

# MICROFILM DIVIDER

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ROLL NUMBER

DESCRIPTION

2102

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10-16-03  
Date

2003 SENATE FINANCE AND TAXATION

SB 2102

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2102

Senate Finance and Taxation Committee

Conference Committee

Hearing Date January 15, 2003

Tape Number	Side A	Side B	Meter #
1	X		#30

Committee Clerk Signature *[Handwritten Signature]*

Minutes:

Senator Urlacher opened the hearing on SB2102. All committees members were present.

Gary L. Anderson, Director of the Sales & Special Taxes Division with the Office of State Tax Commissioner. This bill addresses the imposition and administration of the 3% sales tax surcharge on rental motor vehicles. Written testimony detailing the changes is attached.

Recommends a Do Pass.

Senator Urlacher - Is there a need for a fiscal note?

Mr. Anderson - Research indicates only a few companies would be affected at this time, there is a potential for additional income in the future. Just trying to clarify legislative intent.

Senator Syverson - In the case of a motor vehicle leasing company, that has vehicle not in their inventory, in other words, driven in to state while being rented. Is the language adequate to address that situation.

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Senate Finance and Taxation Committee

Bill/Resolution Number SB2102

Hearing Date January 15, 2003

Mr. Anderson - I believe it is. The company would not have additional tax to pay. This affects rental motor vehicles registered in North Dakota.

Senator Urlacher - Any other testimony on SB2102? Hearing closed.

Senator Wardner - I think this was an oversight from last session, just making it consistent and fair.

Senator Syverson motioned for Do Pass. Second by Senator Seymour. Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Syverson.

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REPORT OF STANDING COMMITTEE (410)  
January 15, 2003 12:05 p.m.

Module No: SR-07-0574  
Carrier: Syverson  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2102: Finance and Taxation Committee (Sen. Urlacher, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2102 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-07-0574

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2003 HOUSE FINANCE AND TAXATION

SB 2102

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2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2102

House Finance and Taxation Committee

Conference Committee

Hearing Date March 3, 2003

Tape Number	Side A	Side B	Meter #
1	X		15.5
			Recorder did not work
Committee Clerk Signature <i>Janice Stein</i>			

Minutes:

**REP. WES BELTER, CHAIRMAN** Called the hearing to order.

**GARY ANDERSON, DIRECTOR OF SALES & SPECIAL TAXES, DIV. WITH THE**

**OFFICE OF STATE TAX COMMISSIONER** Testified in support of the bill, see attached written testimony.

**REP. IVERSON** Asked if rental companies are not allowing the offset right now.

**GARY ANDERSON** At the present time, it was understood rental companies owned the vehicles. As a result, they do not pay it directly to the state. The way the law is written, they did take that into consideration.

**REP. GROSZ** What the fiscal effect would be with this bill.

**GARY ANDERSON** Stated, based on the information they have, only one company filed last year. It is a very limited situation, which could become a situation.

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Page 2  
House Finance and Taxation Committee  
Bill/Resolution Number SB 2102  
Hearing Date March 3, 2003

**TODD KRANDA, ATTORNEY WITH THE KELSCH LAW FIRM, ON BEHALF OF**

**HANSEN LEASE & RENTAL, INC.** Testified in support of the bill. See attached written testimony.

**HADLEY FRENG, HANSEN LEASE & RENTAL, INC., GRAND FORKS, ND,** Testified in support of the bill. See attached written testimony.

**MARK HOVDE, GENERAL MANAGER OF HERTZ RENT A CAR, GRAND FORKS, &**

**FARGO, ND,** Testified in support of the bill. See attached written testimony.

With no further testimony, the hearing was closed.

**COMMITTEE ACTION**

**REP. CLARK** Made a motion for a **DO PASS**.

**REP. IVERSON** Second the motion. **MOTION CARRIED.**

**13 YES      0 NO      1 ABSENT**

**REP. IVERSON** Was given the floor assignment.

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Date: 3-3-03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2102

House FINANCE & TAXATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Clark Seconded By Rep. Iverson

Representatives	Yes	No	Representatives	Yes	No
BELTER, CHAIRMAN	✓				
DROVDAL, VICE-CHAIR	✓				
CLARK	✓				
FROELICH	✓				
GROSZ	✓				
HEADLAND	✓				
IVERSON	✓				
KELSH	✓				
KLEIN	✓				
NICHOLAS	✓				
SCHMIDT	✓				
WEILER	✓				
WIKENHEISER	✓				
WINRICH	✓				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Iverson

If the vote is on an amendment, briefly indicate intent:

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10-16-03  
Date

REPORT OF STANDING COMMITTEE (410)  
March 3, 2003 1:04 p.m.

Module No: HR-37-3735  
Carrier: Iverson  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2102: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2102 was placed on the Fourteenth order on the calendar.**

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2003 TESTIMONY

SB 2102

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10-16-03  
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**Testimony before the Senate Finance and Taxation Committee  
Senate Bill 2102**

January 15, 2002  
Prepared by Gary L. Anderson  
Director of Sales & Special Taxes  
North Dakota Office of State Tax Commissioner

*Same given to  
House*

Mr. Chairman and members of the Finance & Taxation Committee, my name is Gary Anderson. I am the Director of the Sales & Special Taxes Division with the Office of State Tax Commissioner.

Senate Bill No. 2102 will amend subsection 2 of N.D.C.C. Section 57-39.2-03.7, which addresses the imposition and administration of the 3% sales tax surcharge on rental motor vehicles.

During the 2001 legislative session, legislation was approved that requires rental companies to collect a 3% surcharge on all motor vehicle rentals for periods of fewer than thirty days. The rental company collecting the surcharge is required to report and pay the collections to the Tax Commissioner annually less any North Dakota 5% motor vehicle excise taxes that may have been paid under N.D.C.C, chapter 57-40.3 by the rental company during this same period on the rental vehicles they owned.

It became evident soon after the first reports were filed in February 2002 (due date of February 15) that not all rental companies operating within the state owned the motor vehicles they used for rental purposes. Instead, a few of the rental companies were leasing vehicles from another company.

Under chapter 57-40.3, which is the motor vehicle excise tax law, the owner of a motor vehicle is responsible for the payment of the 5% motor vehicle excise tax at the

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time the vehicle is titled and licensed. In situations where the vehicles are being leased, the owner of the motor vehicle, in this case the leasing company is responsible for this excise tax. It should be noted that it is generally the practice of leasing companies to obligate the lessee by contract for the responsibility of paying the leasing company's motor vehicle excise tax expense.

This brings us back to the existing law, which states that ". . . a company that collects surcharges under this section shall file a report with the commissioner stating the total amount of excise taxes paid under chapter 57-40.3 on its rental vehicles for the preceding calendar year. . ." The rental company, in this instance, did not have an obligation under chapter 57-40.3 to pay an excise tax on its rental vehicles. Instead, under 57-40.3, the responsibility for the motor vehicle excise tax was on the leasing company. For this reason, the rental company does not have an offset to apply to the 3% surcharge revenue.

Senate Bill 2102 suggests that changing one word, "its" to "the" on line 8, will allow the rental company to offset the surcharge revenue with the total amount of excise taxes paid under chapter 57-40.3 on the rental vehicles during the reporting period regardless of who is actually identified as the owner of the vehicle.

The Tax Commissioner recommends a do pass on Senate Bill 2102. If the Committee has any questions, I would be glad to respond.

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**Testimony in Support of Senate Bill No. 2102**

**House - Finance and Taxation Committee**

**March 3, 2003**

Chairman Belter, House Finance and Taxation Committee members, my name is Todd D. Kranda. I am an attorney with the Kelsch Law Firm in Mandan and I appear before you today as a lobbyist on behalf of Hansen Lease and Rental Inc. in support of Senate Bill No 2102.

SB 2102 was introduced by the Finance and Taxation Committee, on behalf of the Tax Commissioner. As background information, last session the legislature looked at putting a sales or use tax on leased vehicles that were leased for less than 30 days. Rental companies would have paid this tax on their rental cars instead of the 5% motor vehicle excise tax paid by the company when the vehicle was purchased. DOT and the highway contractors didn't want that because money earmarked for highway construction would go to the general fund. So at the last minute without much hearing or input the legislature provided that the rental company could deduct the 5% excise tax paid on "its" vehicles from the 3% surcharge on the rental of the vehicles.

The problem arose because Hansen Lease and Rental Inc. Grand Forks owns the vehicles and leases them to Hansen Lease and Rental Inc. Fargo, a separate company. Although under the lease agreement Fargo pays both the 5% excise tax and the 3% surcharge, the Tax Department interpreted Section 57-39.2-

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03.7 N.D.C.C to require Fargo to have title to the vehicle before it can offset the 5% excise tax against the 3% surcharge on rentals.

The change from "its" to "the" vehicle within SB 2102 is to correct this problem. Hansen's Hertz franchise has the same problem, because it doesn't have title to the vehicles.

SB 2102, if passed, will allow any rental company who pays the 5% excise tax on a vehicle to deduct the excise tax paid on the vehicle from the surcharge it has to pay even though it doesn't have title to the vehicle.

This prevents double taxation and treats all car rental companies the same. It also does not put Hansen at a disadvantage with MN car rental companies. There is no fiscal note on this bill because of the limited impact. There is an appeal of the Tax Commissioner's interpretation of this section, but this bill should clarify the legislature's intent and assist Hansen for the future as well as interpretation of the intent of the tax in the past.

I would be willing to answer any questions, otherwise, I would like to introduce **Hadley Freng**, Controller of Hansen Lease and Rental Inc. Grand Forks and **Mark Hovde**, General Manager of Hertz Grand Forks and Fargo, a division of Hansen Lease and Rental Inc., who are here to testify in support of SB 2102 and who could further explain the effect of the legislation and respond to any questions from the committee regarding SB 2102.

In conclusion, I urge a DO PASS recommendation for SB 2102.

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**Testimony in Support of Senate Bill No. 2102**

**House, Finance and Taxation Committee**

**March 3, 2003**

Chairman Belter, Senate House, Finance and Taxation Committee members, my name is Hadley Freng. I am controller for Hansen Lease & Rental, Inc. in Grand Forks, North Dakota. I appear before you today in support of Senate Bill No. 2102.

SB 2102 was introduced by the Finance and Taxation Committee on behalf of the tax commissioner. This bill will allow a rental car company who chooses to lease their fleet instead of owning to recover the motor vehicle excise tax they pay when leasing the vehicles.

This will also allow these companies to remain rate competitive with the other rental car companies in their market who have the ability under current law to offset the 3% surcharge against the excise tax paid.

I would be willing to answer any questions Mr. Chairman or other House Finance and Taxation Committee members have at this time.

In conclusion, I urge a DO PASS on SB 2102.

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**Testimony in Support of Senate Bill No. 2102**

**House, Finance and Taxation Committee**

**March 3, 2003**

Chairman Belter, House Finance and Taxation Committee members, my name is Mark Hovde, I am the General Manager of Hertz Rent A Car of Grand Forks and Fargo, ND. I am here before you today to urge your support for Senate Bill # 2102.

To provide some background to the situation, Hertz Rent A Car in Fargo and Grand Forks are two separate Hertz locations that run one combined fleet. Since they are both owned by the same company, the fleet in Fargo is leased from Hansen Lease and Rental of Grand Forks. Leasing allows our two locations to have better lending rates, better fleet utilization, insurance rates, etc. Leasing also allows us to fluctuate our fleet to the ups and downs of the industry, also to adapt to the fact that our average vehicle stays in service a little over 10 months. As a result with such short usage and a combined fleet we are at a competitive disadvantage with other car rental providers who under the current law can offset the vehicle excise tax with the rental surcharge. Senate Bill No. 2102 will remedy the situation and allow us to lease vehicles and offset our excise taxes.

As a North Dakota owned and operated company we will not be placed at a competitive disadvantage from other car rental providers and will not be double taxed, if Senate Bill 2102 passes. I urge your support for this legislation and would be willing to answer any questions you may have.

In conclusion, I urge a DO PASS on SB 2102.

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