

# House Bill 2049

Introduced and printed pursuant to House Rule 12.00. Pre-session filed (at the request of House Interim Committee on 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**.

Expands definition of "transient lodging intermediary" to include person that requires transient lodging provider to use specific third-party entity to collect consideration for occupancy of transient lodging.

Provides that, if consideration for transient lodging is rendered in kind, tax must be computed on real market value of consideration as of date consideration is rendered.

Authorizes Department of Revenue to hold transient lodging provider, including each and every owner, and any transient lodging intermediary jointly and severally liable for any transient lodging tax with respect to transient lodging transaction.

Takes effect on 91st day following adjournment sine die.

## A BILL FOR AN ACT

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

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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 tax collector may  
8 retain as reimbursement for the costs incurred by the transient lodging tax collector in collecting  
9 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 without limitation 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.

**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 (6) "Tourism" means economic activity resulting from tourists.
- 2 (7) "Tourism promotion" means any of the following activities:
- 3 (a) Advertising, publicizing or distributing information for the purpose of attracting and wel-
- 4 coming tourists;
- 5 (b) Conducting strategic planning and research necessary to stimulate future tourism develop-
- 6 ment;
- 7 (c) Operating tourism promotion agencies; and
- 8 (d) Marketing special events and festivals designed to attract tourists.
- 9 (8) "Tourism promotion agency" includes:
- 10 (a) An incorporated nonprofit organization or governmental unit that is responsible for the
- 11 tourism promotion of a destination on a year-round basis.
- 12 (b) A nonprofit entity that manages tourism-related economic development plans, programs and
- 13 projects.
- 14 (c) A regional or statewide association that represents entities that rely on tourism-related
- 15 business for more than 50 percent of their total income.
- 16 (9) "Tourism-related facility" means:
- 17 (a) A conference center, convention center or visitor information center; and
- 18 (b) Other improved real property that has a useful life of 10 or more years and has a substantial
- 19 purpose of supporting tourism or accommodating tourist activities.
- 20 (10) "Tourist" means a person who, for business, pleasure, recreation or participation in events
- 21 related to the arts, heritage or culture, travels from the community in which that person is a resi-
- 22 dent to a different community that is separate, distinct from and unrelated to the person's commu-
- 23 nity of residence, and that trip:
- 24 (a) Requires the person to travel more than 50 miles from the community of residence; or
- 25 (b) Includes an overnight stay.
- 26 (11) "Transient lodging" means:
- 27 (a) Hotel, motel and inn dwelling units that are used for temporary overnight human occupancy;
- 28 (b) Spaces used for parking recreational vehicles or erecting tents during periods of human oc-
- 29 cupancy; or
- 30 (c) Houses, cabins, condominiums, apartment units or other dwelling units, or portions of any
- 31 of these dwelling units, that are used for temporary human occupancy.
- 32 (12) "Transient lodging intermediary" means a person other than a transient lodging provider
- 33 that facilitates the retail sale of transient lodging and [charges]:
- 34 (a) **Receives the consideration rendered** for occupancy of the transient lodging[.]; **or**
- 35 (b) **Requires the transient lodging provider to use a specific third-party entity to collect**
- 36 **the consideration rendered for occupancy of the transient lodging.**
- 37 (13) "Transient lodging provider" means a person that furnishes transient lodging.
- 38 (14) "Transient lodging tax collector" means a transient lodging provider or a transient lodging
- 39 intermediary.
- 40 (15) "Unit of local government" has the meaning given that term in ORS 190.003.
- 41 (16) "Visitor information center" means a building, or a portion of a building, the main purpose
- 42 of which is to distribute or disseminate information to tourists.

43 **SECTION 2.** ORS 320.305, as amended by section 1, chapter 102, Oregon Laws 2016, is amended

44 to read:

45 320.305. (1)(a) A tax of 1.8 percent is imposed on any consideration rendered for the sale, service

1 or furnishing of transient lodging.

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

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

7 **(C) If the consideration is rendered in kind, the total retail price shall equal the real**  
8 **market value of the consideration as of the date on which the consideration is rendered.**

9 (c) The tax shall be collected by the transient lodging tax collector that receives the consider-  
10 ation rendered for occupancy of the transient lodging.

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

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

15 **SECTION 3.** ORS 320.305, as amended by sections 1 and 3, chapter 102, Oregon Laws 2016, is  
16 amended to read:

17 320.305. (1)(a) A tax of 1.5 percent is imposed on any consideration rendered for the sale, service  
18 or furnishing of transient lodging.

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

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

24 **(C) If the consideration is rendered in kind, the total retail price shall equal the real**  
25 **market value of the consideration as of the date on which the consideration is rendered.**

26 (c) The tax shall be collected by the transient lodging tax collector that receives the consider-  
27 ation rendered for occupancy of the transient lodging.

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

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

32 **SECTION 4.** ORS 320.325 is amended to read:

33 320.325. (1) Every transient lodging tax collector is deemed to hold the amount of state transient  
34 lodging taxes collected in trust for the State of Oregon and for payment to the Department of Re-  
35 venue in the manner and at the time provided under ORS 320.315.

36 (2) At any time **that** the transient lodging tax collector fails to remit any amount of state  
37 transient lodging taxes deemed to be held in trust for the State of Oregon, the department may en-  
38 force collection by the issuance of a distraint warrant for the collection of the delinquent amount  
39 and all penalties, interest and collection charges accrued on the delinquent amount. The warrant  
40 shall be issued, docketed and proceeded upon in the same manner and shall have the same force and  
41 effect as warrants for the collection of delinquent income taxes.

42 **(3) Notwithstanding ORS 320.305:**

43 **(a) The transient lodging provider and any transient lodging intermediary may be held**  
44 **jointly and severally liable for any tax imposed under ORS 320.305 with respect to a transient**  
45 **lodging transaction.**

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

4       **SECTION 5.** ORS 320.350 is amended to read:

5       320.350. (1) A unit of local government that did not impose a local transient lodging tax on July  
 6       1, 2003, may not impose a local transient lodging tax on or after July 2, 2003, unless the imposition  
 7       of the local transient lodging tax was approved on or before July 1, 2003.

8       (2) A unit of local government that imposed a local transient lodging tax on July 1, 2003, may  
 9       not increase the rate of the local transient lodging tax on or after July 2, 2003, to a rate that is  
 10       greater than the rate in effect on July 1, 2003, unless the increase was approved on or before July  
 11       1, 2003.

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

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

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

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

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

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

30       (b) Fund city or county services; or

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

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

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

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

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

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

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

3        **SECTION 6.** Section 7 of this 2017 Act is added to and made a part of ORS 320.300 to  
4 **320.350.**

5        **SECTION 7.** (1)(a) A local transient lodging tax must be computed on the total retail  
6 price, including all charges other than taxes, paid by a person for occupancy of the transient  
7 lodging.

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

11        (c) If the consideration is rendered in kind, the total retail price shall equal the real  
12 market value of the consideration as of the date on which the consideration is rendered.

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

15        **SECTION 8.** This 2017 Act takes effect on the 91st day after the date on which the 2017  
16 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.  
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