



February 7, 2017

HOUSE BILL No. 1284

DIGEST OF HB 1284 (Updated February 6, 2017 11:34 am - DI 84)

Citations Affected: IC 6-2.5; noncode.

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.

Brown T, Huston

January 10, 2017, read first time and referred to Committee on Ways and Means.
February 6, 2017, reported — Do Pass.

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February 7, 2017

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 IC 6-2.5-1-19.5 IS REPEALED [EFFECTIVE JULY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

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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.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1284, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1284 as introduced.)

BROWN T

Committee Vote: Yeas 15, Nays 6

