

Enrolled
House Bill 2656

Sponsored by Representative DOHERTY (Presession filed.)

CHAPTER

AN ACT

Relating to transient lodging taxes; creating new provisions; amending ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345, 320.347 and 320.350; and prescribing an effective date.

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

SECTION 1. Section 2 of this 2013 Act is added to and made a part of ORS 320.300 to 320.350.

SECTION 2. The Legislative Assembly declares that it is the purpose of the amendments to ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345, 320.347 and 320.350 by sections 3 to 12 of this 2013 Act to enhance the administration and enforcement of existing law governing transient lodging taxes in this state.

SECTION 3. ORS 320.300 is amended to read:

320.300. As used in ORS 320.300 to 320.350:

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

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

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

(b) Meets the current membership criteria of the International Association of Conference Centers.

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

(a) Is capable of attracting and accommodating conventions and trade shows from international, national and regional markets requiring exhibition space, ballroom space, meeting rooms and any other associated space, including [*but not limited to*] **without limitation** banquet facilities, loading areas and lobby and registration areas;

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

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

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

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

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

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

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

- (7) "Tourism promotion" means any of the following activities:
- (a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming tourists;
 - (b) Conducting strategic planning and research necessary to stimulate future tourism development;
 - (c) Operating tourism promotion agencies; and
 - (d) Marketing special events and festivals designed to attract tourists.
- (8) "Tourism promotion agency" includes:
- (a) An incorporated nonprofit organization or governmental unit that is responsible for the tourism promotion of a destination on a year-round basis.
 - (b) A nonprofit entity that manages tourism-related economic development plans, programs and projects.
 - (c) A regional or statewide association that represents entities that rely on tourism-related business for more than 50 percent of their total income.
- (9) "Tourism-related facility" **means**:
- (a) [Means] A conference center, convention center or visitor information center; and
 - (b) [Means] Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting tourism or accommodating tourist activities.
- (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person's community of residence, and that trip:
- (a) Requires the person to travel more than 50 miles from the community of residence; or
 - (b) Includes an overnight stay.
- (11) "Transient lodging" means:
- (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
 - (b) Spaces used for parking recreational vehicles or erecting tents during periods of human occupancy; or
 - (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any of these dwelling units, that are used for temporary human occupancy.
- (12) "Transient lodging intermediary" means a person other than a transient lodging provider that facilitates the retail sale of transient lodging and charges for occupancy of the transient lodging.**
- (13) "Transient lodging provider" means a person that furnishes transient lodging.**
- (14) "Transient lodging tax collector" means a transient lodging provider or a transient lodging intermediary.**
- [(12)] **(15) "Unit of local government" has the meaning given that term in ORS 190.003.**
- [(13)] **(16) "Visitor information center" means a building, or a portion of a building, the main purpose of which is to distribute or disseminate information to tourists.**
- SECTION 4.** ORS 320.305 is amended to read:
- 320.305. (1)(a) A tax of one percent is imposed on any consideration rendered for the sale, service or furnishing of transient lodging.
- (b)(A) The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.**
- (B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.**
- (c) The tax shall be collected by the transient lodging tax collector that receives the consideration rendered for occupancy of the transient lodging.**
- (d) The tax imposed by this subsection [shall be] is in addition to and not in lieu of any local transient lodging tax. [The tax shall be collected by the transient lodging provider.]**

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

SECTION 5. ORS 320.310 is amended to read:

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

SECTION 6. ORS 320.315 is amended to read:

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

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

SECTION 7. ORS 320.320 is amended to read:

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

SECTION 8. ORS 320.325 is amended to read:

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

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

SECTION 9. ORS 320.330 is amended to read:

320.330. Unless the context requires otherwise, the provisions of ORS chapters 305, 314 and 316 [*as to*] **governing** the audit and examination of reports and returns, confidentiality of reports and returns, determination of deficiencies, assessments, claims for refunds, penalties, interest, jeopardy assessments, warrants, conferences and appeals to the Oregon Tax Court, and **related** procedures [*relating thereto*], apply to ORS 320.305 to 320.340[, *the same*] as if the **state transient lodging tax** were a tax imposed upon or measured by net income. [*All such*] **The** provisions apply to the taxpayer liable for the tax and to the transient lodging [*provider*] **tax collector** required to collect the tax. [*As to*] Any amount collected and required to be remitted to the Department of Revenue[, *the tax shall be*] **is** considered a tax upon the transient lodging [*provider*] **tax collector** required to collect the tax and [*that provider shall be*] **the transient lodging tax collector is** considered a taxpayer.

SECTION 10. ORS 320.350 is amended to read:

320.350. (1) A unit of local government that did not impose a local transient lodging tax on July 1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition of the local transient lodging tax was approved on or before July 1, 2003.

(2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July 1, 2003.

(3) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may not decrease the percentage of total local transient lodging tax revenues that are actually expended to fund tourism promotion or tourism-related facilities on or after July 2, 2003. A unit of local government that agreed, on or before July 1, 2003, to increase the percentage of total local transient lodging tax revenues that are to be expended to fund tourism promotion or tourism-related facilities, must increase the percentage as agreed.

(4) Notwithstanding subsections (1) and (2) of this section, a unit of local government that is financing debt with local transient lodging tax revenues on November 26, 2003, must continue to finance the debt until the retirement of the debt, including any refinancing of that debt. If the tax is not otherwise permitted under subsection (1) or (2) of this section, at the time of the debt retirement:

(a) The local transient lodging tax revenue that financed the debt shall be used as provided in subsection (5) of this section; or

(b) The unit of local government shall thereafter eliminate the new tax or increase in tax otherwise described in subsection (1) or (2) of this section.

(5) Subsections (1) and (2) of this section do not apply to a new or increased local transient lodging tax if all of the net revenue from the new or increased tax, following reductions attributed to collection reimbursement charges, is used consistently with subsection (6) of this section to:

(a) Fund tourism promotion or tourism-related facilities;

(b) Fund city or county services; or

(c) Finance or refinance the debt of tourism-related facilities and pay reasonable administrative costs incurred in financing or refinancing that debt, provided that:

(A) The net revenue may be used for administrative costs only if the unit of local government provides a collection reimbursement charge; and

(B) Upon retirement of the debt, the unit of local government reduces the tax by the amount by which the tax was increased to finance or refinance the debt.

(6) At least 70 percent of net revenue from a new or increased local transient lodging tax shall be used for the purposes described in subsection (5)(a) or (c) of this section. No more than 30 percent of net revenue from a new or increased local transient lodging tax may be used for the purpose described in subsection (5)(b) of this section.

(7)(a)(A) A local transient lodging tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the transient lodging.

(B) The total retail price paid by a person for occupancy of transient lodging that is part of a travel package may be determined by reasonable and verifiable standards from books and records kept in the ordinary course of the transient lodging tax collector's business.

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

SECTION 11. ORS 320.345 is amended to read:

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

(2) A unit of local government that imposes a new local transient lodging tax on or after January 1, 2001, shall allow a transient lodging [*provider*] **tax collector** to retain a collection reimbursement charge of at least five percent of all collected local transient lodging tax revenues.

[*The percentage of the collection reimbursement charge may be increased by*] The unit of local government **may increase the rate of the collection reimbursement charge.**

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

(4) A unit of local government may not offset the loss of local transient lodging tax revenues caused by collection reimbursement charges [*required by*] **allowed under** this section by:

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

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

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

SECTION 12. ORS 320.347 is amended to read:

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

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

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

SECTION 13. The amendments to ORS 320.300, 320.305, 320.310, 320.315, 320.320, 320.325, 320.330, 320.345, 320.347 and 320.350 by sections 3 to 12 of this 2013 Act apply to transient lodging occupied on or after the effective date of this 2013 Act.

SECTION 14. Section 2 of this 2013 Act is repealed on January 2, 2023.

SECTION 15. This 2013 Act takes effect on the 91st day after the date on which the 2013 regular session of the Seventy-seventh Legislative Assembly adjourns sine die.

Passed by House June 4, 2013

Repassed by House June 24, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate June 21, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State