

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 537*

Short Title: Alt. Hwy Use Tax Vehicle Subscriptions. (Public)

Sponsors: Representatives Conrad, Howard, Setzer, and D. Hall (Primary Sponsors).
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Referred to: Transportation, if favorable, Finance, if favorable, Rules, Calendar, and
Operations of the House

April 3, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE THE ALTERNATE HIGHWAY USE TAX ON VEHICLE
3 SUBSCRIPTIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 105-187.1 reads as rewritten:

6 **"§ 105-187.1. Definitions.**

7 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

8 ...

9 (3) Long-term lease or rental. – A lease or rental made under a written agreement
10 to lease or rent ~~property~~ a single motor vehicle to the same person for a period
11 of at least 365 continuous days.

12 ...

13 (3c) Limited possession commitment. – Long-term lease or rental, short-term lease
14 or rental, and vehicle subscriptions.

15 ...

16 (6) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the
17 business of selling, leasing, ~~or renting~~ renting, or offering vehicle
18 subscriptions for motor vehicles.

19 (7) Short-term lease or rental. – A lease or rental of a motor vehicle or motor
20 vehicles, including a vehicle sharing service, that is not a long-term lease or
21 ~~rental~~ rental or a vehicle subscription.

22 (8) Vehicle sharing service. – A service for which a person pays a membership
23 fee for the right to use a motor vehicle or motor vehicles upon payment of an
24 additional time-based or mileage-based fee.

25 (9) Vehicle subscription. – A written agreement that grants a person the right to
26 use and exchange motor vehicles owned, directly or indirectly, by the person
27 offering the agreement upon payment of a subscription fee, but it does not
28 include a vehicle sharing service. The subscription fee must provide a person
29 exclusive use of an agreed upon number of motor vehicles at any given time
30 during the full term of the subscription."

31 **SECTION 2.** G.S. 105-187.5 reads as rewritten:

32 **"§ 105-187.5. Alternate tax for ~~those who rent or lease motor vehicles~~ a limited possession**
33 **commitment.**



(a) Election. – A retailer may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by the retailer for ~~lease or rental~~ a limited possession commitment. A retailer who makes this election shall pay a tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of the vehicle. The portion of a ~~lease or rental~~ limited possession commitment billing or payment that represents any amount applicable to the sales price of a service contract as defined in G.S. 105-164.3 should not be included in the gross receipts subject to the tax imposed by this Article. The charge must be separately stated on documentation given to the purchaser at the time the ~~lease or rental~~ limited possession commitment agreement goes into effect, or on the monthly billing statement or other documentation given to the purchaser. When a ~~lease or rental~~ limited possession commitment contract is sold to another retailer, the seller of the ~~lease or rental~~ limited possession commitment contract should provide to the purchaser of the ~~lease or rental~~ limited possession commitment contract the documentation showing that the service contract and applicable sales taxes were separately stated at the time the ~~lease or rental~~ limited possession commitment went into effect and the new retailer must retain the information to support an allocation for tax computed on the gross receipts subject to highway use tax. Like the tax imposed by G.S. 105-187.3, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the ~~lease or rental price~~ limited possession commitment of a motor vehicle and thereby be paid by the person who leases or rents the vehicle.

(b) Rate. – The ~~applicable tax rate~~ rates on the gross receipts from the ~~short term lease or rental of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the long term lease or rental of a motor vehicle is three percent (3%).~~ a limited possession commitment are as listed in this subsection. Gross receipts does not include the amount of any allowance given for a motor vehicle taken in trade as a partial payment on the ~~lease or rental~~ limited possession commitment price. The maximum tax in G.S. 105-187.3(a1) on certain motor vehicles applies to a continuous ~~lease or rental~~ limited possession commitment of such a motor vehicle to the same person. The applicable tax rates are as follows:

<u>Type of Limited Possession Commitment</u>	<u>Tax Rate</u>
<u>Short-term lease or rental</u>	<u>8%</u>
<u>Vehicle subscription</u>	<u>5%</u>
<u>Long-term lease or rental</u>	<u>3%</u>

(c) Method. – A retailer who elects to pay tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of a motor vehicle shall make this election when applying for a certificate of title for the vehicle. To make the election, the retailer shall complete a form provided by the Division giving information needed to collect the alternate tax based on gross receipts. Once made, an election is irrevocable.

(d) Administration. – The Division shall notify the Secretary of Revenue of a retailer who makes the election under this section. A retailer who makes this election shall report and remit to the Secretary the tax on the gross receipts of the ~~lease or rental~~ limited possession commitment of the motor vehicle. The Secretary shall administer the tax imposed by this section on gross receipts in the same manner as the tax levied under G.S. 105-164.4(a)(2). The administrative provisions and powers of the Secretary that apply to the tax levied under G.S. 105-164.4(a)(2) apply to the tax imposed by this section. In addition, the Division may request the Secretary to audit a retailer who elects to pay tax on gross receipts under this section. When the Secretary conducts an audit at the request of the Division, the Division shall reimburse the Secretary for the cost of the audit, as determined by the Secretary. In conducting an audit of a retailer under this section, the Secretary may audit any sales of motor vehicles made by the retailer."

SECTION 3. G.S. 105-187.9 reads as rewritten:

"§ 105-187.9. Disposition of tax proceeds.

(a) Distribution. – Of the taxes collected under this Article at the rate of five percent (5%) and eight percent (8%), the sum of ten million dollars (\$10,000,000) shall be credited annually

1 to the Highway Fund, and the remainder shall be credited to the General Fund. Taxes collected
2 under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway
3 Trust Fund.

4"

5 **SECTION 4.** G.S. 105-550(6) reads as rewritten:

6 "(6) Short-term lease or rental. – ~~A lease or rental that is not a long-term lease or~~
7 ~~rental.~~ Defined in G.S. 105-187.1."

8 **SECTION 5.** G.S. 153A-156 reads as rewritten:

9 **"§ 153A-156. Gross receipts tax on short-term leases or rentals.**

10 ...

11 (e) The following definitions apply in this section:

12 (1) Short-term lease or rental. – Defined in ~~G.S. 105-187.1(4);~~ G.S. 105-187.1.

13"

14 **SECTION 6.** This act becomes effective October 1, 2019, and applies to vehicle
15 subscription agreements entered into on or after that date.