Senate Bill No. 196–Senator Cannizzaro

CHAPTER.....

AN ACT relating to taxation; providing for the imposition, administration, collection and enforcement of a recovery fee to offset property taxes levied on certain heavy equipment; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, all property of every kind and nature in this State is subject to property taxes unless the property is exempt from such taxation. (NRS 361.045) In general, this bill authorizes a heavy equipment rental company that is primarily engaged in the business of renting heavy equipment, without an operator, from a location in this State to charge a recovery fee to offset the property taxes levied on such heavy equipment. Under existing regulations, such a recovery fee would be excluded from the sales or use tax charged for the rental of the heavy equipment. (NAC 372.940)

Section 13 of this bill authorizes such a heavy equipment rental company to charge a recovery fee in an amount not to exceed 2 percent of the rental charge for the rental of the heavy equipment. Under **section 13**, a heavy equipment rental company that charges a recovery fee is required to: (1) separately state on the invoice provided to the renter the amount of the recovery fee charged to the renter; (2) hold the recovery fee in a separate account; and (3) use the proceeds of the recovery fee to offset the property taxes levied on heavy equipment rental property. **Section 14** of this bill exempts from the charging of a recovery fee the rental of any heavy equipment rental property to certain governmental entities.

Section 15 of this bill requires a heavy equipment rental company to submit to the Department of Taxation an annual report stating the amount of the recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year and the amount of the property taxes levied on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year.

Sections 4-10 of this bill define certain terms relating to the imposition of the recovery fee on the rental of heavy equipment rental property. **Section 3** of this bill establishes the applicability of those definitions.

Sections 11 and 12 of this bill establish provisions governing the retention and examination of records relevant to the recovery fee. **Section 16** of this bill provides that a person who submits a false or fraudulent report concerning the recovery fee or falsifies entries in or keeps more than one set of books, records or accounts, with intent to defraud in violation of the requirement to use the recovery fees only to offset property taxes, is guilty of a gross misdemeanor.

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

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

Section 1. (Deleted by amendment.)

Sec. 2. Chapter 361 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 16, inclusive, of this act.

Sec. 3. ***As used in sections 3 to 16, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 4 to 10, inclusive, of this act have the meanings ascribed to them in those sections.***

Sec. 4. ***1. "Affiliate" means a person who, directly or indirectly, through one or more persons or intermediaries, controls, is controlled by or is under common control with a specified person.***

2. As used in this section, "control" means:

(a) Direct or indirect ownership, control or possession of 50 percent or more of the equity ownership of a person; or

(b) Possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or through other means.

Sec. 5. ***1. "Heavy equipment rental company" means a person who is classified under 532412 or 532310 of the North American Industry Classification System, and is primarily engaged in the business of renting heavy equipment rental property, without an operator, to the public from a location in this State.***

2. The term does not include a person who is:

(a) Engaged in the business of renting heavy equipment rental property primarily to related persons or affiliates who operate or drive, or both operate and drive, such equipment, regardless of the NAICS code that applies to the business; or

(b) Primarily engaged in the business of renting heavy equipment rental property with an operator.

Sec. 6. ***"Heavy equipment rental property" means property, machinery and equipment held in the inventory of a heavy equipment rental company for sale or rental in the regular course of business. The term includes, without limitation, property, machinery and equipment that is customarily used or designed for construction and industrial purposes, including, without limitation, earthmoving equipment, lift equipment, material handling equipment, pumps, generators, compressors, portable power equipment, heating, ventilation and air conditioning equipment, portable offices, containers, tank trailers and self-propelled equipment.***

Sec. 7. *"North American Industry Classification System" or "NAICS" means the 2022 North American Industry Classification System, as published by the Bureau of the Census of the United States Department of Commerce.*

Sec. 8. *"Rent," "rental" or "renting" means entering into an agreement with a heavy equipment rental company for the use of heavy equipment rental property in exchange for consideration for a period:*

1. Not to exceed 365 days; or

2. That is open-ended under the terms of the rental contract with no specified end date.

Sec. 9. *1. "Rental charge" means the total amount of consideration, including, without limitation, cash, credit, property and services, charged by a heavy equipment rental company for the rental of heavy equipment rental property, valued in money, whether received in money or otherwise, and without any deduction for:*

(a) The cost of the heavy equipment rental property to the heavy equipment rental company;

(b) The cost of materials used, labor or service cost, interest paid, losses, the cost of transportation to the heavy equipment rental company, taxes imposed on the heavy equipment rental company or any other expense of the heavy equipment rental company; and

(c) Any charges by the heavy equipment rental company for any services necessary to complete the rental, including, without limitation, any delivery charges which are not stated separately and any installation charges which are not stated separately.

2. The term does not include:

(a) Any fees or charges for the delivery or transportation of heavy equipment rental property which are stated separately;

(b) Any installation or other service charges which are stated separately;

(c) Any discounts, including, without limitation, those in the form of cash, term or coupons that are not reimbursed by a third party, which are allowed by the heavy equipment rental company and taken by the renter on a rental;

(d) Any interest, financing or carrying charges from credit extended on the rental of heavy equipment rental property, if stated separately;

(e) Any taxes legally imposed directly on the renter which are stated separately; and

(f) Any other separately stated charges or fees, including, without limitation, any separately stated fee for recovery of property taxes imposed on heavy equipment rental property pursuant to this chapter.

Sec. 10. *"Renter" means a person who rents heavy equipment rental property from a heavy equipment rental company in this State.*

Sec. 11. *1. Each person responsible for maintaining the records of a heavy equipment rental company shall:*

(a) Keep such records as may be necessary to determine the compliance of the heavy equipment rental company with the provisions of section 15 of this act;

(b) Preserve such records for 5 years or until any litigation or prosecution related to compliance with section 15 of this act is finally determined, whichever is longer; and

(c) Make such records available for inspection by the Department upon demand at reasonable times during regular business hours.

2. The Department may adopt regulations specifying the types of records which must be kept to determine the compliance of a heavy equipment rental company with the provisions of section 15 of this act.

Sec. 12. *To verify the accuracy of any report filed pursuant to section 15 of this act or, if no such report is filed, to determine the compliance of a heavy equipment rental company with section 15 of this act, the Department, or any person authorized in writing by the Department, may examine the books, papers and records of any person who is required to comply with section 15 of this act.*

Sec. 13. *1. Except as otherwise provided in section 14 of this act, a heavy equipment rental company may impose a recovery fee in an amount not to exceed 2 percent of the rental charge for the rental of heavy equipment rental property to a renter.*

2. The amount of any recovery fee imposed pursuant to subsection 1 must be separately stated on an invoice provided to a renter of heavy equipment rental property.

3. A heavy equipment rental company that imposes a recovery fee pursuant to subsection 1 shall:

(a) Hold the amount of all recovery fees collected in a separate account; and

(b) Use the money in the separate account only to offset any taxes imposed pursuant to this chapter on heavy equipment rental property.

Sec. 14. *A heavy equipment rental company shall not charge a recovery fee pursuant to section 13 of this act for the rental of any heavy equipment rental property to:*

1. The United States, its unincorporated agencies and instrumentalities;

2. Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

3. The State of Nevada, its unincorporated agencies and instrumentalities;

4. Any county, city, district or other political subdivision of this State; and

5. Any other person or entity that this State is prohibited from taxing under the United States Constitution, laws or treaties of the United States or the Nevada Constitution.

Sec. 15. *Not later than August 15 of each calendar year, a heavy equipment rental company that imposes a recovery fee pursuant to section 13 of this act shall file with the Department, on a form prescribed by the Department, a report which separately states the amount of:*

1. The recovery fees collected by the heavy equipment rental company during the immediately preceding fiscal year; and

2. The taxes imposed pursuant to this chapter on the heavy equipment rental property of the heavy equipment rental company for the immediately preceding fiscal year.

Sec. 16. *1. A person shall not:*

(a) Make, cause to be made or permit to be made any false or fraudulent report or false statement in any report with intent to defraud in violation of the requirements of subsection 3 of section 13 of this act;

(b) Make, cause to be made or permit to be made any false entry in books, records or accounts with intent to defraud in violation of the requirements of subsection 3 of section 13 of this act; or

(c) Keep, cause to be kept or permit to be kept more than one set of books, records or accounts with intent to defraud in violation of the requirements of subsection 3 of section 13 of this act.

2. Any person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

Secs. 17 and 18. (Deleted by amendment.)

Sec. 19. This act becomes effective on July 1, 2025.

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