

SUBJECT: Including booking charges in the taxable amount for hotel occupancy tax

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

WITNESSES: For — John Kroll, Avenu Insights; Scott Joslove, Texas Hotel and Lodging Association; (*Registered, but did not testify*: James Grace, Jr., Houston First; Justin Bragiel, Texas Hotel and Lodging Association)

Against — Ashley Hodgini, Expedia Group; Stephen Shur, Travel Technology Association; (*Registered, but did not testify*: Lynette Lucas)

On — Karey Barton and Brad Reynolds, Comptroller of Public Accounts

BACKGROUND: Tax Code sec. 156.051(b) establishes that, for purposes of the hotel occupancy tax, the price of a room in a hotel does not include the cost of food served by the hotel and the cost of personal services performed by the hotel for the person except for those services related to cleaning and readying the room for use or possession.

DIGEST: HB 3579 would establish that the price of a room or space in a hotel included all charges related to the use or possession of the room or space, including charges for cleaning and readying the room or space, furniture rental charges, and charges for reserving or booking. It would exclude charges for food or personal or telecommunications services if those charges were separately itemized.

The bill would make a rented space in a hotel that is not a room subject to the hotel occupancy tax.

The bill would require a person who collected payment for a hotel room or space, if that person was not the owner, operator, manager, or controller of

the hotel, to collect for the state the hotel occupancy tax and to certify to the owner, operator, manager, or controller of the hotel that the tax had been collected and would be paid to the comptroller of public accounts.

Hotel owners, operators, managers, or controllers could accept in good faith such certification for the purposes of calculating their own filed hotel occupancy tax report.

The bill would take effect January 1, 2020.

**SUPPORTERS
SAY:**

HB 3579 would facilitate the efficient administration of the hotel occupancy tax by clearly establishing how it should be calculated and by providing for its collection and remittance by third parties that book hotel rooms.

In today's hotel market, a substantial proportion of bookings are completed through online travel companies, which only collect occupancy tax on the room rate negotiated between the travel company and the hotel, not on the actual amount paid for the room by the customer. The bill would ensure that all hotel transactions were treated equitably.

HB 3579 would not impose a new tax but rather would clarify that the existing tax for hotel occupancy should be remitted by whichever party actually collected the customer's payment for a hotel room or space.

The bill would simplify tax administration even though there would be more taxable entities. Currently, travel agencies remit the value of the hotel occupancy tax to hotels who then pay the comptroller. Under this bill, the travel agencies would pay the comptroller directly, and hotels would only pay hotel occupancy tax on rooms they sold directly. This would simplify tax audits and help ensure compliance.

**OPPONENTS
SAY:**

HB 3579 would apply the hotel occupancy tax to the service fee that online third parties charged when they booked or reserved a room. Online booking agents do not operate hotels; rather, they provide a service to link travelers to hotels. They collect hotel occupancy tax and remit it through

the hotels that they work with, but not on the portion of the customer's payment attributable to their service fee. By taxing this fee, the bill effectively would impose a new tax on travel agent services.

The bill would not streamline tax collection but instead could result in more complicated tax administration because it would increase the number of tax-liable parties. Under the bill, the comptroller would receive tax returns not only from each hotel operator but also from each of the many online travel agencies that booked rooms for that hotel.

NOTES:

According to the Legislative Budget Board, the bill would have a positive impact of \$78 million to general revenue related funds through fiscal 2020-21.