
SENATE CONCURRENT RESOLUTION

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

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

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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;

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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



1 advertisement, starting at \$500 per day for the first
2 offense and increasing to \$5,000 per day for a third
3 or any subsequent offense; and
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5 WHEREAS, aggressive enforcement of information-posting
6 rules by the Department of Taxation will not drive the short
7 term transient accommodations industry underground because it
8 relies on online advertising to survive, but rather aggressive
9 enforcement will serve to bring operators into speedy compliance
10 with tax laws, as the amount of the violation will exceed the
11 total unit rental revenue in many cases; and
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13 WHEREAS, the fact that online transient accommodations
14 brokers may be shielded from liability under federal law should
15 not be a reason for the Department of Taxation to refuse to
16 enforce Act 204 and issue citations because the law contains a
17 severability clause that would not render invalid the
18 Department's ability to impose fines on an operator or plan
19 manager for failure to comply with the law; and
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21 WHEREAS, the fact that the Department of Taxation has other
22 obligations and may not have the personnel to search the
23 Internet for violators is not a reason to fail to enforce the
24 law, as other jurisdictions have hired contractors to go online
25 and identify transient accommodations advertisements that fail
26 to comply with section 237D-4, Hawaii Revised Statutes, and the
27 Department is aware of this option and has the authority to
28 enter into similar contracts, with the subsequent fines and
29 increase in tax revenues likely to exceed the costs of such a
30 contract; and
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32 WHEREAS, it is grossly unfair that some transient
33 accommodations operators pay taxes, but a large proportion of
34 operators do not; and
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36 WHEREAS, the significant number of operators failing to
37 comply with information-posting laws and the lack of enforcement
38 by the Department of Taxation undermine the foundation of the
39 tax structure, which relies on voluntary compliance, and
40 allowing scofflaws to remain at large, despite a simple remedy
41 provided through Act 204, encourages more people to flout the
42 tax laws; now, therefore,



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

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

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16 BE IT FURTHER RESOLVED that the Department of Taxation is
17 requested to work with relevant county departments to gather and
18 share information that is necessary and pertinent for the
19 Department of Taxation to collect the full amount of taxes owed
20 from transient accommodations operators and plan managers; and

21
22 BE IT FURTHER RESOLVED that a certified copy of this
23 Concurrent Resolution be transmitted to the Director of
24 Taxation.

