which would be imposed in the purchasers state of residence, or
- (b) the initial road impact registration fee that would be imposed under this section.

(2) At the time of the sale, the seller shall:

(a) obtain from the purchaser a notarized statement of the purchasers intent to license the motor vehicle, motorcycle, or recreational vehicle, including tent campers, travel trailers, park models, park trailers, motor homes, and fifth wheels, within ten days, in the purchasers state of residence; and

(b) retain a signed copy of the notarized statement. The purchaser shall give a copy to the appropriate agency of the purchasers state of residence.

(3) No fee is due if a nonresident will not receive credit in his state of residence for the fee paid to this State under this section.

(E) Beginning with Fiscal Year 2015-16, the revenue generated pursuant to this section shall be credited to:

(1) the South Carolina Education Improvement Act Fund, an amount that shall not exceed the amount that the South Carolina Education Improvement Act Fund recieved in Fiscal Year 2013 - 2014 from the sale of transportation devices that were subject to the provisions of Section 12-36-2110; and

(2) the remainder of the revenue generated after the South Carolina Education Improvement Act fund has recieved the proper amount of revenue shall be distributed to the Department of Transportation. Upon receiving the revenue distribution pursuant to this item, the Department of

Transportation shall transfer fifty percent of that revenue to the South Carolina State Transportation Infrastructure Bank. Revenue transferred to the bank pursuant to this item may not be used for projects approved by the bank before July 1, 2013. The bank shall submit all projects proposed to be financed by revenue generated pursuant to this section to the Joint Bond Review Committee as provided in Section 11-43-180, prior to approving a project for financing. The other fifty percent of the revenue transferred to the department pursuant to this item shall be retained by the department and credited to the State Non-Federal Aid Highway Fund to be used exclusively for highway, road, and bridge maintenance, construction, and repair.

H. This SECTION takes effect on July 1, 2015.

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. The General Assembly finds that the sections presented in this act constitute one subject as required by Article III, Section 17 of the South Carolina Constitution, in particular finding that each change and each topic relates directly to or in conjunction with other sections to the subject of directing additional funding for transportation infrastructure projects as clearly enumerated in the title.

The General Assembly further finds that a common purpose or relationship exists among the sections, representing a potential plurality but not disunity of topics, notwithstanding that reasonable minds might differ in identifying more than one topic contained in the act.

SECTION 4. This act takes effect upon approval of the Governor. /

From: Mottel, Haley
Sent: Wednesday, April 02, 2014 3:11 PM
To: Soura, Christian
Subject: Cleary Amendment

Christian,

I have attached Sen. Cleary's amendment for your review.

Thank you,
Haley

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