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I N A S S E M B L Y

January 7, 2010

Introduced by M. of A. ESPAILLAT -- read once and referred to the Committee on Ways and Means

AN ACT to amend the tax law, in relation to a tax on intra-state transportation services; and to repeal part U-1 of chapter 57 of the laws of 2009 amending the tax law relating to imposing state and local sales taxes on certain transportation services, relating to a tax on intra-state transportation services

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

Section 1. The tax law is amended by adding a new article 28-C to read as follows:

ARTICLE 28-C
TAX ON INTRA-STATE TRANSPORTATION SERVICES

SECTION 1180. SHORT TITLE.
1181. DEFINITIONS.
1182. IMPOSITION OF TAX.
1183. COLLECTION OF TAX.
1184. RETURNS.
1185. PAYMENT OF TAX.
1186. PENALTIES AND INTEREST.
1187. LIABILITY OF TAX.
1188. REFUND OF TAX.
1189. REGISTRATION.
1190. RECORDS TO BE KEPT.
1191. SECRECY OF RETURNS AND REPORTS.
1192. DEPOSIT AND DISPOSITION OF REVENUE.

S 1180. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "TAX ON INTRA-STATE TRANSPORTATION SERVICES ACT".

S 1181. DEFINITIONS. AS USED IN THIS ARTICLE:

(A) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, LIMITED LIABILITY COMPANY, SOCIETY, ASSOCIATION, JOINT STOCK COMPANY, CORPORATION, ESTATE, RECEIVER, TRUSTEE, ASSIGNEE, REFEREE OR ANY OTHER PERSON ACTING IN A FIDUCIARY OR REPRESENTATIVE CAPACITY, WHETHER APPOINTED BY A COURT OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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OTHERWISE, ANY COMBINATION OF INDIVIDUALS, AND ANY OTHER FORM OF UNINCORPORATED ENTERPRISE OWNED OR CONDUCTED BY TWO OR MORE PERSONS.

(B) "PASSENGER" MEANS AN INDIVIDUAL SEATED IN A MOTOR VEHICLE FOR HIRE TO ONE OR MORE DESTINATIONS.

(C) "TRANSPORTATION SERVICE" MEANS THE SERVICE OF TRANSPORTING, CARRYING OR CONVEYING A PASSENGER, WITH A DRIVER, INTRA-STATE BY LIVERY, BLACK CAR OR LIMOUSINE, BUT EXCLUDES A TRANSPORTATION SERVICE PROVIDED BY TAXICAB, LIVERY AS DEFINED IN COUNTIES AND CITIES WITH A POPULATION OF ONE MILLION OR MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY, BUS OR ANY SCHEDULED PUBLIC SERVICE.

(D) "INTRA-STATE" MEANS THAT THE LOCATION WHERE THE PASSENGER IS PICKED UP AND DROPPED OFF IS WITHIN THE STATE, REGARDLESS OF WHETHER A PORTION OF THE TRIP PASSES OUTSIDE THIS STATE AND REGARDLESS OF THE LOCATION FROM WHERE THE MOTOR VEHICLE PROVIDING SUCH SERVICE ORIGINATES OR TERMINATES. IF ANY PART OF THE TRANSPORTATION SERVICE INCLUDES A DESTINATION, WHETHER FINAL OR INTERMEDIATE, IN ANOTHER STATE, SUCH TRANSPORTATION SERVICE IS NOT INTRA-STATE.

(E) "TRIP" MEANS THE PROVISION OF A TRANSPORTATION SERVICE TO A PASSENGER OR PASSENGERS.

(F) "BUS" IS A MOTOR VEHICLE WITH A SEATING CAPACITY OF FIFTEEN OR MORE PASSENGERS IN ADDITION TO THE DRIVER AND USED FOR THE TRANSPORTATION OF PASSENGERS.

(G) "TAXICAB" MEANS A MOTOR VEHICLE OTHER THAN A LIMOUSINE, BLACK CAR, OR OTHER MOTOR VEHICLE, OR BUS, THAT IS USED IN THE BUSINESS OF TRANSPORTING PASSENGERS FOR COMPENSATION, IS OPERATED UNDER A LICENSE OR PERMIT ISSUED BY A LOCAL AUTHORITY (COUNTY, CITY, TOWN, VILLAGE, ETC.), CONTAINS A TAXIMETER AND CAN BE LEGALLY HAILED FOR SERVICE BY A CUSTOMER (UNLESS THE LICENSING LOCALITY DOES NOT ALLOW THE HAILING OF MOTOR VEHICLES) OR IS DEFINED AS LIVERY IN COUNTIES AND CITIES WITH A POPULATION OF ONE MILLION OR MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY.

(H) "DRIVER" MEANS ANY PERSON WHO TRANSPORTS ONE OR MORE PASSENGERS IN A MOTOR VEHICLE FOR COMPENSATION.

(I) "CUSTOMER" MEANS EVERY PERSON WHO PURCHASES TRANSPORTATION SERVICES OR FOR WHOM TRANSPORTATION SERVICES ARE RENDERED.

(J) "TRANSPORTATION VENDOR" MEANS THE PERSON WHO RECEIVES REQUESTS FOR TRANSPORTATION SERVICE FROM CUSTOMERS.

(K) "VOUCHERS" MEANS AN ORDER FORM (INCLUDING, BUT NOT LIMITED TO, CREDIT CARD AUTHORIZATIONS) BY WHICH A CUSTOMER AGREES TO MAKE PAYMENT TO A TRANSPORTATION VENDOR FOR TRANSPORTATION SERVICES.

S 1182. IMPOSITION OF TAX. THERE IS HEREBY IMPOSED A SALES TAX ON CUSTOMERS WHO USE TRANSPORTATION SERVICES BASED ON THE FORMULA SET FORTH HEREIN:

(A) IN ALL COUNTIES AND CITIES WITH A POPULATION OF ONE MILLION OR MORE OR WHERE THE LOCAL LICENSING AUTHORITY GRANTS SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A BLACK CAR OR LIMOUSINE, THERE SHALL BE A TAX PER INTRA-STATE TRIP OF ONE DOLLAR FOR A BLACK CAR AND ONE DOLLAR AND FIFTY CENTS FOR A LIMOUSINE.

(B) IN ALL COUNTIES AND CITIES WITH A POPULATION OF LESS THAN ONE MILLION OR WHERE THE LOCAL LICENSING AUTHORITY DOES NOT GRANT SEPARATE LICENSES OR PERMITS CLASSIFYING A MOTOR VEHICLE AS A LIVERY, BLACK CAR OR LIMOUSINE, THERE SHALL BE A TAX OF ONE DOLLAR PER INTRA-STATE TRIP.

NOTWITHSTANDING ANY PROVISIONS OF THIS ARTICLE TO THE CONTRARY, THIS TAX SHALL NOT BE IMPOSED ON ANY TRANSPORTATION SERVICE IN CONNECTION WITH FUNERALS.

S 1183. COLLECTION OF TAX. EVERY TRANSPORTATION VENDOR SHALL COLLECT THE TAX FROM THE CUSTOMER WHEN COLLECTING THE FEE TO WHICH IT APPLIES OR FROM THE DRIVER WHERE SUCH FEE IS NOT REMITTED DIRECTLY TO THE TRANSPORTATION VENDOR. IF THE CUSTOMER IS GIVEN ANY INVOICE, RECEIPT OR OTHER STATEMENT OR MEMORANDUM OF THE FEE OR CHARGE PAID OR PAYABLE, THE TAX SHALL BE STATED, CHARGED AND SHOWN SEPARATELY ON THE FIRST OF SUCH DOCUMENTS GIVEN TO THE CUSTOMER.

S 1184. RETURNS. EVERY TRANSPORTATION VENDOR SUBJECT TO THIS ARTICLE AND EVERY PERSON TO WHOM A CERTIFICATE OF AUTHORITY WAS ISSUED PURSUANT TO THIS ARTICLE SHALL FILE WITH THE COMMISSIONER ON OR BEFORE THE LAST DAY OF EACH MONTH A RETURN FOR THE PRECEDING CALENDAR MONTH WHERE THE TRANSPORTATION VENDOR'S TOTAL TAX LIABILITY UNDER THIS ARTICLE FOR THE PRECEDING CALENDAR YEAR EXCEEDED FOUR THOUSAND DOLLARS. WHERE A TRANSPORTATION VENDOR'S TOTAL TAX LIABILITY UNDER THIS ARTICLE FOR THE PRECEDING CALENDAR YEAR DID NOT EXCEED FOUR THOUSAND DOLLARS OR WHERE A TRANSPORTATION VENDOR WAS NOT SUBJECT TO SUCH A TAX IN THE PRECEDING CALENDAR YEAR, RETURNS SHALL BE FILED QUARTERLY, ON OR BEFORE THE LAST DAY OF THE CALENDAR MONTH FOLLOWING EACH OF THE CALENDAR QUARTERS: JANUARY THROUGH MARCH, APRIL THROUGH JUNE, JULY THROUGH SEPTEMBER AND OCTOBER THROUGH DECEMBER. PROVIDED, HOWEVER, IF THE COMMISSIONER CONSENTS THERETO IN WRITING, ANY TRANSPORTATION VENDOR MAY FILE A RETURN ON OR BEFORE THE THIRTIETH DAY AFTER THE CLOSE OF ANY DIFFERENT PERIOD, IF THE TRANSPORTATION VENDOR'S BOOKS ARE REGULARLY KEPT ON A PERIODIC BASIS OTHER THAN A CALENDAR MONTH OR QUARTER. THE COMMISSIONER MAY PERMIT THE FILING OF RETURNS ON AN ANNUAL BASIS, PROVIDED THE TRANSPORTATION VENDOR WAS SUBJECT TO THE TAX UNDER THIS ARTICLE DURING THE ENTIRE PRECEDING CALENDAR YEAR AND THE TRANSPORTATION VENDOR'S TOTAL TAX LIABILITY UNDER THIS ARTICLE FOR SUCH YEAR DID NOT EXCEED TWO HUNDRED FIFTY DOLLARS. SUCH ANNUAL RETURNS SHALL BE FILED ON OR BEFORE JANUARY THIRTY-FIRST OF THE SUCCEEDING CALENDAR YEAR. RETURNS SHALL BE FILED WITH THE COMMISSIONER ON FORMS TO BE FURNISHED BY SUCH COMMISSIONER FOR SUCH PURPOSE AND SHALL CONTAIN SUCH DATA, INFORMATION OR MATTER AS THE COMMISSIONER MAY REQUIRE BE INCLUDED. THE COMMISSIONER MAY GRANT A REASONABLE EXTENSION OF TIME FOR FILING RETURNS WHENEVER GOOD CAUSE EXISTS AND MAY WAIVE THE FILING OF RETURNS IF A TRANSPORTATION VENDOR IS NOT SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE FOR THE PERIOD COVERED BY THE RETURN.

S 1185. PAYMENT OF TAX. AT THE TIME OF FILING A RETURN, AS REQUIRED BY THIS ARTICLE, EACH TRANSPORTATION VENDOR SHALL PAY TO THE TAX COMMISSION THE TAX IMPOSED BY THIS ARTICLE FOR THE PERIOD COVERED BY SUCH RETURN. SUCH TAX SHALL BE DUE AND PAYABLE AT THE TIME OF FILING THE RETURN OR, IF A RETURN IS NOT FILED WHEN DUE, ON THE LAST DAY ON WHICH THE RETURN IS REQUIRED TO BE FILED. THE TAX COMMISSION MAY GRANT A REASONABLE EXTENSION OF TIME FOR PAYING THE TAX WHENEVER GOOD CAUSE EXISTS.

S 1186. PENALTIES AND INTEREST. (A) ANY TRANSPORTATION VENDOR WHO OR WHICH FAILS TO FILE A RETURN OR PAY ANY TAX WITHIN THE TIME REQUIRED BY OR PURSUANT TO THIS ARTICLE (DETERMINED WITH REGARD TO ANY EXTENSION OF TIME FOR FILING OR PAYING) SHALL BE SUBJECT TO A PENALTY OF TEN PER CENTUM OF THE AMOUNT OF TAX DETERMINED TO BE DUE AS PROVIDED IN THIS ARTICLE PLUS ONE PER CENTUM OF SUCH AMOUNT FOR EACH MONTH OR FRACTION THEREOF DURING WHICH SUCH FAILURE CONTINUES AFTER THE EXPIRATION OF THE FIRST MONTH AFTER SUCH RETURN WAS REQUIRED TO BE FILED OR SUCH TAX BECAME DUE, NOT EXCEEDING THIRTY PER CENTUM IN THE AGGREGATE. IN THE CASE OF A FAILURE BY A TRANSPORTATION VENDOR TO FILE SUCH RETURN WITHIN SIXTY DAYS OF THE DATE PRESCRIBED FOR FILING OF SUCH RETURN BY OR PURSU-

ANT TO THIS ARTICLE (DETERMINED WITH REGARD TO ANY EXTENSION OF TIME FOR FILING), THE PENALTIES IMPOSED BY THIS SECTION SHALL NOT BE LESS THAN ONE HUNDRED DOLLARS OR ONE HUNDRED PER CENTUM OF THE AMOUNT REQUIRED TO BE SHOWN AS TAX ON SUCH RETURN. FOR THE PURPOSE OF THE PRECEDING SENTENCE, THE AMOUNT OF TAX REQUIRED TO BE SHOWN ON THE RETURN SHALL BE REDUCED BY THE AMOUNT OF ANY PART OF THE TAX WHICH IS PAID ON OR BEFORE THE DATE PRESCRIBED FOR PAYMENT OF THE TAX AND BY THE AMOUNT OF ANY CREDIT AGAINST THE TAX WHICH MAY BE CLAIMED UPON THE RETURN.

(B) IF ANY AMOUNT OF TAX IS NOT PAID ON OR BEFORE THE LAST DATE PRESCRIBED IN THIS ARTICLE FOR PAYMENT, INTEREST ON SUCH AMOUNT AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER PURSUANT TO SUBDIVISION TWENTY-SIXTH OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER SHALL BE PAID FOR THE PERIOD FROM SUCH LAST DATE TO THE DATE PAID, WHETHER OR NOT ANY EXTENSION OF TIME FOR PAYMENT WAS GRANTED. INTEREST UNDER THIS PARAGRAPH SHALL NOT BE PAID IF THE AMOUNT THEREOF IS LESS THAN ONE DOLLAR.

(C) IF THE TAX COMMISSION DETERMINES THAT SUCH FAILURE WAS DUE TO REASONABLE CAUSE AND NOT DUE TO WILLFUL NEGLECT, IT SHALL REMIT ALL OR PART OF SUCH PENALTIES. THE TAX COMMISSION SHALL PROMULGATE RULES AND REGULATIONS AS TO WHAT CONSTITUTES REASONABLE CAUSE.

(D) IF THE FAILURE TO PAY ANY TAX DUE WITHIN THE TIME REQUIRED BY OR PURSUANT TO THIS ARTICLE IS DUE TO FRAUD, THERE SHALL BE ADDED TO THE TAX (I) A PENALTY OF FIFTY PER CENTUM OF THE AMOUNT OF TAX DUE, PLUS (II) INTEREST ON SUCH UNPAID TAX AT THE UNDERPAYMENT RATE SET BY THE COMMISSIONER PURSUANT TO SUBDIVISION TWENTY-SIXTH OF SECTION ONE HUNDRED SEVENTY-ONE OF THIS CHAPTER FOR THE PERIOD BEGINNING ON THE LAST DAY PRESCRIBED BY THIS ARTICLE FOR THE PAYMENT OF SUCH TAX (DETERMINED WITHOUT REGARD TO ANY EXTENSION OF TIME FOR PAYING) AND ENDING ON THE DAY ON WHICH SUCH TAX IS PAID, PLUS (III) FOR THE PERIOD BEGINNING ON THE LAST DAY PRESCRIBED BY THIS ARTICLE FOR THE PAYMENT OF SUCH TAX (DETERMINED WITHOUT REGARD TO ANY EXTENSION OF TIME FOR PAYING) AND ENDING ON THE DAY THE AMOUNT OF TAX DUE IS FINALLY DETERMINED OR, IF EARLIER, ON THE DAY ON WHICH SUCH TAX IS PAID, AN AMOUNT EQUAL TO FIFTY PER CENTUM OF THE INTEREST PAYABLE UNDER PARAGRAPH (II) OF THIS SUBDIVISION ON THAT PORTION OF THE UNPAID TAX WHICH IS ATTRIBUTABLE TO FRAUD.

(E) THE PENALTIES AND INTEREST PROVIDED FOR IN THIS SECTION SHALL BE DETERMINED, ASSESSED, COLLECTED AND PAID IN THE SAME MANNER AS THE TAXES IMPOSED BY THIS ARTICLE AND SHALL BE DISPOSED OF AS HEREINAFTER PROVIDED WITH RESPECT TO MONEYS DERIVED FROM THE TAX. INTEREST UNDER THIS SECTION SHALL BE COMPOUNDED DAILY.

S 1187. LIABILITY OF TAX. (A) EVERY PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL BE LIABLE FOR THE TAX IMPOSED, COLLECTED OR REQUIRED TO BE COLLECTED UNDER THIS ARTICLE. ANY SUCH PERSON SHALL HAVE THE SAME RIGHT IN RESPECT TO COLLECTING THE TAX FROM HIS OR ITS CUSTOMER OR IN RESPECT TO NONPAYMENT OF THE TAX BY THE CUSTOMER AS IF THE TAX WERE A PART OF THE FEE OF THE TRANSPORTATION SERVICE, AND PAYABLE AT THE SAME TIME; PROVIDED, HOWEVER, THAT THE TAX COMMISSION SHALL BE JOINED AS A PARTY IN ANY ACTION OR PROCEEDING BROUGHT TO COLLECT THE TAX. IF THE TRANSPORTATION VENDOR ASSIGNS ITS RIGHT TO RECEIVE PAYMENT FROM A CUSTOMER TO A THIRD PARTY, THEN THE TRANSPORTATION VENDOR AND ASSIGNEE SHALL BE JOINTLY AND SEVERALLY LIABLE FOR THE PAYMENT OF THE TAX REQUIRED UNDER THIS SECTION.

(B) NO PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL ADVERTISE OR HOLD OUT TO THE PUBLIC IN ANY MANNER, DIRECTLY OR INDIRECTLY, THAT THE TAX IS NOT CONSIDERED AS AN ELEMENT IN THE FEE PAYABLE BY CUSTOMERS.

S 1188. REFUND OF TAX. (A) IF THE TRANSPORTATION VENDOR, WHERE PAYMENT IS MADE BY VOUCHER, DETERMINES THAT AN AMOUNT DUE FROM THE CUSTOMER IS UNCOLLECTIBLE AND THE TRANSPORTATION VENDOR HAS ACTUALLY CHARGED OFF THE AMOUNT FOR FEDERAL INCOME TAX PURPOSES, THE TRANSPORTATION VENDOR MAY APPLY FOR A REFUND OR CREDIT IN THE AMOUNT OF THE TAX THAT THE TRANSPORTATION VENDOR PAID WITH HIS OR ITS TAX RETURN ON SUCH AMOUNT. THE FORM OF THE REFUND OR CREDIT SHALL BE PRESCRIBED BY THE TAX COMMISSION AND SHALL CONTAIN SUCH INFORMATION AS IT MAY DEEM NECESSARY FOR THE PROPER ADMINISTRATION OF THIS ARTICLE.

(B) UPON FILING AN APPLICATION FOR CREDIT, THE TRANSPORTATION VENDOR MAY IMMEDIATELY TAKE A CREDIT ON ITS NEXT RETURN AND ATTACH A COPY OF THE APPLICATION INDICATING ON THE APPLICATION IF IT HAS ALREADY APPLIED FOR THE CREDIT.

S 1189. REGISTRATION. (A) EVERY PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL FILE WITH THE COMMISSIONER A CERTIFICATE OF REGISTRATION, IN A FORM PRESCRIBED BY THE COMMISSIONER, AT LEAST TWENTY DAYS PRIOR TO COMMENCING BUSINESS OR OPENING A NEW PLACE OF BUSINESS OR SELLING OR RECEIVING PAYMENT FOR TRANSPORTATION SERVICES, WHICHEVER COMES FIRST. A DRIVER IS NOT REQUIRED TO FILE A CERTIFICATE OF REGISTRATION IF IT PROVIDES TRANSPORTATION SERVICES ONLY WHEN DISPATCHED THROUGH A CENTRAL FACILITY.

(B) THE COMMISSIONER, WITHIN FIVE DAYS AFTER RECEIPT OF A CERTIFICATE OF REGISTRATION FILED AS PROVIDED FOR IN SUBDIVISION (A) OF THIS SECTION, SHALL ISSUE, WITHOUT CHARGE, TO EACH REGISTRANT A CERTIFICATE OF AUTHORITY EMPOWERING THE REGISTRANT TO COLLECT THE TAX AND A DUPLICATE THEREOF FOR EACH ADDITIONAL PLACE OF BUSINESS OF SUCH REGISTRATION. SUCH CERTIFICATE OF AUTHORITY MAY BE ISSUED FOR A SPECIFIED TERM OF NOT LESS THAN THREE YEARS. ANY CERTIFICATE OF AUTHORITY REFERRED TO IN THIS SUBDIVISION SHALL BE SUBJECT TO RENEWAL IN ACCORDANCE WITH THE RULES PROMULGATED BY THE COMMISSIONER. WHETHER OR NOT SUCH CERTIFICATE OF AUTHORITY IS ISSUED FOR A SPECIAL TERM, SUCH CERTIFICATE SHALL BE SUBJECT TO SUSPENSION OR REVOCATION AS PROVIDED FOR IN THIS SECTION. EACH CERTIFICATE OR DUPLICATE SHALL STATE THE BUSINESS TO WHICH IT IS APPLICABLE. SUCH CERTIFICATE OF AUTHORITY OR DUPLICATE SHALL BE PROMINENTLY DISPLAYED IN THE PLACE OF BUSINESS OF THE REGISTRANT TO WHICH IT APPLIES. A REGISTRANT WHO HAS NO REGULAR PLACE OF DOING BUSINESS SHALL ATTACH SUCH CERTIFICATE TO EACH OF REGISTRANT'S MOTOR VEHICLES. SUCH CERTIFICATES OF AUTHORITY AND ANY DUPLICATE SHALL BE NONASSIGNABLE AND NONTRANSFERABLE AND SHALL BE SURRENDERED TO THE COMMISSIONER IMMEDIATELY UPON THE REGISTRANT'S CEASING TO DO BUSINESS OR IN THE EVENT THAT SUCH BUSINESS IS NEVER COMMENCED.

(C) WHERE A PERSON (I) WILLFULLY FAILS TO FILE A REPORT OR RETURN REQUIRED BY THIS ARTICLE, (II) WILLFULLY FAILS TO PREPAY, COLLECT, TRUTHFULLY ACCOUNT FOR OR PAY OVER ANY TAX IMPOSED UNDER THIS ARTICLE, OR (III) HAS BEEN CONVICTED OF A CRIME PROVIDED FOR IN THIS CHAPTER, THE COMMISSIONER MAY REVOKE OR SUSPEND SUCH CERTIFICATE OF AUTHORITY AND ALL DUPLICATES THEREOF. PROVIDED, HOWEVER, THAT THE COMMISSIONER MAY REVOKE OR SUSPEND A CERTIFICATE OF AUTHORITY BASED ON THE GROUNDS SET FORTH IN PARAGRAPH (III) OF THIS SUBDIVISION ONLY WHERE THE CONVICTION REFERRED TO OCCURRED NOT MORE THAN ONE YEAR PRIOR TO THE DATE OF REVOCATION OR SUSPENSION.

(D) THE COMMISSIONER MAY REVOKE, SUSPEND OR REFUSE TO ISSUE A CERTIFICATE OF AUTHORITY BASED ON THE GROUNDS SET FORTH IN CLAUSE (B) OF PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS CHAPTER.

(E) NOTICE OF PROPOSED REVOCATION, SUSPENSION OR REFUSAL TO ISSUE SHALL BE GIVEN IN ACCORDANCE WITH CLAUSE (D) OF PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED THIRTY-FOUR OF THIS CHAPTER.

(F) AFTER THE COMMISSIONER HAS SUSPENDED OR REVOKED A PERSON'S CERTIFICATE OF AUTHORITY, BY A NOTICE OF SUSPENSION OR REVOCATION, OR HAS REFUSED TO ISSUE A CERTIFICATE OF AUTHORITY, BY A NOTICE OF REFUSAL, TO SUCH PERSON AND SUCH DECISION HAS BECOME FINAL AS PROVIDED FOR IN SUBDIVISION (E) OF THIS SECTION, OR AFTER A PERSON'S CERTIFICATE OF AUTHORITY HAS EXPIRED AND SUCH PERSON HAS FAILED TO RENEW SUCH CERTIFICATE OR OBTAIN A NEW CERTIFICATE OF AUTHORITY, SUCH PERSON IS PROHIBITED FROM ENGAGING IN THE BUSINESS OF SELLING OR RECEIVING PAYMENT FOR TRANSPORTATION SERVICES IN THIS STATE FOR WHICH A CERTIFICATE OF AUTHORITY IS REQUIRED. IF DESPITE SUCH PROHIBITION SUCH PERSON CONTINUES TO BE SO ENGAGED IN BUSINESS, THE COMMISSIONER MAY BRING AN ACTION TO ENJOIN SUCH PERSON FROM SO ENGAGING IN THE TRANSPORTATION SERVICE BUSINESS.

S 1190. RECORDS TO BE KEPT. EVERY PERSON REQUIRED TO COLLECT ANY TAX IMPOSED BY THIS ARTICLE SHALL KEEP RECORDS OF EVERY SERVICE RIDE INCLUDING, BUT NOT LIMITED TO DRIVER LOGS AND DISPATCH RECORDS, AND OF ALL AMOUNTS PAID, CHARGED OR DUE THEREON, IN SUCH FORM AS THE COMMISSIONER MAY BY REGULATION REQUIRE. SUCH RECORDS SHALL INCLUDE A TRUE COPY OF EACH INVOICE, RECEIPT, STATEMENT OR MEMORANDUM UPON WHICH SECTION ELEVEN HUNDRED EIGHTY-FOUR OF THIS ARTICLE REQUIRES THAT THE TAX BE STATED. SUCH RECORDS SHALL BE AVAILABLE FOR INSPECTION AND EXAMINATION AT ANY TIME UPON DEMAND BY THE COMMISSIONER OR THE COMMISSIONER'S DULY AUTHORIZED AGENT OR EMPLOYEE AND SHALL BE PRESERVED FOR A PERIOD OF THREE YEARS, EXCEPT THAT THE COMMISSIONER MAY CONSENT TO THEIR DESTRUCTION WITHIN THAT PERIOD OR MAY REQUIRE THAT THEY BE KEPT LONGER FOR A TOTAL PERIOD NOT TO EXCEED FOUR YEARS. SUCH RECORDS MAY BE KEPT WITHIN THE MEANING OF THIS SECTION WHEN REPRODUCED ON ANY PHOTOGRAPHIC, PHOTOSTATIC, MICROFILM, MICRO-CARD, MINIATURE PHOTOGRAPHIC OR OTHER PROCESS WHICH ACTUALLY REPRODUCES THE ORIGINAL RECORD. IF THOSE RECORDS ARE MAINTAINED IN AN ELECTRONIC FORMAT, THEY MUST BE AVAILABLE AND ACCESSIBLE TO THE COMMISSIONER IN ELECTRONIC FORMAT.

S 1191. SECRECY OF RETURNS AND REPORTS. THE PROVISIONS OF SECTION TWELVE HUNDRED EIGHTY-SEVEN OF THIS CHAPTER SHALL APPLY WITH RESPECT TO MAINTAINING THE SECRECY OF RETURNS AND REPORTS FILED AND KEPT PURSUANT TO THIS ARTICLE IN THE SAME MANNER AND WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF SECTION TWELVE HUNDRED EIGHTY-SEVEN OF THIS CHAPTER HAD BEEN INCORPORATED IN FULL INTO THIS ARTICLE AND HAD EXPRESSLY REFERRED TO THE TAX UNDER THIS ARTICLE, EXCEPT TO THE EXTENT THAT ANY SUCH PROVISION IS EITHER INCONSISTENT WITH A PROVISION OF THIS ARTICLE OR IS NOT RELEVANT TO THIS ARTICLE.

S 1192. DEPOSIT AND DISPOSITION OF REVENUE. (A) ALL TAXES, INTEREST AND PENALTIES COLLECTED OR RECEIVED BY THE COMMISSIONER UNDER THIS ARTICLE SHALL BE DEPOSITED AND DISPOSED OF PURSUANT TO THE PROVISIONS OF SECTION ONE HUNDRED SEVENTY-ONE-A OF THIS CHAPTER; PROVIDED HOWEVER, THE COMPTROLLER SHALL ON OR BEFORE THE TWELFTH DAY OF EACH MONTH, PAY ALL SUCH TAXES, INTEREST AND PENALTIES COLLECTED UNDER THIS ARTICLE AND REMAINING TO THE COMPTROLLER'S CREDIT IN SUCH BANKS, BANKING HOUSES OR TRUST COMPANIES AT THE CLOSE OF BUSINESS ON THE LAST DAY OF THE PRECEDING MONTH, INTO THE GENERAL FUND OF THE STATE TREASURY.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, SUBDIVISION (A) OF SECTION TWELVE HUNDRED TEN AND SECTION TWELVE HUNDRED EIGHTEEN OF THIS CHAPTER ARE INAPPLICABLE TO THIS ARTICLE.

S 2. Part U-1 of chapter 57 of the laws of 2009 amending the tax law relating to imposing state and local sales taxes on certain transportation services is REPEALED.

S 3. This act shall take effect immediately.