

Enrolled
House Bill 4120

Sponsored by Representative MARSH; Representatives ESQUIVEL, GOMBERG, KENY-GUYER, NOSSE, Senators DEBOER, JOHNSON (Presession filed.)

CHAPTER

AN ACT

Relating to transient lodging taxes; creating new provisions; amending ORS 320.300, 320.305, 320.325 and 320.350; and prescribing an effective date.

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

SECTION 1. 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 tax collector may retain as reimbursement for the costs incurred by the 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 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) A conference center, convention center or visitor information center; and
 - (b) 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:
 - (a) Charges for occupancy of the transient lodging[.];
 - (b) **Collects the consideration charged for occupancy of the transient lodging; or**
 - (c) **Receives a fee or commission and requires the transient lodging provider to use a specified third-party entity to collect the consideration charged 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.
- (15) "Unit of local government" has the meaning given that term in ORS 190.003.
- (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 2. ORS 320.325 is amended to read:

320.325. (1) Every transient lodging 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 under ORS 320.315.

(2) At any time **that** the transient lodging 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 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 warrants for the collection of delinquent income taxes.

(3) **Notwithstanding ORS 320.305, if the transient lodging is owned by more than one person, each and every owner may be held jointly and severally liable for any tax imposed under ORS 320.305 with respect to a transient lodging transaction.**

SECTION 3. 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 4. Sections 5 and 6 of this 2018 Act are added to and made a part of ORS 320.300 to 320.350.

SECTION 5. (1) 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.

(2) 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.

SECTION 6. (1) The transient lodging provider or transient lodging intermediary that collects the consideration charged for occupancy of transient lodging, or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable, is responsible for collecting any local transient lodging tax and shall file a return of the tax with the unit of local government that imposes the tax, or with any tax administrator identified by the unit of local government, reporting the amount of tax due during the reporting period to which the return relates.

(2) Returns shall be filed on or before the deadline fixed by the unit of local government for filing of returns and shall be made under penalties for false swearing.

(3) When a return is required under this section, the transient lodging tax collector required to file the return shall remit the taxes due to the unit of local government at the time fixed for filing of returns.

(4) This section applies to a transient lodging tax collector unless a charter provision or ordinance or resolution of the unit of local government, or an agreement entered into between the transient lodging tax collector and the unit of local government, provides otherwise.

SECTION 7. ORS 320.305 is amended to read:

320.305. (1)(a) A tax of 1.8 percent is imposed on any consideration [*rendered*] **charged** 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*] **provider or transient lodging intermediary that collects** the consideration [*rendered*] **charged** for occupancy of the transient lodging, **or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable.**

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section.

SECTION 8. ORS 320.305, as amended by section 3, chapter 102, Oregon Laws 2016, is amended to read:

320.305. (1)(a) A tax of 1.5 percent is imposed on any consideration [*rendered*] **charged** 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*] **provider or transient lodging intermediary that collects** the consideration [*rendered*] **charged** for occupancy of the transient lodging, **or a transient lodging intermediary described in ORS 320.300 (12)(c), as applicable.**

(d) The tax imposed by this subsection is in addition to and not in lieu of any local transient lodging tax.

(2) The transient lodging tax collector may withhold a collection reimbursement charge of five percent of the amount collected under subsection (1) of this section.

SECTION 9. This 2018 Act takes effect on the later of the 91st day after the date on which the 2018 regular session of the Seventy-ninth Legislative Assembly adjourns sine die or July 1, 2018.

Passed by House February 22, 2018

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Timothy G. Sekerak, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate March 1, 2018

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2018

Approved:

.....M,....., 2018

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Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2018

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Dennis Richardson, Secretary of State