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# 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           (b) Any person who enters into an agreement to furnish  
2 transient accommodations without registering in conformity with  
3 this section shall be subject to the citation process and  
4 monetary fines under section 237D-4(d)."

5   PART IV

6           SECTION 5. Chapter 237, Hawaii Revised Statutes, is  
7 amended by adding a new section to be appropriately designated  
8 and to read as follows:

9           "§237-           Hosting platform as tax collection agent;  
10 operator and plan manager. (a) A hosting platform that  
11 collects fees for booking services shall register as a tax  
12 collection agent on behalf of all of its operators and plan  
13 managers.

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

20           (b) In addition to its own responsibilities under this  
21 chapter, a tax collection agent shall report, collect, and pay



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) The director shall provide to each county the minimal  
15 amount of data necessary to enable each county to provide for  
16 meaningful enforcement of its land use ordinances, rules, or  
17 regulations.

18       (j) For the purposes of this section:

19       "Booking service" has the same meaning as in section 237D-  
20 1.

21       "Director" means the director of taxation.



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

2 1.

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

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

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

7 (k) The director may adopt rules pursuant to chapter 91  
8 necessary to effectuate the purposes of this section.

9 (l) The department may require any form or document  
10 required under this section to be filed electronically."

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

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

19 A tax collection agent shall be issued a separate  
20 certificate of registration under this chapter with respect to  
21 taxes due on behalf of its operators and plan managers in its





1 capacity as a tax collection agent and, if applicable, with  
2 respect to any taxes payable under this chapter for its own  
3 business activities.

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

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



1 charged with the responsibility for the filing of returns or the  
2 payment of taxes.

3 (d) The tax collection agent's operators and plan managers  
4 shall be deemed properly registered under this chapter; provided  
5 that the registration shall apply solely to the business  
6 activity conducted directly through the tax collection agent  
7 from the date of registration. For purposes of any other  
8 business activity, the operators and plan managers are subject  
9 to all requirements of title 14 as if this section did not  
10 exist.

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

18 (f) A tax collection agent shall file periodic returns in  
19 accordance with section 237D-6 and annual returns in accordance  
20 with section 237D-8.6. Each annual return required under  
21 section 237D-8.6 shall be accompanied by a cover sheet, in a



1 form prescribed by the department, that includes the following  
2 information for each operator and plan manager on whose behalf  
3 the tax collection agent is required to report, collect, and pay  
4 over taxes due under this chapter:

5 (1) Name;

6 (2) Address;

7 (3) Social security or federal employer identification  
8 number; and

9 (4) Income apportioned by county.

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

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

20 (i) The director shall provide to each county the minimal  
21 amount of data necessary to enable each county to provide for



1 meaningful enforcement of its land use ordinances, rules, or  
2 regulations.

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 to be submitted under this section to be filed  
7 electronically."

8 PART V

9 SECTION 7. If any provision of this Act, or the  
10 application thereof to any person or circumstance, is held  
11 invalid, the invalidity does not affect other provisions or  
12 applications of the Act that can be given effect without the  
13 invalid provision or application, and to this end the provisions  
14 of this Act are severable.

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

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



**Report Title:**

Transient Accommodations; Hosting Platform; Tax Collection

**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 managers for the GET and TAT. (SB1292 HD2)

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

