
A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS.

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

1 SECTION 1. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **TRANSIENT ACCOMMODATIONS AUTHORIZATION AND HOSTING PLATFORM**

6 **RESPONSIBILITIES**

7 § -1 **Definitions.** As used in this chapter, unless the
8 context requires otherwise:

9 "Booking transaction" means any reservation or payment
10 service provided by a person who facilitates a transient
11 accommodations transaction between a prospective transient user
12 and an operator or plan manager.

13 "County" means the department with primary jurisdiction
14 over planning and permitting in each of the counties of Hawaii,
15 Kauai, and Maui, and the city and county of Honolulu.

16 "Department" means the department of taxation.



1 "Home sharing" means an activity whereby a resident hosts a
2 visitor in the resident's dwelling unit or an accessory dwelling
3 unit for compensation for less than one hundred eighty
4 consecutive days, while at least one of the dwelling unit's
5 primary residents lives on-site during the visitor's stay.

6 "Hosting platform" means a person who participates in the
7 transient accommodations business by collecting or receiving a
8 fee, directly or indirectly through an agent or intermediary,
9 for conducting a booking transaction using any medium of
10 facilitation.

11 "Operator" shall have the same meaning as in section 237D-
12 1.

13 "Plan manager" shall have the same meaning as in section
14 237D-1.

15 "Person" means any natural person, joint venture, joint
16 stock company, partnership, association, club, company,
17 corporation, business trust, or organization of any kind.

18 "Transient accommodation" means home sharing or the
19 furnishing of a room, apartment, suite, single family dwelling,
20 or the like to a transient for less than one hundred eighty
21 consecutive days for each letting in a hotel, apartment hotel,



1 motel, condominium or unit as defined in chapter 514B,
2 cooperative apartment, dwelling unit, or rooming house that
3 provides living quarters, sleeping, or housekeeping
4 accommodations, or other place in which lodgings are regularly
5 furnished to transients.

6 § -2 **Transient accommodations authorization.** (a)

7 Notwithstanding any provision to the contrary, transient
8 accommodations shall be authorized in the State; provided that
9 the operator or plan manager complies with each of the following
10 requirements:

- 11 (1) Operates the transient accommodation in compliance
12 with all certificates of registration and other
13 requirements imposed by the State, and any
14 requirements imposed by the respective county in which
15 the accommodation is located, to effectuate the
16 purpose of this chapter;
- 17 (2) Collects and remits transient accommodations taxes and
18 general excise taxes, in coordination with any hosting
19 platform utilized, to the department and complies with
20 all requirements set forth in chapters 237 and 237D;



1 (3) Obtains and complies with the requirements of all
2 permits required by the county in which each
3 accommodation is located to operate each transient
4 accommodation;

5 (4) Complies with all applicable state and county laws,
6 including all health, safety, building, and fire
7 protection laws; and

8 (5) Complies with any rules adopted pursuant to this
9 chapter.

10 (b) All operators and plan managers and their respective
11 properties, authorized for transient accommodations purposes,
12 pursuant to this section, by the department and the respective
13 counties in which the transient accommodations are located,
14 shall be listed on a registry created by each county and updated
15 periodically by the counties. Each county shall publish its
16 respective registry, and a copy shall be sent electronically to
17 any person upon request.

18 This subsection shall not apply to a county that does not
19 regulate the number or location of transient accommodations
20 within that county.



1 § **-3 Prohibitions.** No operator or plan manager shall
2 undertake, maintain, authorize, aid, facilitate, or advertise
3 any transient accommodations activity that does not comply with
4 section -2.

5 § **-4 Hosting platform responsibilities.** (a) Hosting
6 platforms shall be responsible for collecting all applicable
7 transient accommodations tax and general excise tax and
8 remitting the same to the department. The hosting platform
9 shall be considered an agent of the operator or plan manager for
10 purposes of transient accommodations and general excise tax
11 collections and remittance responsibilities.

12 (b) Subject to applicable laws, hosting platforms shall
13 disclose to the State on a regular basis each transient
14 accommodations listing located in the State, the names of the
15 persons responsible for each listing, the address of each
16 listing, the length of stay for each listing, and the price paid
17 for each stay.

18 (c) Hosting platforms shall not complete any booking
19 transaction for any residential property or unit unless it is
20 listed on a county's registry created under section -2(b), if



1 applicable to that county, at the time the hosting platform
2 receives a fee for the booking transaction.

3 (d) Hosting platforms shall not collect or receive a fee,
4 directly or indirectly through an agent or intermediary, for
5 facilitating or providing services ancillary to a transient
6 accommodation that is not listed on a county's registry, if
7 applicable to that county, including but not limited to
8 insurance, concierge services, catering, restaurant bookings,
9 tours, guide services, entertainment, cleaning, property
10 management, or maintenance of the residential property or unit.

11 (e) A hosting platform operating exclusively on the
12 Internet, which operates in compliance with this section, shall
13 be presumed to be in compliance with this chapter; provided that
14 the hosting platform shall remain responsible for compliance
15 with the administrative subpoena provisions of this chapter.

16 (f) The provisions of this section shall be interpreted in
17 accordance with otherwise applicable state and federal laws and
18 shall not apply if determined by the State to be in violation
19 of, or preempted by, any such laws.

20 § -5 **Rules.** The department of taxation may adopt rules
21 for the purposes of this chapter. Rules adopted by the



1 department may include but are not limited to permit conditions,
2 reporting requirements, inspection frequencies, enforcement
3 procedures, advertising restrictions, disclosure requirements,
4 administrative subpoena procedures, or insurance requirements.
5 No person shall fail to comply with any such rule.

6 § -6 Fees. The department of taxation may establish and
7 set by rule all fees and charges as may be necessary to
8 effectuate the purpose of this chapter.

9 § -7 Enforcement. (a) Any operator or plan manager
10 violating any provision of this chapter, or hosting platform
11 that violates section -4, shall be found to have committed an
12 infraction, and shall be subject to a fine of at least \$250 and
13 not exceeding \$5,000. Each transaction in violation of section
14 -4 constitutes a separate infraction, subject to separate,
15 additive fines.

16 (b) Any person found to be in violation of this chapter in
17 a civil or administrative proceeding brought by a law
18 enforcement agency shall be ordered to reimburse the State and
19 other participating law enforcement agencies their full
20 investigative costs, pay back all transient accommodations taxes
21 and general excise taxes collected, and remit all illegally



1 obtained rental revenue to the State so that it may be returned
2 to the transient accommodations user or used to compensate
3 victims of illegal transient accommodations activities.

4 (c) Any operator or plan manager who violates any
5 provision of this chapter, or hosting platform that violates
6 section -4, shall be subject to administrative fines and
7 administrative penalties.

8 (d) Any interested person may seek an injunction or other
9 relief to prevent or remedy violations of this chapter. The
10 prevailing party in such an action shall be entitled to recover
11 reasonable costs and attorney's fees.

12 (e) The State may issue and serve administrative subpoenas
13 as necessary to obtain specific information regarding transient
14 accommodations listings located in the State, including but not
15 limited to the names of the persons responsible for each
16 listing, the address of each listing, the length of stay for
17 each listing, and the price paid for each stay, to determine
18 whether the transient accommodations listings comply with this
19 chapter. Any subpoena issued pursuant to this section shall not
20 require the production of information sooner than thirty days
21 from the date of service. A person that has been served with an



1 administrative subpoena may seek judicial review during that
2 thirty-day period.

3 (f) The remedies provided in this section are not
4 exclusive, and nothing in this section shall preclude the use or
5 application of any other remedies, penalties, or procedures
6 established by law.

7 § -8 **County authority.** Nothing in this chapter shall be
8 construed to preempt or prohibit the authority of a unit of
9 local government in the State, including counties and any other
10 political subdivisions of the State, to adopt, monitor, and
11 enforce local land use ordinances, rules, or regulations, nor to
12 transfer the authority to monitor and enforce these ordinances,
13 rules, or regulations away from the counties."

14 SECTION 2. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.



1 SECTION 3. This Act does not affect rights and duties that
2 matured, penalties that were incurred, and proceedings that were
3 begun before its effective date.

4 SECTION 4. This Act shall take effect on January 1, 2020.



Report Title:

Transient Accommodations; Vacation Rentals; Counties;
Enforcement; Hosting Platform Responsibilities; Transparency;
Data Sharing

Description:

Authorizes transient accommodations in the State, subject to certain conditions. Requires all operators and plan managers and their respective properties to be listed on a registry created, published, and updated by each county, except in any county that does not regulate the number or location of transient accommodations within that county. Requires hosting platforms to collect and remit to the State all applicable TAT and GET, as agents of operators and plan managers, and to regularly disclose to the State information on transient accommodations listings in the State. Prohibits hosting platforms from collecting fees or completing any booking transactions for properties not listed on the registry, if applicable in that county. Authorizes DOTAX to establish fees, charges, and other requirements by rule. Establishes civil and administrative penalties for violations. Authorizes the State to issue administrative subpoenas to obtain certain information regarding transient accommodations listings in the State. (SD2)

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

