

# HB0852



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB0852

Introduced 2/10/2021, by Rep. Michael J. Zalewski

### SYNOPSIS AS INTRODUCED:

35 ILCS 525/10-5  
35 ILCS 525/10-20

Amends the Parking Excise Tax Act. Removes provisions from the Act providing that a booking intermediary is not considered an operator. Provides that separately stated charges that are not optional are presumed to be part of the purchase price unless proven otherwise. Provides that the tax does not apply to: (1) parking in a lot or garage that is owned or operated by a federal, State, or local government entity if the purchase price does not exceed a stated amount; or (2) if the purchase price is paid by any federal, State, or local government entity. Effective immediately.

LRB102 10258 HLH 15584 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

1 AN ACT concerning revenue.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Parking Excise Tax Act is amended by  
5 changing Sections 10-5 and 10-20 as follows:

6 (35 ILCS 525/10-5)

7 Sec. 10-5. Definitions.

8 ~~"Booking intermediary" means any person or entity that~~  
9 ~~facilitates the processing and fulfillment of reservation~~  
10 ~~transactions between an operator and a person or entity~~  
11 ~~desiring parking in a parking lot or garage of that operator.~~

12 ~~"Charge or fee paid for parking" means the gross amount of~~  
13 ~~consideration for the use or privilege of parking a motor~~  
14 ~~vehicle in or upon any parking lot or garage in the State,~~  
15 ~~collected by an operator and valued in money, whether received~~  
16 ~~in money or otherwise, including cash, credits, property, and~~  
17 ~~services, determined without any deduction for costs or~~  
18 ~~expenses, but not including charges that are added to the~~  
19 ~~charge or fee on account of the tax imposed by this Act or on~~  
20 ~~account of any other tax imposed on the charge or fee. "Charge~~  
21 ~~or fee paid for parking" excludes separately stated charges~~  
22 ~~not for the use or privilege of parking and excludes amounts~~  
23 ~~retained by or paid to a booking intermediary for services~~

1 ~~provided by the booking intermediary. If any separately stated~~  
2 ~~charge is not optional, it shall be presumed that it is part of~~  
3 ~~the charge for the use or privilege or parking.~~

4 "Department" means the Department of Revenue.

5 "Operator" means any person who engages in the business of  
6 operating a parking area or garage, or who, directly or  
7 through an agreement or arrangement with another party,  
8 collects the consideration for parking or storage of motor  
9 vehicles, recreational vehicles, or other self-propelled  
10 vehicles, at that parking place. This includes, but is not  
11 limited to, any facilitator or aggregator that collects from  
12 the purchaser the charge or fee paid for parking. "Operator"  
13 does not include a bank, credit card company, payment  
14 processor, ~~booking intermediary,~~ or person whose involvement  
15 is limited to performing functions that are similar to those  
16 performed by a bank, credit card company, or payment  
17 processor, ~~or booking intermediary.~~

18 "Parking area or garage" means any real estate, building,  
19 structure, premises, enclosure or other place, whether  
20 enclosed or not, except a public way, within the State, where  
21 motor vehicles, recreational vehicles, or other self-propelled  
22 vehicles, are stored, housed or parked for hire, charge, fee  
23 or other valuable consideration in a condition ready for use,  
24 or where rent or compensation is paid to the owner, manager,  
25 operator or lessee of the premises for the housing, storing,  
26 sheltering, keeping or maintaining motor vehicles,

1 recreational vehicles, or other self-propelled vehicles.  
2 "Parking area or garage" includes any parking area or garage,  
3 whether the vehicle is parked by the owner of the vehicle or by  
4 the operator or an attendant.

5 "Person" means any natural individual, firm, trust,  
6 estate, partnership, association, joint stock company, joint  
7 venture, corporation, limited liability company, or a  
8 receiver, trustee, guardian, or other representative appointed  
9 by order of any court.

10 "Purchase price" means the consideration paid for the  
11 purchase of a parking space in a parking area or garage, valued  
12 in money, whether received in money or otherwise, including  
13 cash, gift cards, credits, and property, and shall be  
14 determined without any deduction on account of the cost of  
15 materials used, labor or service costs, or any other expense  
16 whatsoever.

17 "Purchase price" includes any and all charges that the  
18 recipient pays related to or incidental to obtaining the use  
19 or privilege of using a parking space in a parking area or  
20 garage, including but not limited to any and all related  
21 markups, service fees, convenience fees, facilitation fees,  
22 cancellation fees, overtime fees, or other such charges,  
23 regardless of terminology. However, "purchase price" shall not  
24 include consideration paid for:

25 (1) ~~optional~~, separately stated charges not for the  
26 use or privilege of using a parking space in the parking

1 area or garage; if any separately stated charge is not  
2 optional, it shall be presumed until proven otherwise that  
3 it is part of the charge for the use or privilege or  
4 parking;

5 (2) any charge for a dishonored check;

6 (3) any finance or credit charge, penalty or charge  
7 for delayed payment, or discount for prompt payment;

8 (4) any purchase by a purchaser if the operator is  
9 prohibited by federal or State Constitution, treaty,  
10 convention, statute or court decision from collecting the  
11 tax from such purchaser;

12 (5) the isolated or occasional sale of parking spaces  
13 subject to tax under this Act by a person who does not hold  
14 himself out as being engaged (or who does not habitually  
15 engage) in selling of parking spaces; and

16 (6) any amounts added to a purchaser's bills, whether  
17 or not separately stated, because of charges made pursuant  
18 to the tax imposed by this Act, or on account of any other  
19 tax imposed on the charge or fee. If credit is extended,  
20 then the amount thereof shall be included only as and when  
21 payments are made.

22 "Purchaser" means any person who acquires a parking space  
23 in a parking area or garage for use for valuable  
24 consideration.

25 "Use" means the exercise by any person of any right or  
26 power over, or the enjoyment of, a parking space in a parking

1 area or garage subject to tax under this Act.

2 (Source: P.A. 101-31, eff. 6-28-19.)

3 (35 ILCS 525/10-20)

4 Sec. 10-20. Exemptions. The tax imposed by this Act shall  
5 not apply to:

6 (1) parking in a parking area or garage operated by  
7 the federal government or its instrumentalities that has  
8 been issued an active tax exemption number by the  
9 Department under Section 1g of the Retailers' Occupation  
10 Tax Act; for this exemption to apply, the parking area or  
11 garage must be operated by the federal government or its  
12 instrumentalities; the exemption under this paragraph (1)  
13 does not apply if the parking area or garage is operated by  
14 a third party, whether under a lease or other contractual  
15 arrangement, or any other manner whatsoever;

16 (2) residential off-street parking for home or  
17 apartment tenants or condominium occupants, if the  
18 arrangement for such parking is provided in the home or  
19 apartment lease or in a separate writing between the  
20 landlord and tenant, or in a condominium agreement between  
21 the condominium association and the owner, occupant, or  
22 guest of a unit, whether the parking charge is payable to  
23 the landlord, condominium association, or to the operator  
24 of the parking spaces; this paragraph (2) is intended to  
25 exempt from tax not only written agreements for

1 residential off-street parking directly between the  
2 landlord or condominium association and the apartment  
3 occupant or condo owner, occupant, or guest, but also any  
4 written parking agreement between the landlord's or  
5 association's designated parking lot or garage operator  
6 and the apartment occupant or the condo owner, occupant,  
7 or guest, whether or not coterminous with the lease or  
8 ownership period of the residence;

9 (3) parking by hospital employees in a parking space  
10 that is owned and operated by the hospital for which they  
11 work; ~~and~~

12 (4) parking in a parking area or garage where 3 or  
13 fewer motor vehicles are stored, housed, or parked for  
14 hire, charge, fee or other valuable consideration, if the  
15 operator of the parking area or garage does not act as the  
16 operator of more than a total of 3 parking spaces located  
17 in the State; if any operator of parking areas or garages,  
18 including any facilitator or aggregator, acts as an  
19 operator of more than 3 parking spaces in total that are  
20 located in the State, then this exemption shall not apply  
21 to any of those spaces; ~~-~~

22 (5) parking in a lot or garage that is owned or  
23 operated by the federal government, the State, a  
24 municipality, the Regional Transportation Authority or any  
25 of its service boards, the Chicago Park District, or any  
26 other government entity, if the purchase price for the

1 privilege of parking does not exceed \$3 for a 24-hour  
2 period or less, \$15 for a weekly period, or \$60 for a  
3 monthly period; and

4 (6) parking when the purchase price is paid by any  
5 federal, State, or local government entity.

6 (Source: P.A. 101-31, eff. 6-28-19.)

7 Section 99. Effective date. This Act takes effect upon  
8 becoming law.