

MAR 09 2018

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# SENATE CONCURRENT RESOLUTION

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URGING THE DEPARTMENT OF TAXATION TO ENFORCE SECTION 237D-4,  
HAWAII REVISED STATUTES, REGARDING ONLINE ADVERTISING FOR  
TRANSIENT ACCOMMODATIONS TO ENSURE COLLECTION OF TRANSIENT  
ACCOMMODATION TAXES AND GENERAL EXCISE TAXES FROM VACATION  
RENTALS.

1 WHEREAS, this body passed a law in 2015 to enable the  
2 Department of Taxation to efficiently identify vacation rentals  
3 that are operating without being appropriately registered to do  
4 so, thereby avoiding the transient accommodations or general  
5 excise tax, simply by looking at online advertisements for  
6 transient accommodations; and  
7

8 WHEREAS, Act 204, Session Laws of Hawaii 2015 (Act 204),  
9 amended section 237D-4, Hawaii Revised Statutes, to:  
10

11 (1) Require the posting of the registration identification  
12 number, or electronic link thereto, of the operator or  
13 plan manager of the transient accommodation  
14 conspicuously on any online advertisement for a  
15 transient accommodation or resort time share vacation  
16 interest, plan, or unit in Hawaii;  
17

18 (2) Authorize the Department of Taxation to issue  
19 citations to the transient accommodation operator,  
20 time share vacation plan manager, or transient  
21 accommodations broker for failure to post the  
22 registration identification number conspicuously,  
23 thereby enabling the Department to easily identify tax  
24 scofflaws simply by reviewing online advertisements  
25 without having to also prove actual rentals of units;  
26 and  
27

28 (3) Establish substantial fines for failure to post the  
29 registration identification number on an online  
30 advertisement, starting at \$500 per day for the first



1 offense and increasing to \$5,000 per day for a third  
2 or any subsequent offense; and  
3

4 WHEREAS, aggressive enforcement of information-posting  
5 rules by the Department of Taxation will not drive the short  
6 term transient accommodations industry underground because it  
7 relies on online advertising to survive, but rather aggressive  
8 enforcement will serve to bring operators into speedy compliance  
9 with tax laws, as the amount of the violation will exceed the  
10 total unit rental revenue in many cases; and  
11

12 WHEREAS, the fact that online transient accommodations  
13 brokers may be shielded from liability under federal law should  
14 not be a reason for the Department of Taxation to refuse to  
15 enforce Act 204 and issue citations because the law contains a  
16 severability clause that would not render invalid the  
17 Department's ability to impose fines on an operator or plan  
18 manager for failure to comply with the law; and  
19

20 WHEREAS, the fact that the Department of Taxation has other  
21 obligations and may not have the personnel to search the  
22 Internet for violators is not a reason to fail to enforce the  
23 law, as other jurisdictions have hired contractors to go online  
24 and identify transient accommodations advertisements that fail  
25 to comply with section 237D-4, Hawaii Revised Statutes, and the  
26 Department is aware of this option and has the authority to  
27 enter into similar contracts, with the subsequent fines and  
28 increase in tax revenues likely to exceed the costs of such a  
29 contract; and  
30

31 WHEREAS, it is grossly unfair that some transient  
32 accommodations operators pay taxes, but a large proportion of  
33 operators do not; and  
34

35 WHEREAS, the significant number of operators failing to  
36 comply with information-posting laws and the lack of enforcement  
37 by the Department of Taxation undermine the foundation of the  
38 tax structure, which relies on voluntary compliance, and  
39 allowing scofflaws to remain at large, despite a simple remedy  
40 provided through Act 204, encourages more people to flout the  
41 tax laws; now, therefore,  
42



## S.C.R. NO. 131

1 BE IT RESOLVED by the Senate of the Twenty-ninth  
 2 Legislature of the State of Hawaii, Regular Session of 2018, the  
 3 House of Representatives concurring, that the Department of  
 4 Taxation is urged to enforce section 237D-4, Hawaii Revised  
 5 Statutes, by regularly checking or hiring a contractor to  
 6 regularly check online advertisements for transient  
 7 accommodations for compliance with section 237D-4(c), Hawaii  
 8 Revised Statutes; and  
 9

10 BE IT FURTHER RESOLVED that the Department of Taxation is  
 11 urged to issue citations, pursuant to section 237D-4(d), Hawaii  
 12 Revised Statutes, to anyone who violates the information-posting  
 13 requirements of section 237D-4(c), Hawaii Revised Statutes; and  
 14

15 BE IT FURTHER RESOLVED that a certified copy of this  
 16 Concurrent Resolution be transmitted to the Director of  
 17 Taxation.  
 18  
 19  
 20

OFFERED BY:

*Sil Alvarez*  
*Roch F. A.*

*James T. ...*  
*Transmitted to*  
*[Signature]*  
*Breene Smith*  
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