

**LATE**



February 7, 2018

TO: Senate Committee on Economic Development, Tourism and Technology  
The Honorable Glenn Wakai, Chair  
The Honorable Brian T. Taniguchi, Vice Chair

Senate Committee on Commerce, Consumer Protection and Health  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Jill N. Tokuda, Vice Chair

FROM: Amanda Pedigo, Vice President, Government and Corporate Affairs  
Expedia, Inc.

RE: SB2657 RELATING TO TRANSIENT ACCOMMODATIONS TAX  
(**OPPOSE**)

Dear Chair Wakai, Chair Baker, and distinguished members of the Senate Committees on Economic Development, Tourism and Technology, and on Commerce, Consumer Protection and Health,

I represent the Expedia family of companies providing online travel booking to the world. We oppose this bill's effort to extend Transient Accommodations Tax (TAT) collection beyond the furnishing of the accommodations.

Our concerns with SB2657 are similar to those expressed for the previous bill, SB2615, because this bill would also expand the collection of TAT. First, it would expand the definition of "gross rental" and "gross rental proceeds" to include additional fees collected from visitors such as booking fees, lodging fees, transient fees, and cleaning fees. This expansion applies the TAT to fees not associated with the direct furnishing of accommodations.

Online travel agencies provide a critical service to travelers, our hotel partners, and the destinations we market. Hotels voluntarily use our services because we market their property on a global platform helping them reach new travelers and fill rooms that would otherwise remain vacant. For example, an out-of-state visitor planning a trip to Maui might assume there is a Hyatt or Westin nearby, and there is. They could call the hotel chains' 24-hour reservation line and take care of their booking. But, there is a much smaller chance that they would have heard of the Haiku Plantation Inn without the help of an online travel agency that displays multiple properties in response to a geographic search, or without calling a brick-and-mortar travel agent to help make recommendations on where to stay. In exchange for providing these search and facilitation services, we charge a fee to the traveler.



The definition of "Transient Accommodations Broker" is changed to "Transient Accommodations Remarketer" and would include any person or entity that markets transient accommodations through wholesale travel companies and booking platforms.

Expedia, Inc. platforms shine an international spotlight on Hawai'i's small businesses. We connect them to a world of potential travelers on 200 travel booking sites in more than 75 countries, allowing them to transact business in foreign languages and currencies, and to be displayed side-by-side with some of the biggest hotel chains in the world. This model helps travelers, helps hotels, and helps the many other tourism-related industries, which are vital to a state's economy, like restaurants, museums, arts venues, transportation companies, and others.

This bill would also expand the application of the TAT to the fee collected by a travel agent or online intermediary, called in this bill a "transient accommodations remarketer," for arranging the reservations. Currently, the TAT is only collected for the portion of the fee that is attributable to the furnishing of the accommodations and not the fee that is attributable to the travel agency arranging non-commissioned reservations. That fee does not pay for the accommodations, but rather for services provided by the online intermediary, including 24/7 customer support. Operators and Plan Managers would no longer be the only entities subject to the TAT. This expansion would result in a higher total cost to the visitor.

Of most concern to Expedia, is Section four of this bill. This section seems to hold transient accommodations intermediaries responsible for providing the Department of Taxation (DoTAX) with a name and physical address within the State for each transient accommodation subject to the TAT. Under the federal Stored Communications Act, 18 U.S.C. §§ 2700 et seq., HomeAway cannot provide owner names and addresses without the required legal process and could not comply with this law consistent with the dictates of the SCA. The responsibility of registering accommodations has and should rest entirely with the operators and plan managers. Travel agencies and Transient Accommodations Brokers, as intermediaries should not be liable for registering the specific information about entities that are already registered with DoTAX and paying the TAT. The double registration of transient accommodations is duplicative and unnecessary.

The bill would also expand the liability for failure to comply with requirements contained in HRS 237D-4(c) to travel agencies. The section in question requires advertisements for transient accommodations to include the tax registration number of the operator or plan manager and a local contact's name, phone number, and electronic mail address. We hold firm in our contention that this provision is unenforceable due to the protections provided to internet advertising platforms under the Communications Decency Act. The provision of this information is and should be the responsibility of the



operators of the transient accommodations and not the responsibility of booking platforms or travel agencies.

This expansion of the TAT will make visiting Hawai`i even more expensive than it is today. The TAT was increased last year from 9.25% to 10.25%. We have worked hard to market Hawai`i as a desirable destination for potential visitors, but this expansion of the TAT would make Hawaii less competitive as a travel destination.

It will also make it far, far less attractive to online businesses which market travel destinations around the world by cutting deeply into the compensation they receive for booking services. Through the GET burden on booking income, Hawai`i already imposes more tax on online agents than most other destinations. If TAT were added, transactions involving travel to Hawai`i would become far less profitable than transactions involving similar destinations. Economics dictate that online companies promote profitable destinations. This bill is a big step toward undermining Hawai`i's market position.

Thank you for the opportunity to share this testimony.