

CHAPTER 302

AN ACT authorizing municipalities to impose a surcharge on admission charges at certain major places of amusement and supplementing Title 40 of the Revised Statutes.

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

C.40:48G-1 Definitions relative to surcharge on admission charges at certain major places of amusement; authorization, contents of ordinance.

1. a. As used in this section:

"admission charge" means the amount paid for admission, including any service charge and any charge for entertainment at a place of amusement, including but not limited to a dramatic or musical arts admission charge as defined pursuant to subsection (r) of section 2 of P.L.1966, c.30 (C.54:32B-2); and

"major place of amusement" means a place of amusement as that term is defined in subsection (t) of section 2 of P.L.1966, c.30 (C.54:32B-2), other than a motion picture theater, and other than an amusement park as defined in section 1 of P.L.1992, c.118 (C.5:3-55), at which admission charges are regularly paid, which place of amusement is not owned by the State or an independent State authority, or is not located on property that is owned by the State or an independent State authority, and which contains fixed seats or bleacher capacity for not less than 10,000 patrons.

b. The governing body of a municipality in which there is located a major place of amusement may adopt an ordinance imposing a surcharge in the amount of 5% of each admission charge that is subject to the New Jersey sales tax pursuant to paragraph (1) of subsection (e) of section 3 of P.L.1966, c.30 (C.54:32B-3), and that is not otherwise exempt from that tax, collected by each major place of amusement in the municipality for admission thereto, which surcharge shall be paid by the customer from whom the sales tax is due pursuant to section 3 of P.L.1966, c.30 (C.54:32B-3). A surcharge imposed under an ordinance adopted pursuant to this section shall be in addition to any other tax or fee imposed pursuant to statute or local ordinance or resolution by any governmental entity upon the admission charge. A surcharge imposed under an ordinance adopted pursuant to this section shall be separately stated on any bill, receipt, invoice or similar document provided to the patron, but shall not be considered part of the sale price for purpose of determining tax pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.).

c. A copy of an ordinance adopted pursuant to this section shall be transmitted upon adoption or amendment to the State Treasurer along with a list of the names and locations of major places of amusement in the municipality. An ordinance so adopted or any amendment thereto shall provide that the surcharge provisions of the ordinance or any amendment to the surcharge provisions shall take effect on the first day of the first full month occurring 30 days after the date of transmittal to the State Treasurer. Any ordinance enacted pursuant to this section shall contain the following provisions:

- (1) A vendor shall not assume or absorb the surcharge imposed by the ordinance;
- (2) A vendor shall not in any manner advertise or hold out to any person or to the public in general, in any manner, directly or indirectly, that the surcharge will be assumed or absorbed by the vendor, that the surcharge will not be separately charged and stated to the customer, or that the surcharge will be refunded to the customer;
- (3) Each assumption or absorption by a vendor of the surcharge shall be deemed a separate offense and each representation or advertisement by a vendor for each day the representation or advertisement continues shall be deemed a separate offense; and
- (4) Penalties as fixed in the ordinance, for violation of the foregoing provisions.

d. (1) A surcharge imposed pursuant to a municipal ordinance adopted under the provisions of this section shall be collected on behalf of the municipality by the person collecting the admission charge from the customer.

(2) Each person required to collect a surcharge imposed by the ordinance shall be personally liable for the surcharge imposed, collected or required to be collected hereunder. Any such person shall have the same right in respect to collecting the surcharge from a customer as if the surcharge were a part of the admission charge and payable at the same time; provided, however, that the chief fiscal officer of the municipality shall be joined as a party in any action or proceeding brought to collect the surcharge.

e. (1) A person required to collect a surcharge imposed pursuant to the provisions of this section 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 of the Division of Taxation in the Department of the Treasury the surcharge 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 shall prescribe as necessary to determine liability for the surcharge in the preceding month during which the person was required to collect the surcharge.

(2) 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 surcharge 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 surcharge liability, the director may take into account the dollar volume of surcharge involved as well as the need for ensuring the prompt and orderly collection of the surcharge imposed.

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

f. (1) The Director of the Division of Taxation in the Department of the Treasury shall collect and administer the surcharge; in so doing, the director shall have all the powers granted pursuant to P.L.1966, c.30 (C.54:32B-1 et seq.). A surcharge imposed pursuant to the provisions of this section shall be governed by the provisions of the "State Uniform Tax Procedure Law," R.S.54:48-1 et seq.

(2) The director shall determine and certify to the State Treasurer on a quarterly or more frequent basis, as prescribed by the State Treasurer, the amount of revenues collected in each municipality pursuant to this section.

(3) The State Treasurer, upon the certification of the director and upon the warrant of the State Comptroller, shall pay and distribute on a quarterly or more frequent basis, as prescribed by the State Treasurer, to each municipality the amount of revenues determined and certified under this subsection.

(4) The revenue, if any, received by a municipality shall be appropriated as a special item of local revenue subject to the prior written approval by the Director of the Division of Local Government Services in the Department of Community Affairs, and shall be offset with a local unit appropriation of an equal amount for public safety purposes.

g. The director may, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), make, adopt, amend, or repeal such rules and regulations as the director finds necessary to carry out the provisions of this section.

2. This act shall take effect immediately.

Approved January 13, 2008.