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# A BILL FOR AN ACT

RELATING TO TRANSIENT ACCOMMODATIONS TAX.

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

1       SECTION 1. The legislature finds that businesses and  
2 private individuals are increasingly renting camper vans to  
3 visitors that essentially function as transient accommodations  
4 in lieu of hotel rooms or transient vacation rentals. The  
5 legislature further finds that camper van rental operations  
6 should register and tax renters in the same way as other types  
7 of transient accommodations.

8       The purpose of this Act is to make the rental of camper  
9 vans subject to the transient accommodations tax.

10       SECTION 2. Section 237D-1, Hawaii Revised Statutes, is  
11 amended as follows:

12       1. By adding a new definition to be appropriately inserted  
13 and to read:

14       "Camper van" means a self-propelled motor vehicle that  
15 provides transport and sleeping accommodations, including a  
16 motorhome or other recreational vehicle useable for transport  
17 and sleeping accommodations."



2. By amending the definition of "gross rental" or "gross rental proceeds" to read:

"Gross rental" or "gross rental proceeds" means the gross receipts, cash or accrued, of the taxpayer received as compensation for the furnishing of transient accommodations or entering into arrangements to furnish transient accommodations and the value proceeding or accruing from the furnishing of transient accommodations or entering into arrangements to furnish transient accommodations, including resort fees without any deductions on account of the cost of property or services sold, the cost of materials used, labor cost, taxes, royalties, interest, discounts, or any other expenses whatsoever. Every taxpayer shall be presumed to be dealing on a cash basis unless the taxpayer proves to the satisfaction of the department of taxation that the taxpayer is dealing on an accrual basis and the taxpayer's books are so kept, or unless the taxpayer employs or is required to employ the accrual basis for the purposes of the tax imposed by chapter 237 for any taxable year in which event the taxpayer shall report the taxpayer's gross income for the purposes of this chapter on the accrual basis for the same period.



1       The words "gross rental" or "gross rental proceeds" shall  
2 not be construed to include the amounts of taxes imposed by  
3 chapter 237 [~~or~~], this chapter, or section 251-2 on operators of  
4 transient accommodations, transient accommodations brokers,  
5 travel agencies, and tour packagers and passed on, collected,  
6 and received from the consumer as part of the receipts received  
7 as compensation for the furnishing of transient accommodations  
8 or entering into arrangements to furnish transient  
9 accommodations.

10       Where transient accommodations are furnished through  
11 arrangements made by a transient accommodations broker, travel  
12 agency, or tour packager at noncommissionable negotiated  
13 contract rates and the gross income is divided between the  
14 operator of transient accommodations on the one hand and the  
15 transient accommodations broker, travel agency, or tour packager  
16 on the other hand, the tax imposed by this chapter shall apply  
17 to each operator and transient accommodations broker, travel  
18 agency, or tour packager with respect to that person's  
19 respective portion of the proceeds and no more.

20       For purposes of this definition, where the operator  
21 maintains a schedule of rates for identifiable groups of



1 individuals, such as kamaainas, upon which the accommodations  
2 are leased, let, or rented, gross rental or gross rental  
3 proceeds means the receipts collected and received based upon  
4 the scheduled rates and recorded as receipts in its books and  
5 records."

6 3. By amending the definition of "lease", "let", or  
7 "rental" to read:

8 ""Lease", "let", or "rental" means the leasing or renting  
9 of living quarters or sleeping or housekeeping accommodations in  
10 hotels, apartment hotels, motels, condominiums or units defined  
11 in chapter 514B, cooperative apartments, rooming houses, camper  
12 vans, or other places in which lodgings are regularly furnished  
13 to transients for [a] consideration, without transfer of the  
14 title of such property."

15 4. By amending the definition of "transient  
16 accommodations" to read:

17 ""Transient accommodations" means the furnishing of a room,  
18 apartment, suite, single family dwelling, camper van, or the  
19 like to a transient for less than one hundred eighty consecutive  
20 days for each letting in a hotel, apartment hotel, motel,  
21 condominium or unit as defined in chapter 514B, cooperative



1 apartment, dwelling unit, or rooming house, or for each letting  
2 of a camper van, that provides living quarters, sleeping, or  
3 housekeeping accommodations, or other place in which lodgings  
4 are regularly furnished to transients."

5 SECTION 3. Section 237D-4, Hawaii Revised Statutes, is  
6 amended by amending subsection (a) to read as follows:

7 "(a) Every taxpayer not required to register under section  
8 237D-4.5, as a condition precedent to engaging or continuing in  
9 the business of furnishing transient accommodations or in  
10 business as a resort time share vacation plan, shall register  
11 with the director the name and address of each place of business  
12 within the State subject to this chapter. The taxpayer shall  
13 make a one-time payment as follows:

14 (1) \$5 for each registration for transient accommodations  
15 consisting of one to five units;

16 (2) \$15 for each registration for transient accommodations  
17 consisting of six or more units; and

18 (3) \$15 for each resort time share vacation plan within  
19 the State;

20 upon receipt of which the director shall issue a certificate of  
21 registration in a form determined by the director, attesting



1 that the registration has been made. The registration shall not  
2 be transferable and shall be valid only for the taxpayer in  
3 whose name it is issued and for the transaction of business at  
4 the place designated therein. Acquisition of additional  
5 transient accommodation units after payment of the one-time fee  
6 shall not result in additional fees.

7 For purposes of this subsection, each camper van shall  
8 constitute one unit."

9 SECTION 4. Section 237D-8.5, Hawaii Revised Statutes, is  
10 amended by amending subsection (b) to read as follows:

11 "(b) Every written rental collection agreement shall have  
12 on the first page of the agreement the name, address, social  
13 security or federal identification number, and, if available,  
14 the general excise tax license and transient accommodations tax  
15 registration numbers of the owner of the transient  
16 accommodations being rented[7]; the address of the real property  
17 being rented, if applicable; and the following statement which  
18 shall be set forth in bold print and in ten-point type size:

19  
20 **"HAWAII TRANSIENT ACCOMMODATIONS TAXES MUST BE PAID ON THE GROSS**  
21 **RENTS COLLECTED BY ANY PERSON RENTING TRANSIENT ACCOMMODATIONS**



1 IN THE STATE OF HAWAII. A COPY OF THE FIRST PAGE OF THIS  
2 AGREEMENT, OR OF FEDERAL INTERNAL REVENUE FORM 1099 STATING THE  
3 AMOUNT OF RENTS COLLECTED, SHALL BE FILED WITH THE HAWAII  
4 DEPARTMENT OF TAXATION."

5  
6 Every person entering an oral rental collection agreement  
7 shall furnish the department of taxation the information  
8 required under this subsection and shall give the owner of the  
9 property a copy of the notice required by this subsection. The  
10 statement required by this subsection may be combined with the  
11 statement required under section 237-30.5 by adding in bold  
12 print and in ten-point type size to the front of the statement  
13 in section 237-30.5 the following:

14  
15 **"HAWAII TRANSIENT ACCOMMODATIONS TAXES AND".**

16 SECTION 5. Section 437D-8.4, Hawaii Revised Statutes, is  
17 amended by amending subsection (a) to read as follows:

18 "(a) Notwithstanding any law to the contrary, a lessor may  
19 visibly pass on to a lessee:

20 (1) The general excise tax attributable to the  
21 transaction;



(2) The vehicle license recovery fees, prorated at 1/292nd of the annual vehicle license recovery fees actually paid on the particular vehicle being rented for each full or partial twenty-four-hour rental day that the vehicle is rented; provided the total of all vehicle license recovery fees charged to all lessees shall not exceed the annual vehicle license recovery fees actually paid for the particular vehicle rented;

(3) The surcharge taxes imposed in chapter 251 attributable to the transaction;

(4) The county surcharge on state tax under section 46-16.8; provided that the lessor itemizes the tax for the lessee; ~~and~~

(5) The transient accommodations tax imposed on camper vans pursuant to chapter 237D; and

~~[-5-]~~ (6) The rents or fees paid to the department of transportation under concession contracts negotiated pursuant to chapter 102, service permits granted pursuant to title 19, Hawaii Administrative Rules, or rental motor vehicle customer facility charges established pursuant to section 261-7; provided that:



1 (A) The rents or fees are limited to amounts that can  
2 be attributed to the proceeds of the particular  
3 transaction;

4 (B) The rents or fees shall not exceed the lessor's  
5 net payments to the department of transportation  
6 made under concession contract or service permit;

7 (C) The lessor submits to the department of  
8 transportation and the department of commerce and  
9 consumer affairs a statement, verified by a  
10 certified public accountant as correct, that  
11 reports the amounts of the rents or fees paid to  
12 the department of transportation pursuant to the  
13 applicable concession contract or service permit:

14 (i) For all airport locations; and

15 (ii) For each airport location;

16 (D) The lessor submits to the department of  
17 transportation and the department of commerce and  
18 consumer affairs a statement, verified by a  
19 certified public accountant as correct, that  
20 reports the amounts charged to lessees:

21 (i) For all airport locations;



1 (ii) For each airport location; and

2 (iii) For each lessee;

3 (E) The lessor includes in these reports the  
4 methodology used to determine the amount of fees  
5 charged to each lessee; and

6 (F) The lessor submits the above information to the  
7 department of transportation and the department  
8 of commerce and consumer affairs within three  
9 months of the end of the preceding annual  
10 accounting period or contract year as determined  
11 by the applicable concession agreement or service  
12 permit.

13 The respective departments, in their sole discretion,  
14 may extend the time to submit the statement required  
15 in this subsection. If the director determines that  
16 an examination of the lessor's information is  
17 inappropriate under this subsection and the lessor  
18 fails to correct the matter within ninety days, the  
19 director may conduct an examination and charge a  
20 lessor an examination fee based upon the cost per hour  
21 per examiner for evaluating, investigating, and



1 verifying compliance with this subsection, as well as  
2 additional amounts for travel, per diem, mileage, and  
3 other reasonable expenses incurred in connection with  
4 the examination, which shall relate solely to the  
5 requirements of this subsection, and which shall be  
6 billed by the departments as soon as feasible after  
7 the close of the examination. The cost per hour shall  
8 be \$40 or as may be established by rules adopted by  
9 the director. The lessor shall pay the amounts billed  
10 within thirty days following the billing. All moneys  
11 collected by the director shall be credited to the  
12 compliance resolution fund."

13 SECTION 6. Statutory material to be repealed is bracketed  
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect on January 1, 2023;  
16 provided that the amendments made to section 437D-8.4, Hawaii  
17 Revised Statutes, by this Act shall not be repealed when this  
18 section is reenacted on December 31, 2030, pursuant to section 6  
19 of Act 1, Special Session Laws of Hawaii 2017.



**Report Title:**

Transient Accommodations Tax; Camper Van Rentals; Department of Taxation

**Description:**

Makes camper vans a type of transient accommodation, the rental of which is subject to the transient accommodations tax.  
Effective 1/1/2023. (HD1)

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

