



Reprinted
February 14, 2017

HOUSE BILL No. 1284

DIGEST OF HB 1284 (Updated February 13, 2017 6:07 pm - DI 120)

Citations Affected: IC 6-2.5; noncode.

Synopsis: Sales tax facilitator provisions and study. Extends the effective date from July 1, 2017 to July 1, 2018 for 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 those same provisions effective July 1, 2018. Extends the effective date from July 1, 2017 to July 1, 2018 for 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. Repeals that same provision effective July 1, 2018. Repeals a provision in the sales tax code requiring a retail merchant who rents or furnishes lodgings to provide to the consumer of the lodging an itemized statement separately stating certain information and that imposes a penalty on a facilitator for each transaction in which the facilitator fails to separately state such information. Urges the legislative council to assign certain sales tax and innkeeper's tax topics to an appropriate study committee during the 2017 legislative interim.

Effective: Upon passage; July 1, 2017; July 1, 2018.

Brown T, Huston

January 10, 2017, read first time and referred to Committee on Ways and Means.
February 6, 2017, reported — Do Pass.
February 13, 2017, read second time, amended, ordered engrossed.

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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, 2018]. 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, 2018]: 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 UPON PASSAGE] (a) As used in this
 10 SECTION, "facilitator" has the meaning set forth in
 11 IC 6-2.5-1-19.5, before its repeal by this act.
 12 (b) The general assembly urges the legislative council to assign
 13 the following study topics to an appropriate study committee
 14 during the 2017 legislative interim:
 15 (1) Issues related to the state gross retail or use tax and any
 16 innkeeper's tax under IC 6-9 imposed and collected from a
 17 facilitator as a retail merchant making a retail transaction.
 18 (2) Issues related to the state gross retail or use tax and any
 19 innkeeper's tax under IC 6-9 imposed and collected for
 20 transient residential housing rented or furnished for
 21 consideration.
 22 (c) If the topics described in subsection (b) are assigned to a
 23 study committee, the study committee shall issue a final report on
 24 the topics to the legislative council in an electronic format under
 25 IC 5-14-6 not later than November 1, 2017.
 26 (d) This SECTION expires January 1, 2018.
 27 SECTION 5. [EFFECTIVE UPON PASSAGE] (a)
 28 Notwithstanding the effective date in P.L.181-2016, SECTION 16,
 29 for IC 6-2.5-1-19.5, the effective date of that SECTION is July 1,
 30 2018, and not July 1, 2017.
 31 (b) Notwithstanding the effective date in P.L.181-2016,
 32 SECTION 19, for IC 6-2.5-4-4, the effective date of that SECTION
 33 is July 1, 2018, and not July 1, 2017.
 34 SECTION 6. An emergency is declared for this act.



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

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1284 be amended to read as follows:

Page 1, line 2, delete "2017]" and insert "2018]".

Page 1, line 15, delete "2017]" and insert "2018]".

Page 3, delete lines 9 through 17, begin a new paragraph and insert:

"SECTION 4. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "facilitator" has the meaning set forth in IC 6-2.5-1-19.5, before its repeal by this act.

(b) The general assembly urges the legislative council to assign the following study topics to an appropriate study committee during the 2017 legislative interim:

(1) Issues related to the state gross retail or use tax and any innkeeper's tax under IC 6-9 imposed and collected from a facilitator as a retail merchant making a retail transaction.

(2) Issues related to the state gross retail or use tax and any innkeeper's tax under IC 6-9 imposed and collected for transient residential housing rented or furnished for consideration.

(c) If the topics described in subsection (b) are assigned to a study committee, the study committee shall issue a final report on the topics to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2017.

(d) This SECTION expires January 1, 2018.

SECTION 5. [EFFECTIVE UPON PASSAGE] (a) Notwithstanding the effective date in P.L.181-2016, SECTION 16, for IC 6-2.5-1-19.5, the effective date of that SECTION is July 1, 2018, and not July 1, 2017.

(b) Notwithstanding the effective date in P.L.181-2016, SECTION 19, for IC 6-2.5-4-4, the effective date of that SECTION

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is July 1, 2018, and not July 1, 2017.

SECTION 6. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1284 as printed February 7, 2017.)

OBER

