

SENATE BILL 533

Q4

9lr1466

By: **Senators Guzzone and McCray**

Introduced and read first time: February 4, 2019

Assigned to: Budget and Taxation

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2019

CHAPTER _____

1 AN ACT concerning

2 **Sales and Use Tax – ~~Limited Residential Lodging~~ Short-Term Rentals**

3 FOR the purpose of requiring certain ~~hosting~~ short-term rental platforms to collect the
4 sales and use tax on the sale of the right to occupy certain ~~lodging accommodations~~
5 short-term rentals; ~~requiring that the sales and use tax be stated and shown in a~~
6 ~~certain manner for certain retail sales or sales for use; prohibiting a hosting platform~~
7 ~~from collecting certain fees unless the sales and use tax is collected in a certain~~
8 ~~manner~~; defining certain terms; making conforming changes; and generally relating
9 to requiring certain ~~hosting~~ short-term rental platforms to collect the sales and use
10 tax on the right to occupy certain ~~lodging accommodations~~ short-term rentals.

11 BY repealing and reenacting, without amendments,

12 Article – Tax – General

13 Section 11-101(a), (a-1), ~~(a-2)~~, (a-3), (h)(1), ~~and (k)(1)~~ and (l)(1) and 11-102(a)

14 Annotated Code of Maryland

15 (2016 Replacement Volume and 2018 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article – Tax – General

18 Section ~~11-101(a-2)~~ 11-101(k)(1), (l)(5) and (6), and (o), ~~11-302~~, and 11-403

19 Annotated Code of Maryland

20 (2016 Replacement Volume and 2018 Supplement)

21 BY adding to

22 Article – Tax – General

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 11-101(a-4), ~~(e-2), (e-3), and (e-4)~~ (j-1), (j-2), and (j-3)
 2 Annotated Code of Maryland
 3 (2016 Replacement Volume and 2018 Supplement)

4 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 5 That the Laws of Maryland read as follows:

6 **Article – Tax – General**

7 11-101.

8 (a) In this title the following words have the meanings indicated.

9 (a-1) “Accommodation” means a right to occupy a room or lodgings as a transient
 10 guest.

11 (a-2) (1) “Accommodations intermediary” means a person, other than an
 12 accommodations provider, who facilitates the sale or use of an accommodation and charges
 13 a buyer the taxable price for the accommodation.

14 ~~(2) “ACCOMMODATIONS INTERMEDIARY” INCLUDES A HOSTING~~
 15 ~~PLATFORM.~~

16 ~~(3) (2)~~ (2) For purposes of this subsection, a person shall be considered to
 17 facilitate the sale or use of an accommodation if the person brokers, coordinates, or in any
 18 other way arranges for the sale or use of an accommodation by a buyer.

19 (a-3) “Accommodations provider” means a person that owns, operates, or manages
 20 an accommodation and makes the accommodation available for sale or use to a buyer.

21 (A-4) “BOOKING TRANSACTION” MEANS ANY TRANSACTION IN WHICH THERE
 22 IS A RETAIL SALE OF AN ACCOMMODATION.

23 ~~(C-2) “HOSTING PLATFORM” MEANS AN INTERNET-BASED DIGITAL ENTITY~~
 24 ~~THAT:~~

25 ~~(1) ADVERTISES THE AVAILABILITY OF LIMITED RESIDENTIAL~~
 26 ~~LODGING UNITS FOR RENT; AND~~

27 ~~(2) RECEIVES COMPENSATION FOR FACILITATING RESERVATIONS OR~~
 28 ~~PROCESSING BOOKING TRANSACTIONS ON BEHALF OF THE OWNER, OPERATOR, OR~~
 29 ~~MANAGER OF A LIMITED RESIDENTIAL LODGING UNIT.~~

30 ~~(C-3) “LIMITED RESIDENTIAL LODGING” MEANS THE TEMPORARY USE OF A~~
 31 ~~LIMITED RESIDENTIAL LODGING UNIT TO PROVIDE ACCOMMODATION TO~~
 32 ~~TRANSIENT GUESTS FOR LODGING PURPOSES IN EXCHANGE FOR CONSIDERATION.~~

1 ~~(C-4) (1) "LIMITED RESIDENTIAL LODGING UNIT" MEANS A RESIDENTIAL~~
 2 ~~DWELLING UNIT OR A PORTION OF THE UNIT USED FOR LIMITED RESIDENTIAL~~
 3 ~~LODGING.~~

4 ~~(2) "LIMITED RESIDENTIAL LODGING UNIT" INCLUDES A~~
 5 ~~SINGLE-FAMILY HOUSE OR DWELLING, A MULTIFAMILY HOUSE OR DWELLING, AN~~
 6 ~~APARTMENT, A CONDOMINIUM, OR A COOPERATIVE.~~

7 (h) (1) "Retail sale" means the sale of:

8 (i) tangible personal property; or

9 (ii) a taxable service.

10 (J-1) "SHORT-TERM RENTAL" MEANS THE TEMPORARY USE OF A
 11 SHORT-TERM RENTAL UNIT TO PROVIDE ACCOMMODATION TO TRANSIENT GUESTS
 12 FOR LODGING PURPOSES IN EXCHANGE FOR CONSIDERATION.

13 (J-2) "SHORT-TERM RENTAL PLATFORM" MEANS AN INTERNET-BASED
 14 DIGITAL ENTITY THAT:

15 (1) ADVERTISES THE AVAILABILITY OF SHORT-TERM RENTAL UNITS
 16 FOR RENT; AND

17 (2) RECEIVES COMPENSATION FOR FACILITATING RESERVATIONS OR
 18 PROCESSING BOOKING TRANSACTIONS ON BEHALF OF THE OWNER, OPERATOR, OR
 19 MANAGER OF A SHORT-TERM RENTAL UNIT.

20 (J-3) (1) "SHORT-TERM RENTAL UNIT" MEANS A RESIDENTIAL DWELLING
 21 UNIT OR A PORTION OF THE UNIT USED FOR SHORT-TERM RENTALS.

22 (2) "SHORT-TERM RENTAL UNIT" INCLUDES A SINGLE-FAMILY
 23 HOUSE OR DWELLING, A MULTIFAMILY HOUSE OR DWELLING, AN APARTMENT, A
 24 CONDOMINIUM, OR A COOPERATIVE.

25 (k) (1) "Tangible personal property" means:

26 (i) corporeal personal property of any nature; ~~or~~

27 (ii) an accommodation; **OR**

28 **(III) A SHORT-TERM RENTAL.**

1 (1) (1) “Taxable price” means the value, in money, of the consideration of any
 2 kind that is paid, delivered, payable, or deliverable by a buyer to a vendor in the
 3 consummation and complete performance of a sale without deduction for any expense or
 4 cost, including the cost of:

5 (i) any labor or service rendered;

6 (ii) any material used; or

7 (iii) any property sold.

8 (5) “Taxable price” includes, for the sale or use of an accommodation
 9 facilitated by an accommodations intermediary **OR A SHORT-TERM RENTAL PLATFORM,**
 10 the full amount of the consideration paid by a buyer for the sale or use of an accommodation,
 11 but not including any tax that is remitted to a taxing authority.

12 (6) “Taxable price” does not include, for the sale or use of an
 13 accommodation facilitated by an accommodations intermediary **OR A SHORT-TERM**
 14 **RENTAL PLATFORM,** a commission paid by an accommodations provider to a person after
 15 facilitating the sale or use of an accommodation.

16 (o) (1) “Vendor” means a person who:

17 (i) engages in the business of an out-of-state vendor, as defined in
 18 § 11-701 of this title;

19 (ii) engages in the business of a retail vendor, as defined in § 11-701
 20 of this title;

21 (iii) holds a special license issued under § 11-707 of this title; [or]

22 (iv) is an accommodations intermediary; **OR**

23 (v) **IS A ~~HOSTING~~ SHORT-TERM RENTAL PLATFORM.**

24 (2) “Vendor” includes, for an out-of-state vendor, a salesman,
 25 representative, peddler, or canvasser whom the Comptroller, for the efficient
 26 administration of this title, elects to treat as an agent jointly responsible with the dealer,
 27 distributor, employer, or supervisor:

28 (i) under whom the agent operates; or

29 (ii) from whom the agent obtains the tangible personal property or
 30 taxable service for sale.

31 11-102.

1 (a) Except as otherwise provided in this title, a tax is imposed on:

2 (1) a retail sale in the State; and

3 (2) a use, in the State, of tangible personal property or a taxable service.

4 ~~11-302.~~

5 ~~(A) For each retail sale or sale for use other than a sale under § 11-405, § 11-406,~~
6 ~~or § 11-410 of this title, the sales and use tax shall be:~~

7 ~~(1) stated separately from the sale price; and~~

8 ~~(2) shown separately from the sale price on any record of a sale:~~

9 ~~(i) at the time of the sale;~~

10 ~~(ii) when the vendor issues evidence of the sale; or~~

11 ~~(iii) when the vendor uses evidence of the sale.~~

12 ~~(B) FOR EACH RETAIL SALE OR SALE FOR USE OF AN ACCOMMODATION, THE~~
13 ~~SALES AND USE TAX SHALL BE:~~

14 ~~(1) STATED SEPARATELY FROM THE SALE PRICE;~~

15 ~~(2) SHOWN SEPARATELY FROM THE SALE PRICE ON ANY RECORD OF~~
16 ~~SALE; AND~~

17 ~~(3) STATED SEPARATELY FROM ANY FEES OR CHARGES IMPOSED BY~~
18 ~~AN ACCOMMODATIONS INTERMEDIARY THAT ARE NOT IMPOSED BY OR PAYABLE TO~~
19 ~~AN ACCOMMODATIONS PROVIDER FOR THE USE OF AN ACCOMMODATION:~~

20 ~~(I) AT THE TIME OF THE SALE;~~

21 ~~(II) WHEN THE VENDOR ISSUES EVIDENCE OF THE SALE; OR~~

22 ~~(III) WHEN THE VENDOR USES EVIDENCE OF THE SALE.~~

23 11-403.

24 (a) IN THIS SECTION, "SALE" INCLUDES A BOOKING TRANSACTION MADE
25 THROUGH A HOSTING SHORT-TERM RENTAL PLATFORM.

1 **(B)** Except as otherwise provided in this subtitle, a vendor shall collect the
2 applicable sales and use tax from the buyer:

3 (1) at the time that the sale is made, regardless of when the taxable price
4 is paid;

5 (2) if the tax is based on a credit or installment sale, at the time that the
6 Comptroller requires by regulation; or

7 (3) if a sale for use is not taxable when the sale is made, at the time that
8 the use becomes taxable.

9 **[(b)] (C)** Except as otherwise provided in this title, unless a buyer is otherwise
10 required by regulation to pay the sales and use tax directly to the Comptroller, the buyer
11 shall pay the sales and use tax to the vendor at the time required under subsection **[(a)]**
12 **(B)** of this section.

13 **[(c)] (D)** A vendor shall refund to a buyer the proportionate amount of sales and
14 use tax that the buyer has paid if:

15 (1) (i) a sale is rescinded or canceled; or

16 (ii) the property sold is returned to the vendor; and

17 (2) the purchase price is wholly or partially repaid or credited.

18 ~~**(E)** A HOSTING PLATFORM MAY NOT COLLECT A FEE FROM THE BUYER OF~~
19 ~~AN ACCOMMODATION OR AN ACCOMMODATION PROVIDER AS PART OF A BOOKING~~
20 ~~TRANSACTION UNLESS THE SALES AND USE TAX IS COLLECTED IN ACCORDANCE~~
21 ~~WITH SUBSECTION (B) OF THIS SECTION.~~

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect June
23 1, 2019.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.