

# Senate Bill 694

Sponsored by COMMITTEE ON FINANCE AND REVENUE

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Defines "transient lodging tax collector" as transient lodging provider or transient lodging intermediary. Requires transient lodging tax collector to compute state transient lodging tax on retail consideration rendered for occupancy of transient lodging.

## A BILL FOR AN ACT

1  
2 Relating to the collection of transient lodging taxes; creating new provisions; and amending ORS  
3 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345 and 320.347.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 320.300 is amended to read:

6 320.300. As used in ORS 320.300 to 320.350:

7 (1) "Collection reimbursement charge" means the amount a transient lodging [*provider*] **tax**  
8 **collector** may retain as reimbursement for the costs incurred by the [*provider*] **tax collector** in  
9 collecting and reporting a transient lodging tax and in maintaining transient lodging tax records.

10 (2) "Conference center" means a facility that:

11 (a) Is owned or partially owned by a unit of local government, a governmental agency or a  
12 nonprofit organization; and

13 (b) Meets the current membership criteria of the International Association of Conference Cen-  
14 ters.

15 (3) "Convention center" means a new or improved facility that:

16 (a) Is capable of attracting and accommodating conventions and trade shows from international,  
17 national and regional markets requiring exhibition space, ballroom space, meeting rooms and any  
18 other associated space, including but not limited to banquet facilities, loading areas and lobby and  
19 registration areas;

20 (b) Has a total meeting room and ballroom space between one-third and one-half of the total size  
21 of the center's exhibition space;

22 (c) Generates a majority of its business income from tourists;

23 (d) Has a room-block relationship with the local lodging industry; and

24 (e) Is owned by a unit of local government, a governmental agency or a nonprofit organization.

25 (4) "Local transient lodging tax" means a tax imposed by a unit of local government on the sale,  
26 service or furnishing of transient lodging.

27 (5) "State transient lodging tax" means the tax imposed under ORS 320.305.

28 (6) "Tourism" means economic activity resulting from tourists.

29 (7) "Tourism promotion" means any of the following activities:

30 (a) Advertising, publicizing or distributing information for the purpose of attracting and wel-  
31 coming tourists;

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (b) Conducting strategic planning and research necessary to stimulate future tourism develop-  
2 ment;

3 (c) Operating tourism promotion agencies; and

4 (d) Marketing special events and festivals designed to attract tourists.

5 (8) "Tourism promotion agency" includes:

6 (a) An incorporated nonprofit organization or governmental unit that is responsible for the  
7 tourism promotion of a destination on a year-round basis.

8 (b) A nonprofit entity that manages tourism-related economic development plans, programs and  
9 projects.

10 (c) A regional or statewide association that represents entities that rely on tourism-related  
11 business for more than 50 percent of their total income.

12 (9) "Tourism-related facility":

13 (a) Means a conference center, convention center or visitor information center; and

14 (b) Means other improved real property that has a useful life of 10 or more years and has a  
15 substantial purpose of supporting tourism or accommodating tourist activities.

16 (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events  
17 related to the arts, heritage or culture, travels from the community in which that person is a resi-  
18 dent to a different community that is separate, distinct from and unrelated to the person's commu-  
19 nity of residence, and that trip:

20 (a) Requires the person to travel more than 50 miles from the community of residence; or

21 (b) Includes an overnight stay.

22 (11) "Transient lodging" means:

23 (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;

24 (b) Spaces used for parking recreational vehicles or erecting tents during periods of human oc-  
25 cupancy; or

26 (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any  
27 of these dwelling units, that are used for temporary human occupancy.

28 **(12) "Transient lodging intermediary" means a person other than a transient lodging**  
29 **provider that facilitates the retail sale of transient lodging and charges for occupancy of the**  
30 **transient lodging.**

31 **(13) "Transient lodging provider" means a person that furnishes transient lodging.**

32 **(14) "Transient lodging tax collector" means a transient lodging provider or a transient**  
33 **lodging intermediary.**

34 [(12)] (15) "Unit of local government" has the meaning given that term in ORS 190.003.

35 [(13)] (16) "Visitor information center" means a building, or a portion of a building, the main  
36 purpose of which is to distribute or disseminate information to tourists.

37 **SECTION 2.** ORS 320.305 is amended to read:

38 320.305. (1)(a) A tax of one percent is imposed on any consideration rendered for the sale, ser-  
39 vice or furnishing of transient lodging.

40 **(b) The tax must be computed on the amount of consideration rendered at retail by a**  
41 **person for occupancy of the transient lodging.**

42 **(c) The tax shall be collected by the transient lodging tax collector that receives the**  
43 **consideration rendered for occupancy of the transient lodging.**

44 **(d) The tax imposed by this subsection shall be in addition to and not in lieu of any local**  
45 **transient lodging tax. [The tax shall be collected by the transient lodging provider.]**

1 (2) The transient lodging [*provider shall*] **tax collector may** withhold five percent of the amount  
2 [*the provider collects*] **collected** under subsection (1) of this section for the purpose of reimbursing  
3 the [*provider*] **transient lodging tax collector** for the cost of tax collection, record keeping and  
4 reporting.

5 **SECTION 3.** ORS 320.310 is amended to read:

6 320.310. Every transient lodging [*provider*] **tax collector** responsible for collecting the tax im-  
7 posed by ORS 320.305 shall keep records, render statements and comply with rules adopted by the  
8 Department of Revenue with respect to the tax. The records and statements required by this section  
9 must be sufficient to show whether there is a tax liability under ORS 320.305.

10 **SECTION 4.** ORS 320.315 is amended to read:

11 320.315. (1) Every transient lodging [*provider*] **tax collector** is responsible for collecting the tax  
12 imposed under ORS 320.305 and shall file a return with the Department of Revenue, on or before the  
13 last day of the month following the end of each calendar quarter, reporting the amount of tax due  
14 during the quarter. The department shall prescribe the form of the return required by this section.  
15 The rules of the department shall require that returns be made under penalties for false swearing.

16 (2) When a return is required under subsection (1) of this section, the transient lodging  
17 [*provider*] **tax collector** required to make the return shall remit the tax due to the department at  
18 the time fixed for filing the return.

19 **SECTION 5.** ORS 320.320 is amended to read:

20 320.320. If the amount paid by the transient lodging [*provider*] **tax collector** to the Department  
21 of Revenue under ORS 320.315 exceeds the amount of tax payable, the department shall refund the  
22 amount of the excess with interest thereon at the rate established under ORS 305.220 for each month  
23 or fraction of a month from the date of payment of the excess until the date of the refund. A refund  
24 may not be made to a transient lodging [*provider who*] **tax collector that** fails to claim the refund  
25 within two years after the due date for filing the return to which the claim for refund relates.

26 **SECTION 6.** ORS 320.325 is amended to read:

27 320.325. (1) Every transient lodging [*provider*] **tax collector** required to collect the tax imposed  
28 by ORS 320.305 shall be deemed to hold the amount collected in trust for the State of Oregon and  
29 for payment to the Department of Revenue in the manner and at the time provided by ORS 320.315.

30 (2) At any time the transient lodging [*provider*] **tax collector** required to collect the tax fails  
31 to remit any amount deemed to be held in trust for the State of Oregon, the department may enforce  
32 collection by the issuance of a distraint warrant for the collection of the delinquent amount and all  
33 penalties, interest and collection charges accrued thereon. The warrant shall be issued, docketed  
34 and proceeded upon in the same manner and shall have the same force and effect as is prescribed  
35 with respect to warrants for the collection of delinquent income taxes.

36 **SECTION 7.** ORS 320.330 is amended to read:

37 320.330. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316  
38 as to the audit and examination of reports and returns, confidentiality of reports and returns, de-  
39 termination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments,  
40 warrants, conferences and appeals to the Oregon Tax Court, and procedures relating thereto, apply  
41 to ORS 320.305 to 320.340, the same as if the tax were a tax imposed upon or measured by net in-  
42 come. All such provisions apply to the taxpayer liable for the tax and to the transient lodging  
43 [*provider*] **tax collector** required to collect the tax. As to any amount collected and required to be  
44 remitted to the Department of Revenue, the tax shall be considered a tax upon the transient lodging  
45 [*provider*] **tax collector** required to collect the tax and [*that provider*] **the transient lodging tax**

1 **collector** shall be considered a taxpayer.

2 **SECTION 8.** ORS 320.345 is amended to read:

3 320.345. (1) On or after January 1, 2001, a unit of local government that imposed a local tran-  
4 sient lodging tax on December 31, 2000, and allowed a transient lodging [*provider*] **tax collector** to  
5 retain a collection reimbursement charge on that tax, may not decrease the percentage of local  
6 transient lodging taxes that is used to fund collection reimbursement charges.

7 (2) A unit of local government that imposes a new local transient lodging tax on or after Janu-  
8 ary 1, 2001, shall allow a transient lodging [*provider*] **tax collector** to retain a collection re-  
9 imbursement charge of at least five percent of all collected local transient lodging tax revenues. The  
10 percentage of the collection reimbursement charge may be increased by the unit of local govern-  
11 ment.

12 (3) A unit of local government that increases a local transient lodging tax on or after January  
13 1, 2001, shall allow a transient lodging [*provider*] **tax collector** to retain a collection reimbursement  
14 charge of at least five percent of all collected local transient lodging tax revenues. The collection  
15 reimbursement charge shall apply to all collected local transient lodging tax revenues, including  
16 revenues that would have been collected without the increase. The percentage of the collection re-  
17 imbursement charge may be increased by the unit of local government.

18 (4) A unit of local government may not offset the loss of local transient lodging tax revenues  
19 caused by collection reimbursement charges required by this section by:

20 (a) Increasing the rate of the local transient lodging tax;

21 (b) Decreasing the percentage of total local transient lodging tax revenues used to fund tourism  
22 promotion or tourism-related facilities; or

23 (c) Increasing or imposing a new fee solely on transient lodging [*providers*] **tax collectors** or  
24 tourism promotion agencies that are funded by the local transient lodging tax.

25 **SECTION 9.** ORS 320.347 is amended to read:

26 320.347. (1) Except as provided in this section, a unit of local government that imposes a tax on  
27 the rental of privately owned camping or recreational vehicle spaces shall, regardless of a schedule  
28 imposed by the unit of local government for remitting tax receipts, allow a transient lodging [*pro-  
29 vider*] **tax collector** to hold the tax collected until the amount of money held [*by the provider*] equals  
30 or exceeds \$100.

31 (2) Once the amount held by a transient lodging [*provider*] **tax collector** equals or exceeds \$100,  
32 or by December 31 of each year if the \$100 threshold is not met, the [*provider*] **transient lodging  
33 tax collector** shall remit the tax collected at the next following reporting period established by the  
34 unit of local government for payment of the tax.

35 (3) A unit of local government may not assess any penalty or interest against a transient lodging  
36 [*provider*] **tax collector** that withholds payments pursuant to this section.

37 **SECTION 10.** The amendments to ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325,  
38 320.330, 320.345 and 320.347 by sections 1 to 9 of this 2011 Act apply to transient lodging oc-  
39 cupied on or after the effective date of this 2011 Act.

40