

SENATE BILL NO. 356—SENATORS TOWNSEND, CARLTON, HARDY,
AMODEI, NOLAN, RHOADS, TIFFANY AND WIENER

MARCH 25, 2005

Referred to Committee on Taxation

SUMMARY—Revises provisions governing amount of sales and use taxes due on retail sales of vehicles for which used vehicles are taken in trade. (BDR 32-1106)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to taxation; revising the provisions governing the application of sales and use taxes to retail sales of vehicles for which used vehicles are taken in trade; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 374.030 is hereby amended to read as follows:
2 374.030 1. “Gross receipts” means the total amount of the
3 sale or lease or rental price, as the case may be, of the retail sales of
4 retailers, valued in money, whether received in money or otherwise,
5 without any deduction on account of any of the following:
6 (a) The cost of the property sold. However, in accordance with
7 such rules and regulations as the Department may prescribe, a
8 deduction may be taken if the retailer has purchased property for
9 some other purpose than resale, has reimbursed his vendor for tax
10 which the vendor is required to pay to the county or has paid the use
11 tax with respect to the property, and has resold the property before
12 making any use of the property other than retention, demonstration
13 or display while holding it for sale in the regular course of business.
14 If such a deduction is taken by the retailer, no refund or credit will
15 be allowed to his vendor with respect to the sale of the property.



(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

~~[(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.]~~

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Department that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 2. NRS 374.070 is hereby amended to read as follows:

374.070 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property before its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.



3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded in cash or credit, except that this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.

(f) The amount of any allowance against the selling price given by a retailer for the value of a used ~~vehicle or~~ vessel which is taken in trade on the purchase of another ~~vehicle or~~ vessel.

Sec. 3. Section 64 of chapter 400, Statutes of Nevada 2003, at page 2374, is hereby amended to read as follows:

Sec. 64. NRS 374.070 is hereby amended to read as follows:

374.070 1. "Sales price" means the total amount for which tangible property is sold, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold.

(b) The cost of the materials used, labor or service cost, interest charged, losses, or any other expenses.

(c) The cost of transportation of the property before its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit; but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price



greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax, ~~[(d)]~~ not including ~~[(, however,)]~~ any manufacturers' or importers' excise tax, ~~[(d)]~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any tax imposed by the State of Nevada upon or with respect to the storage, use or other consumption of tangible personal property purchased from any retailer.

(f) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

~~[4. For the purpose of a sale of a vehicle by a seller who is not required to be registered with the Department of Taxation, the sales price is the value established in the manner set forth in NRS 374.112.]~~

Sec. 4. Section 138 of chapter 400, Statutes of Nevada 2003, at page 2409, is hereby amended to read as follows:

Sec. 138. NRS ~~[374.107,]~~ 374.112, 374.113, 374.286, 374.291, 374.2911, 374.322 and 374.323 are hereby repealed.

Sec. 5. Section 139 of chapter 400, Statutes of Nevada 2003, at page 2409, is hereby amended to read as follows:

Sec. 139. 1. This section and section 102 of this act become effective upon passage and approval.

2. Sections 103 to 135, inclusive, of this act become effective on July 1, 2003.

3. Sections 1 to 29, inclusive, 32 to 38, inclusive, 40 to 50, inclusive, 52 to 57, inclusive, 66, 67, 69 to 72, inclusive, 74 to 80, inclusive, 83, 84, 85, 87 to 92, inclusive, 94 to 101, inclusive, 136 and 137 of this act become effective:

(a) Upon passage and approval for the purposes of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On January 1, 2006, for all other purposes.

4. Sections 30 and 39 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103 to 107, inclusive, of this act is approved by the voters at the general election on November 2, 2004.

5. Sections 31, 51, ~~[58]~~ 60 to 65, inclusive, 68, 73, 81, 82, 86, 93 and 138 of this act become effective on January 1, 2006, only if the proposal submitted pursuant to sections 103



1 to 107, inclusive, of this act is not approved by the voters at
2 the general election on November 2, 2004.

3 **Sec. 6.** At the general election on November 7, 2006, a
4 proposal must be submitted to the registered voters of this State to
5 amend the Sales and Use Tax Act, which was enacted by the 47th
6 session of the Legislature of the State of Nevada and approved by
7 the Governor in 1955, and subsequently approved by the people of
8 this State at the general election held on November 6, 1956.

9 **Sec. 7.** At the time and in the manner provided by law, the
10 Secretary of State shall transmit the proposed Act to the several
11 county clerks, and the county clerks shall cause it to be published
12 and posted as provided by law.

13 **Sec. 8.** The proclamation and notice to the voters given by the
14 county clerks pursuant to law must be in substantially the following
15 form:

16 Notice is hereby given that at the general election on
17 November 7, 2006, a question will appear on the ballot for the
18 adoption or rejection by the registered voters of the State of the
19 following proposed Act:

20 AN ACT to amend an Act entitled "An Act to provide
21 revenue for the State of Nevada; providing for sales
22 and use taxes; providing for the manner of collection;
23 defining certain terms; providing penalties for
24 violation, and other matters properly relating thereto."
25 approved March 29, 1955, as amended.
26

27 THE PEOPLE OF THE STATE OF NEVADA
28 DO ENACT AS FOLLOWS:
29

30 Section 1. The above-entitled Act, being chapter 397,
31 Statutes of Nevada 1955, at page 762, is hereby amended by
32 adding thereto a new section to be designated as section 18.2,
33 immediately following section 18.1, to read as follows:

34 Sec. 18.2. *"Vehicle" has the meaning ascribed*
35 *to it in NRS 482.135.*

36 Sec. 2. Section 11 of the above-entitled Act, being
37 chapter 397, Statutes of Nevada 1955, at page 764, is hereby
38 amended to read as follows:

39 Sec. 11. *1.* "Sales price" means the total
40 amount for which tangible property is sold, valued in
41 money, whether paid in money or otherwise, without
42 any deduction on account of any of the following:

43 (a) The cost of the property sold.

44 (b) The cost of materials used, labor or service
45 cost, interest charged, losses, or any other expenses.



(c) The cost of transportation of the property ~~{prior to}~~ before its purchase.

2. The total amount for which property is sold includes all of the following:

(a) Any services that are a part of the sale.

(b) Any amount for which credit is given to the purchaser by the seller.

3. "Sales price" does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) The amount charged for property returned by customers when the entire amount charged therefor is refunded either in cash or credit ~~{-but}~~ , *except that* this exclusion ~~{shall}~~ *does* not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The amount charged for labor or services rendered in installing or applying the property sold.

(d) The amount of any tax , ~~{}~~ not including ~~{however,}~~ any manufacturers' or importers' excise tax , ~~{}~~ imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

Sec. 3. Section 12 of the above-entitled Act, being chapter 397, Statutes of Nevada 1955, at page 764, is hereby amended to read as follows:

Sec. 12. 1. "Gross receipts" means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Tax Commission may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the State or has paid the use tax with respect to the property, and has resold the property ~~{prior-to}~~ before making any use of



the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses ~~and~~ or any other expense.

(c) The cost of transportation of the property ~~prior to~~ before its sale to the purchaser.

2. The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale.

(b) All receipts, cash, credits ~~and~~ and property of any kind.

(c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" ~~do~~ does not include any of the following:

(a) Cash discounts allowed and taken on sales.

(b) ~~Sale~~ The sale price of property returned by customers when the full sale price is refunded either in cash or credit , ~~and~~ but this exclusion ~~shall~~ does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.

(c) The price received for labor or services used in installing or applying the property sold.

(d) The amount of any tax , ~~and~~ not including ~~however,~~ any manufacturers' or importers' excise tax , ~~and~~ imposed by the United States upon or with respect to retail sales , whether imposed upon the retailer or the consumer.

(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Tax Commission that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Sec. 4. This Act becomes effective on January 1, 2007.



1 **Sec. 9.** The ballot page assemblies and the paper ballots to be
2 used in voting on the question must present the question in
3 substantially the following form:

4 Shall the Sales and Use Tax Act of 1955 be amended to
5 exempt from the taxes imposed by this Act on the gross
6 receipts from the sale and the storage, use or other
7 consumption of intangible personal property, the value of any
8 used vehicle taken in trade on the purchase of another
9 vehicle?

10 Yes ☐ No ☐

11 **Sec. 10.** The explanation of the question which must appear on
12 each paper ballot and sample ballot and in every publication and
13 posting of notice of the question must be in substantially the
14 following form:

15
16 (Explanation of Question)

17 The proposed amendment to the Sales and Use Tax Act of
18 1955 would exempt from the taxes imposed by this Act on
19 the gross receipts from the sale and the storage, use or other
20 consumption of intangible personal property, the value of any
21 used vehicle taken in trade on the purchase of another
22 vehicle.

23 **Sec. 11.** If a majority of the votes cast on the question is yes,
24 the amendment to the Sales and Use Tax Act of 1955 becomes
25 effective on January 1, 2007. If less than a majority of votes cast on
26 the question is yes, the question fails and the amendment to the
27 Sales and Use Tax Act of 1955 does not become effective.

28 **Sec. 12.** All general election laws not inconsistent with this act
29 are applicable.

30 **Sec. 13.** Any informalities, omissions or defects in the content
31 or making of the publications, proclamations or notices provided for
32 in this act and by the general election laws under which this election
33 is held must be so construed as not to invalidate the adoption of the
34 act by a majority of the registered voters voting on the question if it
35 can be ascertained with reasonable certainty from the official returns
36 transmitted to the office of the Secretary of State whether the
37 proposed amendment was adopted by a majority of those registered
38 voters.

39 **Sec. 14.** 1. NRS 374.107 is hereby repealed.

40 2. Sections 58 and 59 of chapter 400, Statutes of Nevada 2003,
41 at page 2371, are hereby repealed.

42 **Sec. 15.** 1. This section, sections 3 to 13, inclusive, and
43 subsection 2 of section 14 of this act become effective on October 1,
44 2005.



- 1 2. Sections 1 and 2 and subsection 1 of section 14 of this act
- 2 become effective on January 1, 2007, only if the proposal submitted
- 3 pursuant to sections 6 to 10, inclusive, of this act is not approved by
- 4 the voters at the general election on November 7, 2006.

TEXT OF REPEALED SECTIONS

374.107 “Vehicle” defined. “Vehicle” has the meaning ascribed to it in NRS 482.135.

Section 58 of chapter 400, Statutes of Nevada 2003:

Sec. 58. NRS 374.020 is hereby amended to read as follows:

374.020 Except where the context otherwise requires, the definitions given in NRS 374.025 to ~~374.107,~~ **374.100**, inclusive, govern the construction of this chapter.

Section 59 of chapter 400, Statutes of Nevada 2003:

Sec. 59. NRS 374.030 is hereby amended to read as follows:

374.030 1. “Gross receipts” means the total amount of the sale or lease or rental price, as the case may be, of the retail sales of retailers, valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with such rules and regulations as the Department may prescribe, a deduction may be taken if the retailer has purchased property for some other purpose than resale, has reimbursed his vendor for tax which the vendor is required to pay to the county or has paid the use tax with respect to the property, and has resold the property before making any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business. If such a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property.

(b) The cost of the materials used, labor or service cost, interest paid, losses or any other expense.

(c) The cost of transportation of the property before its sale to the purchaser.



2. The total amount of the sale or lease or rental price includes all of the following:

- (a) Any services that are a part of the sale.
- (b) All receipts, cash, credits and property of any kind.
- (c) Any amount for which credit is allowed by the seller to the purchaser.

3. "Gross receipts" does not include any of the following:

- (a) Cash discounts allowed and taken on sales.
- (b) The sale price of property returned by customers when the full sale price is refunded either in cash or credit, but this exclusion does not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned.
- (c) The price received for labor or services used in installing or applying the property sold.
- (d) The amount of any tax, not including any manufacturers' or importers' excise tax, imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer.

~~[(e) The amount of any allowance against the selling price given by a retailer for the value of a used vehicle which is taken in trade on the purchase of another vehicle.]~~

4. For purposes of the sales tax, if the retailers establish to the satisfaction of the Department that the sales tax has been added to the total amount of the sale price and has not been absorbed by them, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.



