



SPONSOR: Rep. K. Williams & Sen. Mantzavinos & Sen. Townsend
Reps. Baumbach, Bolden, Griffith, K. Johnson,
Matthews; Sen. Walsh

HOUSE OF REPRESENTATIVES
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 168

AN ACT TO AMEND TITLES 9 AND 30 OF THE DELAWARE CODE RELATING TO LODGING TAX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Three-fifths of all members elected to each house thereof concurring therein):

Section 1. Amend Chapter 23, Title 30 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline and redesignating as follows:

§ 2301. Occupations requiring licenses; definitions; fees; exemptions.

(19) Showperson, \$375. “Showperson” includes every person engaged in the business of conducting or operating for profit a public theater, house or other enclosed place for the exhibition of stage shows or musical presentations, animal shows, carnivals for private profit and all other amusements of like character.

() Short-term rental listing service, \$25. “Short-term rental listing service” means any person engaged in the business of facilitating or arranging the renting of short-term rentals as defined in § 6101 of this title on a website or through other means, including any person whose primary function is ownership, management, or marketing of duly licensed hotel, motel, tourist home, or properties subject to a timeshare plan as defined by 11 U.S.C. §101 (53D). This license fee shall not apply to a hotel, motel or tourist home subject to a license fee under subsections (9), (12) or (21) of this title.

(20) Taxicab or bus operator, \$45, for the first motor vehicle; \$30, for each additional motor vehicle. “Taxicab” or “bus operator” includes every person engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public. A public carrier holding a certificate of public convenience and necessity issued by the Delaware Transportation Authority of the Department of Transportation authorizing it to operate a taxicab business, which actually operates such taxicab business through the leasing of its taxicab vehicles to independent contractor lessee drivers, shall be construed to be a “person” under this paragraph “engaged in the business of the operation of motor vehicles in transporting persons for hire in the accommodation of the general public” and shall pay the above-specified annual fees for its taxicab motor vehicles which are subject to such leasing for the year involved, and none of the independent contractor lessee drivers of such vehicles shall be construed to be a “person engaged in the business of the operation of motor vehicles in transporting

persons for hire in the accommodation of the general public” within the meaning of this paragraph. This tax shall not apply however, to the operation of school buses used solely in the transportation of children to and from kindergarten, grade school, vocational school and high school.

Section 2. Amend Chapter 61, Title 30 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 6101. Definitions.

As used in this chapter:

(1) “Hotel” means any person engaged in the business of operating a place where the public may, for a consideration, obtain sleeping accommodations and meals and which has at least 6 permanent bedrooms for the use of guests, excluding, however, any charitable, educational or religious institution, summer camp for children, hospital or nursing home.

(2) “Motel” means any person engaged in the business of furnishing, for a consideration, transient guests with sleeping accommodations, bath and toilet facilities, linen service and a place to park an automobile.

(3) “Occupancy” means the use or possession or the right to the use or possession by any person other than a permanent resident of any room or rooms in a hotel, motel, ~~or~~ tourist home, or short-term rental for any purpose or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(4) “Occupant” means any person other than a permanent resident who for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel, motel, ~~or~~ tourist home, or short-term rental under any lease, concession, permit, right of access, license or agreement.

(5) “Operator” means any person operating a hotel, motel, ~~or~~ tourist home, or short-term rental.

(6) “Permanent resident” means any occupant who has occupied or has the right to occupancy of any room or rooms in a hotel, motel, ~~or~~ tourist home, or short-term rental for a continuous period of 150 days or more.

(7) “Rent” means the consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash credits and property or services of any kind or nature and also any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever.

(8) “Short-term rental” means any person who engages a short-term rental listing service and provides a bedroom or dwelling unit to any occupant.

(9) “Short-term rental listing service” means any person engaged in the business of facilitating or arranging the renting of short-term rentals on a website or through other means including any business whose primary function is

ownership, management, or marketing of duly licensed hotel, motel, tourist home, or properties subject to a timeshare plan as defined by 11 U.S.C. 101 (53D).

(8 10) "Tourist home" means any person who operates a place where tourists or transient guests, for a consideration, may obtain sleeping accommodations and which has at least 5 permanent bedrooms for the use of tourists or transient guests, but which does not have cooking facilities for the use of tourists or transient guests.

§ 6102. Levy of tax and disposition of proceeds.

(a) There is imposed and assessed an excise tax at the rate of 8% of the rent upon every occupancy of a room or rooms in a hotel, ~~motel or motel~~, tourist home, or short-term rental within this State.

(b) The ~~proceeds of this~~ tax shall be distributed as follows: ~~5%~~ 62.5% to the State General Fund, ~~4%~~ 12.5% to the Beach Preservation Program of the Department of Natural Resources and Environmental Control of the State, ~~4%~~ 12.5% annually shall be designated in the proportion in which collected, to the duly established convention and visitors bureau in each county and ~~4%~~ 12.5% to the Delaware Tourism Office.

§ 6103. Collection of tax.

(a) For a hotel, motel, or tourist home, the ~~The~~ tax shall be collected by the operator from the occupant at the time of the payment of the rent for the occupancy.

(b) For a short-term rental, the tax shall be collected by the short-term rental listing service from the occupant at the time of the payment of the rent for the occupancy

§ 6104. Payment of tax.

The amount of the tax collected for each month shall be reported and paid over to the Department of Finance not later than the fifteenth day of the month following the month of collection on forms to be prescribed by the Department of Finance. Interest at the rate of 1 percent per month, or fraction thereof, shall be charged on payments made after the prescribed due date.

§ 6105. Obligations of a short-term rental listing service.

(a) A short-term rental listing service shall do all of the following:

(1) Notify every short-term rental of the tax that must be imposed and assessed pursuant to § 6102 of this title.

(2) Remit data as required by the Division of Revenue in a format and manner prescribed by the Division of Revenue which shall include all of the following:

a. Name of the owner(s) of the short-term rental.

b. Property address of the short-term rental.

c. The social security number or federal identification number of the owner(s) of the short-term rental.

(3) Remit tax collected pursuant to § 6103 of this title to the Delaware Division of Revenue.

(b) A short-term rental listing service shall provide the State with all data necessary to enforce all of the provisions contained in this Act.

Section 3. Amend Chapter 81, Title 9 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 8112. Lodging tax.

(a) New Castle County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of the rent, in addition to the amount imposed by the State, for any room in a hotel, motel, ~~or~~ tourist home, or short-term rental as defined in § 6101 of Title 30, which is located within the unincorporated areas of the county.

(b) [Repealed.]

(c) Sussex County may impose, by duly enacted ordinance, a local lodging tax of no more than 3 percent of the rent, in addition to the amount imposed by the State, for any room or rooms in a hotel, motel or tourist home, or short-term rental as defined in § 6101 of Title 30, which is located within the unincorporated areas of Sussex County. Any funds realized by Sussex County pursuant to this subsection shall be expended solely within Sussex County, for the capital and operating costs of beach nourishment, waterway dredging, economic development, tourism programs, recreational activities, and water quality and flood control projects. An amount not to exceed 5% of the funds realized from the tax may be used to pay the costs of administering projects funded under this subsection.

(d) Rentals by the Department of Natural Resources and Environmental Control are exempt from the lodging tax established by this section.

Section 4. This Act applies to rent for a short-term rental unit collected after December 31, 2023 by a short-term rental listing service.

SYNOPSIS

Section 1 of this bill requires every short-term listing service to obtain an occupational license and pay an annual licensing fee of \$25.00. Section 2 of this bill defines short-term rental as any person who rents a bedroom or dwelling unit to overnight guests for a continuous period of 150 days or less using a short-term listing service. Short-term listing services is a person or business that facilitates or arranges the renting of short-term rental units on a website or through other means. This bill also makes the lodging tax that applies to all hotels, motels, and tourist homes apply to short-term rentals. The bill also sets forth the obligations of a short-term rental listing service which is primarily to remit data as required by the Division of Revenue and the tax collected pursuant to the statute. Section 3 of the bill authorizes New Castle and Sussex Counties to impose a lodging tax of no more than 3 percent on short-term rentals. Section 4 applies the Act to all rent for a short-term rental after December 31, 2023 collected by a short-term rental listing service.