
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 **PART I**

2 SECTION 1. The legislature finds that, under certain
3 circumstances, allowing a private person to act as a tax
4 collection agent is likely to ease the burden of collecting
5 taxes. The legislature further finds that in the transient
6 accommodations industry there are entities that are well-placed
7 to act as tax collection agents and ease the burden of
8 collecting taxes.

9 The legislature further finds that requiring a hosting
10 platform to collect and remit taxes on behalf of any transient
11 accommodations operators or plan managers operating through the
12 hosting platform will increase compliance with the transient
13 accommodations and general excise taxes.

14 The legislature also finds that the penalties for doing
15 business under Chapter 237D, Hawaii Revised Statutes, should be
16 converted to monetary civil fines rather than criminal fines.



1 The purpose of this Act is to:

2 (1) Amend the definition of "transient accommodations" to
3 include other forms of transient accommodations and
4 other terms that the counties may have defined;

5 (2) Make any person who fails to register prior to
6 engaging or continuing in the business of furnishing
7 transient accommodations, which includes posting any
8 advertisement for furnishing a transient
9 accommodation, subject to a citation process and
10 monetary fines, rather than a misdemeanor;

11 (3) Make any person who enters into an agreement to
12 furnish transient accommodations without registering
13 subject to a citation process and monetary fines; and

14 (4) Require a hosting platform that collects fees for
15 booking services to register as a tax collection agent
16 on behalf of its operators and plan managers for
17 purposes of general excise taxes and transient
18 accommodations taxes.

19 This Act is not intended to preempt or otherwise limit the
20 authority of counties to adopt, monitor, and enforce local land
21 use regulations, and this Act is not intended to transfer the



1 authority to monitor and enforce such regulations away from the
2 counties.

3 PART II

4 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is
5 amended as follows:

6 1. By adding two new definitions to be appropriately
7 inserted and to read:

8 "Booking service" means any reservation or payment service
9 provided by a person or entity that facilitates a transient
10 accommodation transaction between an operator and a prospective
11 transient or occupant, and for which the person or entity
12 collects or receives, directly, or indirectly through an agent
13 or intermediary, a fee in connection with the reservation or
14 payment services provided for the transient accommodation
15 transaction.

16 "Hosting platform" means a person or entity that
17 participates in the transient accommodations business by
18 providing, and collecting or receiving a fee for, booking
19 services through which an operator may offer a transient
20 accommodation. Hosting platforms usually, though not
21 necessarily, provide booking services through an online platform



1 that allows an operator to advertise the transient
2 accommodations through a website provided by the hosting
3 platform and the hosting platform conducts a transaction by
4 which potential renters arrange, use, or pay, whether the renter
5 pays rent directly to the operator or to the hosting platform."

6 2. By amending the definition of "transient
7 accommodations" to read:

8 "Transient accommodations" means the furnishing of a room,
9 apartment, suite, single family dwelling, or the like to a
10 transient for less than one hundred eighty consecutive days for
11 each letting in a hotel, apartment hotel, motel, condominium or
12 unit as defined in chapter 514B, cooperative apartment, dwelling
13 unit, or rooming house that provides living quarters, sleeping,
14 or housekeeping accommodations, or other place in which lodgings
15 are regularly furnished to transients. "Transient
16 accommodations" includes "transient accommodations units",
17 "transient vacation rentals", "transient vacation units",
18 "transient vacation use", or any similar term that may be
19 defined by county ordinance to mean a room, apartment, house,
20 condominium, beach house, hotel room, suite, or similar living
21 accommodation rented to a transient person for less than one



1 hundred eighty consecutive days in exchange for payment in cash,
2 goods, or services."

3 **PART III**

4 SECTION 3. Section 237D-4, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§237D-4 Certificate of registration.** (a) Each operator
7 or plan manager as a condition precedent to engaging or
8 continuing in the business of furnishing transient
9 accommodations or in business as a resort time share vacation
10 plan shall register with the director the name and address of
11 each place of business within the State subject to this chapter.
12 The operator or plan manager shall make a one-time payment as
13 follows:

- 14 (1) \$5 for each registration for transient accommodations
- 15 consisting of one to five units;
- 16 (2) \$15 for each registration for transient accommodations
- 17 consisting of six or more units; and
- 18 (3) \$15 for each resort time share vacation plan within
- 19 the State;

20 upon receipt of which the director shall issue a certificate of
21 registration in such form as the director determines, attesting



1 that the registration has been made. The registration shall not
2 be transferable and shall be valid only for the operator or plan
3 manager in whose name it is issued and for the transaction of
4 business at the place designated therein. Acquisition of
5 additional transient accommodation units after payment of the
6 one-time fee shall not result in additional fees.

7 (b) The registration, or in lieu thereof a notice stating
8 where the registration may be inspected and examined, shall at
9 all times be conspicuously displayed at the place for which it
10 is issued. The name, phone number, and electronic mail address
11 of the local contact shall at all times be conspicuously
12 displayed in the same place as the registration or the same
13 place as the notice stating where the registration may be
14 inspected and examined. Failure to meet the requirements of
15 this subsection shall be unlawful. The department may issue
16 citations to any person who fails to conspicuously display the
17 registration or notice, or the local contact's name, phone
18 number, or electronic mail address as required by this
19 subsection. A citation issued pursuant to this subsection for
20 each transient accommodation or resort time share vacation



1 interest, plan, or unit in violation of this subsection shall
2 include a monetary fine of not less than:

3 (1) \$500 per day, for a first violation for which a
4 citation is issued;

5 (2) \$1,000 per day, for a second violation for which a
6 citation is issued; and

7 (3) \$5,000 per day, for a third and any subsequent
8 violation for which a citation is issued.

9 (c) Any advertisement, including an online advertisement,
10 for any transient accommodation or resort time share vacation
11 interest, plan, or unit shall conspicuously provide:

12 (1) The registration identification number or an
13 electronic link to the registration identification
14 number of the operator or plan manager issued pursuant
15 to this section; and

16 (2) The local contact's name, phone number, and electronic
17 mail address, provided that this paragraph shall be
18 considered satisfied if this information is provided
19 to the transient or occupant prior to the furnishing
20 of the transient accommodation or resort time share
21 vacation unit.



1 (d) Failure to meet the requirements of subsection (c)
2 shall be unlawful. The department may issue citations to any
3 person, including operators, plan managers, and transient
4 accommodations brokers, who violates subsection (c). A citation
5 issued pursuant to this subsection for each transient
6 [~~accommodation~~] accommodations or resort time share vacation
7 interest, plan, or unit in violation of subsection (c) shall
8 include a monetary fine of not less than:

- 9 (1) \$500 per day, for a first violation for which a
10 citation is issued;
11 (2) \$1,000 per day, for a second violation for which a
12 citation is issued; and
13 (3) \$5,000 per day, for a third and any subsequent
14 violation for which a citation is issued.

15 (e) The registration provided for by this section shall be
16 effective until canceled in writing. Any application for the
17 reissuance of a previously canceled registration identification
18 number shall be regarded as a new registration application and
19 shall be subject to the payment of the one-time registration
20 fee. The director may revoke or cancel any license issued under
21 this chapter for cause as provided by rule under chapter 91.



1 (f) If the license fee is paid, the department shall not
2 refuse to issue a registration or revoke or cancel a
3 registration for the exercise of a privilege protected by the
4 First Amendment of the Constitution of the United States, or for
5 the carrying on of interstate or foreign commerce, or for any
6 privilege the exercise of which, under the Constitution and laws
7 of the United States, cannot be restrained on account of
8 nonpayment of taxes, nor shall section 237D-14 be invoked to
9 restrain the exercise of such a privilege, or the carrying on of
10 such commerce.

11 ~~[(g) Any person who may lawfully be required by the State,~~
12 ~~and who is required by this chapter, to register as a condition~~
13 ~~precedent to engaging or continuing in the business of~~
14 ~~furnishing transient accommodations or as a plan manager subject~~
15 ~~to taxation under this chapter, who engages or continues in the~~
16 ~~business without registering in conformity with this chapter,~~
17 ~~shall be guilty of a misdemeanor. Any director, president,~~
18 ~~secretary, or treasurer of a corporation who permits, aids, or~~
19 ~~abets such corporation to engage or continue in business without~~
20 ~~registering in conformity with this chapter, shall likewise be~~
21 ~~guilty of a misdemeanor. The penalty for the misdemeanors shall~~



1 ~~be the same as that prescribed by section 231-35 for~~
2 ~~individuals, corporations, or officers of corporations, as the~~
3 ~~case may be, for violation of that section.~~

4 ~~(h)]~~ (g) Any monetary fine assessed under this section
5 shall be due and payable thirty days after issuance of the
6 citation, subject to appeal rights provided under this
7 subsection. Citations may be appealed to the director of
8 taxation or the director's designee.

9 (h) Any person who is required by this section to register
10 as a condition precedent to engaging or continuing in the
11 business of furnishing transient accommodations or as a plan
12 manager subject to taxation under this chapter, who engages or
13 continues in the business without registering in conformity with
14 this section, shall be subject to the citation process and
15 monetary fines under subsection (d).

16 (i) For purposes of this section, "engaging or continuing
17 in the business of furnishing transient accommodations" includes
18 posting any advertisement for the furnishing of a transient
19 accommodation."

20 SECTION 4. Section 237D-4.5, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§237D-4.5 Certificate of registration for transient
2 accommodations broker, travel agency, and tour packager. (a)
3 Each transient accommodations broker, travel agency, or tour
4 packager, as a condition precedent to entering into an
5 arrangement to furnish transient accommodations at
6 noncommissioned negotiated contract rates, shall register with
7 the director. The transient accommodations broker, travel
8 agency, or tour packager shall make a one-time payment of \$15
9 for each registration, upon receipt of which the director shall
10 issue a certificate of registration in a form as the director
11 determines, attesting that the registration has been made. The
12 registration shall not be transferable and shall be valid only
13 for the transient accommodations broker, travel agency, or tour
14 packager in whose name it is issued.

15 The registration shall be effective until canceled in
16 writing. Any application for the reissuance of a previously
17 canceled registration identification number shall be regarded as
18 a new application for registration and shall be subject to the
19 payment of the one-time registration fee. The director may
20 revoke or cancel any registration issued under this section for
21 cause as provided by rule under chapter 91.



1 over the taxes due under this chapter on behalf of all of its
2 operators and plan managers to or for whom booking services are
3 provided; provided that the tax collection agent's obligation to
4 report, collect, and pay taxes on behalf of all of its operators
5 and plan managers shall apply solely to transient accommodations
6 in the State for which booking services were provided by the tax
7 collection agent.

8 (c) A tax collection agent shall be personally liable for
9 the taxes imposed by this chapter that are due and collected on
10 behalf of operators and plan managers, if taxes are collected,
11 but not reported or paid, together with penalties and interest
12 as provided by law. If the tax collection agent is an entity,
13 the personal liability under this subsection shall apply to any
14 officer, member, manager, or other person who has control or
15 supervision over amounts collected to pay the taxes or who is
16 charged with the responsibility for the filing of returns or the
17 payment of taxes.

18 (d) The tax collection agent's operators and plan managers
19 shall be deemed licensed under this chapter; provided that the
20 licensure shall apply solely to the business activity conducted
21 directly through the tax collection agent from the date of



1 registration. For purposes of any other business activity, the
2 operators and plan managers are subject to all requirements of
3 title 14 as if this section did not exist.

4 (e) All returns and other information provided by a tax
5 collection agent, shall be confidential, and disclosure thereof
6 shall be prohibited as provided in section 237-34. Nothing in
7 this subsection shall prevent public disclosure of information
8 about tax collection agents as provided in section 92F-12(a)(13)
9 or of aggregated information not identifiable to a specific tax
10 collection agent.

11 (f) A tax collection agent shall file periodic returns in
12 accordance with section 237-30 and annual returns in accordance
13 with section 237-33. Each annual return required under section
14 237-33 shall be accompanied by a cover sheet, in a form
15 prescribed by the department, that includes the following
16 information for each operator and plan manager on whose behalf
17 the tax collection agent is required to report, collect, and pay
18 over taxes due under this chapter:

- 19 (1) Name;
- 20 (2) Address;



1 (3) Social security or federal employer identification
2 number; and

3 (4) Income apportioned by county.

4 (g) Before collecting any fee for booking services, a tax
5 collection agent shall notify each of its operators or plan
6 managers that the reporting and remittance of Hawaii income tax
7 is the responsibility of each operator and plan manager.

8 (h) Nothing in this section shall be construed to preempt
9 or prohibit the authority of any county or political subdivision
10 of the State, to adopt, monitor, and enforce local land use
11 ordinances, rules, or regulations, nor to transfer the authority
12 to monitor and enforce these ordinances, rules, or regulations
13 away from the counties.

14 (i) For the purposes of this section:

15 "Booking service" has the same meaning as in section 237D-

16 1.

17 "Director" means the director of taxation.

18 "Hosting platform" has the same meaning as in section 237D-

19 1.

20 "Operator" has the same meaning as in section 237D-1.

21 "Plan manager" has the same meaning as in section 237D-1.



1 "Transient accommodations" has the same meaning as in
2 section 237D-1.

3 (j) The director may adopt rules pursuant to chapter 91
4 necessary to effectuate the purposes of this section.

5 (k) The department may require any form or document
6 required under this section to be filed electronically."

7 SECTION 6. Chapter 237D, Hawaii Revised Statutes, is
8 amended by adding a new section to be appropriately designated
9 and to read as follows:

10 "§237D- **Hosting platform as tax collection agent;**
11 **operator and plan manager.** (a) A hosting platform that
12 collects fees for booking services shall register as a tax
13 collection agent on behalf of all of its operators and plan
14 managers.

15 A tax collection agent shall be issued a separate
16 certificate of registration under this chapter with respect to
17 taxes due on behalf of its operators and plan managers in its
18 capacity as a tax collection agent and, if applicable, with
19 respect to any taxes payable under this chapter for its own
20 business activities.



1 (b) In addition to its own responsibilities under this
2 chapter, a tax collection agent shall report, collect, and pay
3 over the taxes due under this chapter on behalf of all of its
4 operators and plan managers or for whom booking services are
5 provided; provided that the tax collection agent's obligation to
6 report, collect, and pay taxes on behalf of all of its operators
7 and plan managers shall apply solely to transient accommodations
8 in the State for which booking services were provided by the tax
9 collection agent.

10 (c) A tax collection agent shall be personally liable for
11 the taxes imposed by this chapter that are due and collected on
12 behalf of operators and plan managers, if taxes are collected,
13 but not reported or paid, together with penalties and interest
14 as provided by law. If the tax collection agent is an entity,
15 the personal liability under this subsection shall apply to any
16 officer, member, manager, or other person who has control or
17 supervision over amounts collected to pay the taxes or who is
18 charged with the responsibility for the filing of returns or the
19 payment of taxes.

20 (d) The tax collection agent's operators and plan managers
21 shall be deemed properly registered under this chapter; provided

1 that the registration shall apply solely to the business
2 activity conducted directly through the tax collection agent
3 from the date of registration. For purposes of any other
4 business activity, the operators and plan managers are subject
5 to all requirements of title 14 as if this section did not
6 exist.

7 (e) All returns and other information provided by a tax
8 collection agent, shall be confidential, and disclosure thereof
9 shall be prohibited as provided in section 237D-13. Nothing in
10 this subsection shall prevent public disclosure of information
11 about tax collection agents as provided in section 92F-12(a)(13)
12 or of aggregated information not identifiable to a specific tax
13 collection agent.

14 (f) A tax collection agent shall file periodic returns in
15 accordance with section 237D-6 and annual returns in accordance
16 with section 237D-8.6. Each annual return required under
17 section 237D-8.6 shall be accompanied by a cover sheet, in a
18 form prescribed by the department, that includes the following
19 information for each operator and plan manager on whose behalf
20 the tax collection agent is required to report, collect, and pay
21 over taxes due under this chapter:



- 1 (1) Name;
- 2 (2) Address;
- 3 (3) Social security or federal employer identification
- 4 number; and
- 5 (4) Income apportioned by county.

6 (g) Before collecting any fee for booking services, a tax
7 collection agent shall notify each of its operators or plan
8 managers that the reporting and remittance of Hawaii income tax
9 is the responsibility of each operator and plan manager.

10 (h) Nothing in this section shall be construed to preempt
11 or prohibit the authority of any county or political subdivision
12 of the State, to adopt, monitor, and enforce local land use
13 ordinances, rules, or regulations, nor to transfer the authority
14 to monitor and enforce these ordinances, rules, or regulations
15 away from the counties.

16 (i) The director may adopt rules pursuant to chapter 91
17 necessary to effectuate the purposes of this section.

18 (j) The department may require any form or document
19 required to be submitted under this section to be filed
20 electronically."



1 PART V

2 SECTION 7. If any provision of this Act, or the
3 application thereof to any person or circumstance, is held
4 invalid, the invalidity does not affect other provisions or
5 applications of the Act that can be given effect without the
6 invalid provision or application, and to this end the provisions
7 of this Act are severable.

8 SECTION 8. Statutory material to be repealed is bracketed
9 and stricken. New statutory material is underscored.

10 SECTION 9. This Act shall take effect upon its approval.



Report Title:

Transient Accommodations; Hosting Platform; Tax Collection Agents

Description:

Adds definitions to the TAT law. Amends the definition of "transient accommodations" to include additional forms of transient accommodations. Makes any person who fails to register with DOTAX subject to a citation process and monetary fines. Requires hosting platforms that collect fees for booking services to register as collection agents on behalf of its operators and plan manager for GET and TAT. (SB1292 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

