

CHAPTER 102

AN ACT imposing personal liability on certain persons required to collect certain taxes, fees, and assessments, amending various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 9 of P.L.1992, c.165 (C.40:54D-9) is amended to read as follows:

C.40:54D-9 Forwarding of tax, assessment collected, filing returns; vendor liability.

9. a. (1) A vendor required to collect the tax upon predominantly tourism related retail receipts or tourism assessment imposed pursuant to this act shall on or before the dates required pursuant to section 17 of P.L.1966, c.30 (C.54:32B-17), forward to the director the tax and assessments collected in the preceding month and make and file a return for the preceding month with the director on any form and containing any information as the Director of the Division of Taxation in the Department of the Treasury shall prescribe by rule or regulation as necessary to determine liability for the tax and assessment in the preceding month during which the person was required to collect the tax.

(2) A vendor required to collect the tax upon predominantly tourism related retail receipts and the tourism assessment shall be personally liable for the tax or assessment imposed, collected, or required to be paid, collected, or remitted under section 4 of P.L.1992, c.165 (C.40:54D-4). Any such vendor shall have the same right in respect to collecting the tax or assessment from that vendor's customer or in respect to non-payment of the tax or assessment by the customer as if the tax or assessment were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the tax or assessment.

For purposes of this paragraph, "vendor" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

b. The director may permit or require returns to be made covering other periods and upon any dates as the director may specify. In addition, the director may require payments of tax and assessment liability at any intervals and based upon any classifications as the director may designate. In prescribing any other periods to be covered by the return or intervals or classifications for payment of tax and assessment liability, the director may take into account the dollar volume of tax and assessment involved as well as the need for ensuring the prompt and orderly collection of the tax imposed.

c. The director may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

d. The director shall inform the authority for each month in which this tax and assessment is collected and returns made of the amount so collected in each month.

2. Section 2 of P.L.2004, c.48 (C.52:17C-18) is amended to read as follows:

C.52:17C-18 Fee imposed on mobile telecommunications service customers; exemptions; administration liability.

2. a. (1) There is imposed on each mobile telecommunications service customer, charged by a mobile telecommunications company for mobile telecommunications service for each voice grade access telephone number provided to the customer billed by or for the customer's

home service provider and provided to a customer with a place of primary use in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service number provided as part of the mobile telecommunications service.

(2) There is imposed on each customer charged by a telephone exchange company for each voice grade access service line provided to that customer that has a service address in this State, a fee of \$0.90 on any periodic bill received by the customer for each voice grade access service line provided as part of that telephone exchange service. Each Private Branch Exchange (PBX) trunk or Centrex trunk equivalent shall constitute an individual and separate subscribed service line. Any customer that has been determined by its telephone exchange company to be enrolled in the Lifeline Telecommunication program, or in receipt of Lifeline Telecommunication or Universal Service Fund benefits for a periodic bill shall be exempt from the fee on that periodic bill. State government agencies, and county and municipal governments and their agencies, and school districts shall be exempt from the fee imposed on customers of telephone exchange companies for each voice grade access service line provided as part of telephone exchange service provided to that customer at a service address in this State for periodic bills issued to those customers on and after January 1, 2005.

b. The fee imposed by paragraphs (1) and (2) of subsection a. of this section shall be collected by the mobile telecommunications company or telephone exchange company providing the applicable service to its customers upon payment of any periodic bill for such service. This section shall not be deemed as extending to a telephone exchange company or mobile telecommunications company any obligation or authority otherwise not provided pursuant to law, to take legal action to enforce the collection of the fee imposed upon the customer. Any such action shall be brought by the State against the customer with any cooperation requested by the State of the telephone exchange company or mobile telecommunications company as the State deems necessary.

c. (1) The fees collected pursuant to subsection b. of this section shall be collected monthly and reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation in the Department of the Treasury, which notwithstanding the provisions of subsection b. of section 1 of P.L.1992, c.140 (C.54:48-4.1) if any, to the contrary, shall be subject to the provisions of P.L.1992, c.140 as the director shall prescribe, and the State Treasurer shall credit the fee revenue to the "9-1-1 System and Emergency Response Trust Fund Account" established pursuant to section 3 of P.L.2004, c.48 (C.52:17C-19). The administration, collection and enforcement of the fee imposed by this act shall be subject to the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq., to the extent that the provisions of such law are not inconsistent with any provision of this act.

(2) Each mobile telecommunications company and telephone exchange company shall be liable for the fee imposed, collected, or required to be paid, collected, or remitted under the provisions of paragraphs (1) and (2) of subsection a. of this section. Any such company shall have the same right in respect to collecting the fee from that company's customer or in respect to non-payment of the fee by the customer as if the fee were a part of the purchase price of the applicable telecommunications service or telephone exchange service, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the fee.

For purposes of this paragraph, "company" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

d. A telephone exchange company that provides telephone exchange service to the State government or any State government agency, a county or municipal government or any of its agencies, or a school district that is exempt for bills issued on and after January 1, 2005, shall be entitled after that date to a credit in an amount as the Director of the Division of Taxation shall determine within 60 days of application, against the amount of fees collected during and due to be paid over for the calendar quarter commencing on that date, for the reasonable costs certified by the telephone exchange company to have been incurred by the company for changes made to its billing system that are necessary to implement the exemption. The director shall consult with the Board of Public Utilities to ascertain from the board the reasonableness of the costs claimed to be incurred. The director and the board may adopt regulations necessary to administer the credit.

3. Section 1 of P.L.1980, c.60 (C.54:32B-24.1) is amended to read as follows:

C.54:32B-24.1 Retail sales tax in fourth class cities; collection and administration by director; vendor liability.

1. a. The director shall collect and administer any tax imposed pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.), amended and supplemented by P.L.1979, c.273, notwithstanding the provisions of any other law or ordinance to the contrary. In carrying out the provisions of this supplementary act the director shall have all the powers granted in P.L.1966, c.30 (C.54:32B-1 et seq.).

b. The director shall determine and certify to the State Treasurer on a monthly basis the amount of revenues payable to any municipality which has enacted a tax pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.) and collected by the director pursuant to this supplementary act. The State Treasurer upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a monthly basis to each municipality the amount so determined and certified.

c. The director may furnish to a municipality, at his discretion, copies of tax reports or returns relating to taxes imposed under any municipal ordinance heretofore adopted by that municipality pursuant to P.L.1947, c.71 (C.40:48-8.15 et seq.).

d. (1) Each vendor required to collect the tax imposed by a municipal ordinance which was adopted pursuant to the provisions of P.L.1947, c.71 (C.40:48-8.15 et seq.) shall be personally liable for the tax imposed, collected, or required to be paid, collected, or remitted under the ordinance. Any such vendor shall have the same right in respect to collecting the tax from that vendor's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the property or service, amusement charge or rent, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

(2) For purposes of this subsection, "vendor" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

4. Section 2 of P.L.2003, c.114 (C.54:32D-2) is amended to read as follows:

C.54:32D-2 Collection, administration of fee; liability for fees.

2. a. The Director of the Division of Taxation shall collect and administer the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1). The fees collected shall be deposited to the General Fund, and shall be allocated as follows:

(1) of the fees collected for occupancies during State Fiscal Year 2004: \$16,000,000 shall be allocated for appropriation to the New Jersey State Council on the Arts for cultural projects; \$2,700,000 shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3); \$9,000,000 shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion; and \$500,000 shall be allocated for appropriation to the New Jersey Cultural Trust; and

(2) of the fees collected for occupancies during State Fiscal Year 2005 and thereafter: 22.68 percent shall be annually allocated for appropriation to the New Jersey State Council on the Arts for cultural projects, provided that the amount allocated shall not be less than \$22,680,000; 3.84 percent shall be allocated for appropriation to the New Jersey Historical Commission for the purposes of subsection a. of section 3 of P.L.1999, c.131 (C.18A:73-22.3), provided that the amount allocated shall not be less than \$3,840,000; 12.76 percent shall be allocated for appropriation to the New Jersey Commerce and Economic Growth Commission for tourism advertising and promotion, provided that the amount allocated shall not be less than \$12,760,000; and .72 percent shall be allocated for appropriation to the New Jersey Cultural Trust, provided that the amount allocated shall not be less than \$720,000.

b. (1) In carrying out the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be filed and paid in a manner prescribed by the Director of the Division of Taxation. The director shall promulgate such rules and regulations as the director determines are necessary to effectuate the provisions of section 1 of P.L.2003, c.114 (C.54:32D-1) and this section.

(2) Each person required to collect the hotel and motel occupancy fee shall be personally liable for the fee imposed, collected, or required to be paid, collected, or remitted under section 1 of P.L.2003, c.114 (C.54:32D-1). Any such person shall have the same right in respect to collecting the fee from that person's customer or in respect to non-payment of the fee by the customer as if the fee were a part of the purchase price of the occupancy or rent, as the case may be, and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the fee.

For purposes of this paragraph, "person" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

c. The annual appropriations act for each State Fiscal Year, commencing with fiscal year 2005, shall appropriate and distribute during that fiscal year amounts not less than the amounts otherwise specified for State Fiscal Year 2004 in paragraph (1) of subsection a. of this section for the purposes specified in paragraph (1) of subsection a. of this section.

d. If the provisions of subsection c. of this section are not met on the effective date of an annual appropriations act for the State fiscal year, or if an amendment or supplement to an annual appropriations act for the State fiscal year should violate the provisions of subsection c. of this section, the Director of the Division of Budget and Accounting in the Department of the Treasury shall, not later than five days after the enactment of the annual appropriations act, or an amendment or supplement thereto, that violates the provisions of subsection c. of

this section, certify to the Director of the Division of Taxation that the requirements of subsection c. of this section have not been met.

e. The Director of the Division of Taxation shall, no later than five days after certification by the Director of the Division of Budget and Accounting in the Department of the Treasury pursuant to subsection d. of this section that the provisions of subsection c. of this section have not been met or have been violated by an amendment or supplement to the annual appropriations act, notify each person required to collect tax of the certification and that the fee imposed pursuant to section 1 of P.L.2003, c.114 (C.54:32D-1) shall no longer be paid or collected.

5. Section 1 of P.L.2004, c.53 (C.54:32E-1) is amended to read as follows:

C.54:32E-1 Tax imposed on gross receipts from cosmetic medical procedure; definitions; liability for tax.

1. a. There is imposed and shall be paid a tax of 6% on the gross receipts from a cosmetic medical procedure, which shall be paid by the subject of the cosmetic medical procedure, and which shall be collected from the procedure subject by the person billing the gross receipts from the cosmetic medical procedure when collecting the payment for the cosmetic medical procedure. If more than one person bills gross receipts from a single cosmetic medical procedure, each person shall be responsible for the collection of the gross receipts tax on the portion of the gross receipts billed.

b. For the purposes of this section, the following terms shall have the following meanings:

"Cosmetic medical procedure" means any medical procedure performed on a individual which is directed at improving the procedure subject's appearance and which does not meaningfully promote the proper function of the body or prevent or treat illness or disease. "Cosmetic medical procedure" includes but is not limited to cosmetic surgery, hair transplants, cosmetic injections, cosmetic soft tissue fillers, dermabrasion and chemical peel, laser hair removal, laser skin resurfacing, laser treatment of leg veins, sclerotherapy, and cosmetic dentistry. "Cosmetic medical procedure" does not include reconstructive surgery or dentistry;

"Cosmetic surgery" means the surgical reshaping of normal structures on the body to improve the body image, self-esteem or appearance of an individual;

"Gross receipts from a cosmetic medical procedure" means all amounts paid for services, property or occupancy required for or associated with the performance of a cosmetic medical procedure and billed to the procedure subject's account;

"Reconstructive surgery or dentistry" includes any surgery or dentistry performed on abnormal structures caused by or related to congenital defects, developmental abnormalities, trauma, infection, tumors or disease, including procedures to improve function or give a more normal appearance.

c. (1) The Director of the Division of Taxation shall collect and administer the tax imposed pursuant to this section. In carrying out the provisions of this section, the director shall have all of the powers and authority granted in P.L.1966, c.30 (C.54:32B-1 et seq.). The tax shall be reported and paid to the director on a quarterly basis in a manner prescribed by the Director of the Division of Taxation.

(2) Each person billing the gross receipts from a cosmetic medical procedure shall be personally liable for the tax imposed, collected, or required to be paid, collected, or remitted under this section. Any such person shall have the same right in respect to collecting the tax

from that person's customer or in respect to non-payment of the tax by the customer as if the tax were a part of the purchase price of the procedure and payable at the same time; provided however, that the director shall be joined as a party in any action or proceeding brought to collect the tax.

For purposes of this paragraph, "person billing the gross receipts from a cosmetic medical procedure" includes: an individual, partnership, corporation, or an officer, director, stockholder, or employee of a corporation, or a member or employee of a partnership, who as such officer, director, stockholder, employee, or member is under the duty to perform the act in respect of which the violation occurs.

d. The tax imposed pursuant to this section shall be governed by the provisions of the State Uniform Tax Procedure Law, R.S.54:48-1 et seq.

e. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.) to the contrary, the director may adopt immediately upon filing with the Office of Administrative Law such regulations as the director deems necessary to implement the provisions of this act, which shall be effective for a period not to exceed 180 days following enactment of P.L.2004, c.53 (C.54:32E-1) and may thereafter be amended, adopted or readopted by the director in accordance with the requirements of P.L.1968, c.410.

6. This act shall take effect immediately, but sections 1 through 5 shall remain inoperative until the first day of the fourth month following the date of enactment.

Approved June 28, 2007.