

JAN 23 2015

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# A BILL FOR AN ACT

RELATING TO TAXATION.

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

1           SECTION 1. The legislature finds that a recent business  
2 pulse survey in the January 9, 2015, edition of the Pacific  
3 Business News found that 71.5 per cent of respondents said "yes"  
4 when asked, "Should home-based vacation rentals be subject to  
5 the same transient accommodations tax (TAT) levied on hotel  
6 rooms and time-shares?" 25.7 per cent of respondents said "no"  
7 and 2.8 per cent were undecided. Although many home-based  
8 vacation rentals are subject to the same transient  
9 accommodations tax levied on hotel rooms and time shares, many  
10 operators of transient accommodations and plan managers of  
11 resort time share vacation plans have been circumventing the  
12 law, creating an unfair advantage over their law-abiding  
13 counterparts. In line with public sentiment on this issue, the  
14 legislature finds that action is necessary to correct this  
15 situation.

16           The purpose of this Act is to require operators of  
17 transient accommodations and plan managers of resort time share



1 vacation plans to indicate in advertisements that they are  
2 complying with registration requirements under law and to  
3 increase penalties for operators and plan managers who fail to  
4 comply with the law, with escalating penalties for repeat  
5 violators.

6 SECTION 2. Section 237D-1, Hawaii Revised Statutes, is  
7 amended by amending the definition of "transient accommodations"  
8 to read as follows:

9 "Transient accommodations" means the furnishing of a room,  
10 apartment, suite, or the like which is customarily occupied by a  
11 transient for less than one hundred eighty consecutive days for  
12 each letting by a hotel, apartment hotel, motel, condominium  
13 property regime or apartment as defined in chapter 514A or unit  
14 as defined in chapter 514B, cooperative apartment, single-family  
15 dwelling, or rooming house that provides living quarters,  
16 sleeping, or housekeeping accommodations, or other place in  
17 which lodgings are regularly furnished to transients for  
18 consideration."

19 SECTION 3. Section 237D-4, Hawaii Revised Statutes, is  
20 amended as follows:

21 1. By amending subsection (a) to read:



1           "(a) Each operator or plan manager as a condition  
2 precedent to engaging or continuing in the business of  
3 furnishing transient accommodations or in business as a resort  
4 time share vacation plan shall register with the director the  
5 name and address of each place of business within the State  
6 subject to this chapter. The operator or plan manager shall  
7 make a one-time payment as follows:

8           (1) \$5 for each registration for transient accommodations  
9 consisting of one to five units;

10          (2) \$15 for each registration for transient accommodations  
11 consisting of six or more units; and

12          (3) \$15 for each resort time share vacation plan within  
13 the State;

14 upon receipt of which the director shall issue a certificate of  
15 registration in such form as the director determines, attesting  
16 that the registration has been made. The registration shall not  
17 be transferable and shall be valid only for the operator or plan  
18 manager in whose name it is issued and for the transaction of  
19 business at the place designated therein.

20           The registration, or in lieu thereof a notice stating where  
21 the registration may be inspected and examined, shall at all

# S.B. NO. 519

1 times be conspicuously displayed at the place for which it is  
2 issued. The operator of a transient accommodation shall ensure  
3 that any internet advertisement for the furnishing of the  
4 transient accommodation contains the address of the transient  
5 accommodation and conspicuously displays the number of the  
6 certificate of registration issued to the operator pursuant to  
7 this subsection. The plan manager of a resort time share  
8 vacation plan shall ensure that any internet advertisement for  
9 the furnishing of a time share vacation unit subject to the  
10 resort time share vacation plan contains the address of the time  
11 share vacation unit and conspicuously displays the number of the  
12 certificate of registration issued to the plan manager pursuant  
13 to this subsection. Acquisition of additional transient  
14 accommodation units after payment of the one-time fee shall not  
15 result in additional fees.

16 The registration provided for by this section shall be  
17 effective until canceled in writing. Any application for the  
18 reissuance of a previously canceled registration identification  
19 number shall be regarded as a new registration application and  
20 shall be subject to the payment of the one-time registration



1 fee. The director may revoke or cancel any license issued under  
2 this chapter for cause as provided by rule under chapter 91."

3 2. By amending subsection (c) to read:

4 "(c) Any person who may lawfully be required by the State,  
5 and who is required by this chapter, to register as a condition  
6 precedent to engaging or continuing in the business of  
7 furnishing transient accommodations or as a plan manager subject  
8 to taxation under this chapter, who engages or continues in the  
9 business without registering in conformity with this chapter,  
10 shall be guilty of a misdemeanor. Any director, president,  
11 secretary, or treasurer of a corporation who permits, aids, or  
12 abets such corporation to engage or continue in business without  
13 registering in conformity with this chapter, shall likewise be  
14 guilty of a misdemeanor. The penalty for the misdemeanors shall  
15 be that prescribed by section 231-34 for individuals,  
16 corporations, or officers of corporations, as the case may be,  
17 for violation of that section.

18 Any operator of a transient accommodation or plan manager  
19 of a resort time share vacation plan required by this chapter to  
20 ensure that any internet advertisement for the furnishing of the  
21 transient accommodation or a time share vacation unit subject to



1 the resort time share vacation plan, respectively, contains the  
2 address of the transient accommodation or time share vacation  
3 unit, respectively, and conspicuously displays the number of the  
4 certificate of registration issued to the operator or plan  
5 manager, respectively, but who fails to do so shall be guilty as  
6 follows:

7       (1) For a first violation, guilty of a misdemeanor and  
8           subject to an initial fine of \$500, or a higher amount  
9           determined by the department through rules adopted  
10          pursuant to chapter 91, for each day of violation;

11       (2) For a second violation within a six-month period of  
12          the first violation, guilty of a misdemeanor and  
13          subject to a fine equal to two times the amount of the  
14          initial fine imposed pursuant to paragraph (1), for  
15          each day of violation;

16       (3) For a third violation within a six-month period of the  
17          second violation, guilty of a misdemeanor and subject  
18          to a fine equal to three times the amount of the  
19          initial fine imposed pursuant to paragraph (1), for  
20          each day of violation; and



1        (4) For a fourth or subsequent violation within a six-  
2        month period of the third violation, guilty of a class  
3        C felony and subject to a fine equal to four times the  
4        amount of the initial fine imposed pursuant to  
5        paragraph (1), for each day of violation."

6        SECTION 4. New statutory material is underscored.

7        SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: 



# S.B. NO. 519

**Report Title:**

Vacation Rentals; Transient Accommodations Tax; Registration; Advertisements

**Description:**

Requires that a transient accommodations tax certificate of registration number and address of each transient accommodation and time share vacation unit be conspicuously displayed on all internet advertisements for transient accommodations and time share vacation units. Makes it a criminal offense for any person who fails to conspicuously display the registration number and address on internet advertisements and assesses escalating fines for subsequent violations. Allows the department of taxation to increase the amount of the initial fine through rule making. Adds single-family dwellings to the definition of "transient accommodations" in chapter 237D, Hawaii Revised Statutes.

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

