

HOUSE BILL No. 1284

DIGEST OF INTRODUCED BILL

Citations Affected: IC 6-2.5.

Synopsis: Repeal of sales tax facilitator provisions. Repeals provisions in the sales tax code declaring that a person is a retail merchant making a retail transaction if the person furnishes rooms, lodgings, or accommodations in a house, condominium, or apartment for transient residential housing for consideration. Repeals a provision in the sales tax code declaring that a "facilitator" is a retail merchant making a retail transaction when the facilitator accepts payment for a room, lodging, or accommodation rented or furnished in Indiana.

Effective: July 1, 2017.

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January 10, 2017, read first time and referred to Committee on Ways and Means.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1284

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 6-2.5-1-19.5 IS REPEALED [EFFECTIVE JULY
2 1, 2017]. Sec. 19.5. "Facilitator" means a person who:
3 (1) contracts or otherwise enters into an agreement:
4 (A) with a person who rents or furnishes rooms, lodgings, or
5 accommodations for consideration; and
6 (B) to market the rooms, lodgings, or accommodations through
7 the Internet; and
8 (2) accepts payment from the consumer for the room, lodging, or
9 accommodation.
10 The term does not include a licensee (as defined in IC 25-34.1-1-2(6))
11 under the real estate broker licensing act (IC 25-34.1) or the owner of
12 the room, lodging, or accommodation.
13 SECTION 2. IC 6-2.5-4-4, AS AMENDED BY P.L.181-2016,
14 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2017]: Sec. 4. (a) A person is a retail merchant making a retail
16 transaction when the person rents or furnishes rooms, lodgings, or other
17 accommodations, such as booths, display spaces, banquet facilities, and



1 cubicles or spaces used for adult relaxation, massage, modeling,
2 dancing, or other entertainment to another person:

3 (1) if those rooms, lodgings, or accommodations are rented or
4 furnished for periods of less than thirty (30) days; and

5 (2) if the rooms, lodgings, and accommodations are located in
6 ~~(A)~~ a hotel, motel, inn, tourist camp, tourist cabin, gymnasium,
7 hall, coliseum, or other place, where rooms, lodgings, or
8 accommodations are regularly furnished for consideration. ~~or~~
9 ~~(B)~~ a house, condominium, or apartment in which rooms,
10 lodgings, or accommodations are rented or furnished for
11 transient residential housing for consideration:

12 ~~(b)~~ A facilitator is a retail merchant making a retail transaction when
13 the facilitator accepts payment from the consumer for a room, lodging,
14 or accommodation rented or furnished in Indiana:

15 ~~(e)~~ ~~(b)~~ Except as provided in section 4.2 of this chapter, Each rental
16 or furnishing by a retail merchant under subsection (a) ~~or~~ ~~(b)~~ is a
17 separate unitary transaction regardless of whether consideration is paid
18 to an independent contractor or directly to the retail merchant.

19 ~~(d)~~ ~~(c)~~ For purposes of this section, "consideration" includes a
20 membership fee charged to a customer.

21 ~~(e)~~ ~~(d)~~ Notwithstanding subsection (a), a person is not a retail
22 merchant making a retail transaction if:

23 (1) the person is a promoter that rents a booth or display space to
24 an exhibitor; and

25 (2) the booth or display space is located in a facility that:

26 (A) is described in subsection (a)(2); and

27 (B) is operated by a political subdivision (including a capital
28 improvement board established under IC 36-10-8 or
29 IC 36-10-9) or the state fair commission.

30 This subsection does not exempt from the state gross retail tax the
31 renting of accommodations by a political subdivision or the state fair
32 commission to a promoter or an exhibitor.

33 SECTION 3. IC 6-2.5-4-4.2 IS REPEALED [EFFECTIVE JULY 1,
34 2017]. Sec. 4.2: (a) A person or a facilitator who is a retail merchant
35 making a retail transaction described in section 4 of this chapter shall
36 give to the consumer of the room, lodging, or accommodation an
37 itemized statement separately stating all the following:

38 (1) The part of the gross retail income that is charged by the
39 person for renting or furnishing the room, lodging, or
40 accommodation:

41 (2) Any amount collected by the person renting or furnishing the
42 room, lodging, or accommodation for:



- 1 (A) the state gross retail or use tax; and
2 (B) any innkeeper's tax due under IC 6-9.
3 (3) Any part of the gross retail income that is a fee, commission,
4 or other charge of a facilitator.
5 (b) A penalty of twenty-five dollars (\$25) is imposed for each
6 transaction described in subsection (a) in which a facilitator fails to
7 separately state the information required to be separately stated by
8 subsection (a).
9 SECTION 4. [EFFECTIVE JULY 1, 2017] (a) **In repealing**
10 **IC 6-2.5-1-19.5 by this act, the general assembly recognizes that**
11 **IC 6-2.5-1-19.5 was added by P.L.181-2016, SECTION 16. The**
12 **general assembly intends to repeal that provision.**
13 (b) **In repealing IC 6-2.5-4-4.2 by this act, the general assembly**
14 **recognizes that IC 6-2.5-4-4.2 was added by P.L.181-2016,**
15 **SECTION 20. The general assembly intends to repeal that**
16 **provision.**
17 (c) **This SECTION expires December 31, 2017.**

