

OUTDOOR RECREATION GRANT PROGRAM

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE**General Description:**

This bill creates the State Transient Room Tax Act and modifies provisions related to the Utah Office of Outdoor Recreation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes a state transient room tax on accommodations and related services;
- ▶ creates the Outdoor Recreation Infrastructure Account;
- ▶ distributes the revenues the state collects from the state transient room tax to the

Outdoor Recreation Infrastructure Account to implement the Outdoor Recreational Infrastructure Grant Program; and

- ▶ establishes the Utah Outdoor Recreation Grant Advisory Committee.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

59-28-101, Utah Code Annotated 1953**59-28-102**, Utah Code Annotated 1953

28 [59-28-103](#), Utah Code Annotated 1953
29 [59-28-104](#), Utah Code Annotated 1953
30 [59-28-105](#), Utah Code Annotated 1953
31 [59-28-106](#), Utah Code Annotated 1953
32 [59-28-107](#), Utah Code Annotated 1953
33 [63N-9-204](#), Utah Code Annotated 1953
34 [63N-9-205](#), Utah Code Annotated 1953

36 *Be it enacted by the Legislature of the state of Utah:*

37 Section 1. Section **59-28-101** is enacted to read:

38 **CHAPTER 28. STATE TRANSIENT ROOM TAX ACT**

39 **59-28-101. Title.**

40 This chapter is known as the "State Transient Room Tax Act."

41 Section 2. Section **59-28-102** is enacted to read:

42 **59-28-102. Definitions.**

43 As used in this chapter:

44 (1) "Agreement" means the same as that term is defined in Section [59-12-102](#).

45 (2) "Certified service provider" means the same as that term is defined in Section
46 [59-12-102](#).

47 (3) "Model 2 seller" means the same as that term is defined in Section [59-12-102](#).

48 (4) "Purchaser" means the same as that term is defined in Section [59-12-102](#).

49 (5) "Sales price" means the same as that term is defined in Section [59-12-102](#).

50 (6) "Seller" means the same as that term is defined in Section [59-12-102](#).

51 Section 3. Section **59-28-103** is enacted to read:

52 **59-28-103. Imposition -- Rate -- Revenue distribution.**

53 (1) Subject to the other provisions of this chapter, the state shall impose a tax on the
54 transactions described in Subsection [59-12-103](#)(1)(i) at a rate of .30%.

55 (2) The tax imposed under this chapter is in addition to any other taxes imposed on the
56 transactions described in Subsection [59-12-103](#)(1)(i).

57 (3) The commission shall deposit the revenue the state collects from the tax under this
58 chapter into the Outdoor Recreation Infrastructure Account created in Section [63N-9-205](#) to

fund the Outdoor Recreational Infrastructure Grant Program created in Section [63N-9-202](#).

Section 4. Section **59-28-104** is enacted to read:

59-28-104. Collection of tax.

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a tax under this chapter in accordance with:

(a) Chapter 1, General Taxation Policies; and

(b) the same procedures used to administer, collect, and enforce the tax under Chapter 12, Part 1, Tax Collection.

(2) A tax under this chapter is not subject to Section [59-12-107.1](#) or [59-12-123](#).

(3) The commission shall retain and deposit an administrative charge in accordance with Section [59-1-306](#) from the revenues the commission collects from a tax under this chapter.

Section 5. Section **59-28-105** is enacted to read:

59-28-105. Seller or certified service provider reliance on commission information.

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this chapter if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates or boundaries regarding a tax under this chapter; or

(2) indicating the taxability of transactions described in Subsection [59-12-103](#)(1)(i).

Section 6. Section **59-28-106** is enacted to read:

59-28-106. Certified service provider or model 2 seller reliance on commission certified software.

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this chapter if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this chapter is as a result of the seller's or certified service provider's reliance on incorrect

90 data:

91 (i) provided by the commission; or

92 (ii) in the software the commission certifies.

93 (2) The relief from liability described in Subsection (1) does not apply if a certified
94 service provider or model 2 seller incorrectly classifies an item or transaction into a product
95 category the commission certifies.

96 (3) If the taxability of a product category is incorrectly classified in software the
97 commission certifies, the commission shall:

98 (a) notify a certified service provider or model 2 seller of the incorrect classification of
99 the taxability of a product category in software the commission certifies; and

100 (b) state in the notice required by Subsection (3)(a) that, if the certified service provider
101 or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the
102 day on which the certified service provider or model 2 seller receives the notice, the certified
103 service provider or model 2 seller is liable for failing to collect the correct amount of tax under
104 this chapter on the incorrectly classified product category.

105 (4) If a certified service provider or model 2 seller fails to correct the taxability of an
106 item or transaction within 10 days after the day on which the certified service provider or
107 model 2 seller receives the notice described in Subsection (3), the certified service provider or
108 model 2 seller is liable for failing to collect the correct amount of tax under this chapter on the
109 item or transaction.

110 Section 7. Section **59-28-107** is enacted to read:

111 **59-28-107. Purchaser relief from liability.**

112 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty
113 under Section [59-1-401](#) for failure to pay a tax due under this chapter or an underpayment if:

114 (i) the purchaser's seller or certified service provider relies on incorrect data provided
115 by the commission:

116 (A) on a tax rate;

117 (B) on a boundary;

118 (C) on a taxing jurisdiction; or

119 (D) in the taxability matrix the commission provides in accordance with the agreement;

120 or

121 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in
122 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

123 (A) on a tax rate;

124 (B) on a boundary;

125 (C) on a taxing jurisdiction; or

126 (D) in the taxability matrix the commission provides in accordance with the agreement.

127 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under
128 Section 59-1-401 for failure to pay a tax due under this chapter or an underpayment if the
129 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on
130 incorrect data provided by the commission is as a result of conduct that is:

131 (i) fraudulent;

132 (ii) intentional; or

133 (iii) willful.

134 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is
135 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this
136 chapter or an underpayment if:

137 (a) the purchaser's seller or certified service provider relies on:

138 (i) incorrect data provided by the commission:

139 (A) on a tax rate;

140 (B) on a boundary; or

141 (C) on a taxing jurisdiction; or

142 (ii) an erroneous classification by the commission:

143 (A) in the taxability matrix the commission provides in accordance with the agreement;

144 and

145 (B) with respect to a term in the library of definitions that is listed as taxable or
146 exempt, included in or excluded from "sales price," or included in or excluded from a
147 definition; or

148 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in
149 accordance with Section 59-12-107.1, relies on:

150 (i) incorrect data provided by the commission:

151 (A) on a tax rate;

152 (B) on a boundary; or

153 (C) on a taxing jurisdiction; or

154 (ii) an erroneous classification by the commission:

155 (A) in the taxability matrix the commission provides in accordance with the agreement;

156 and

157 (B) with respect to a term in the library of definitions that is listed as taxable or
158 exempt, included in or excluded from "sales price," or included in or excluded from a
159 definition.

160 Section 8. Section **63N-9-204** is enacted to read:

161 **63N-9-204. Utah Outdoor Recreation Grant Advisory Committee -- Membership**
162 **-- Duties -- Expenses.**

163 (1) As used in this section, "advisory committee" means the Utah Outdoor Recreation
164 Grant Advisory Committee created in Subsection (2).

165 (2) There is created in the office the Utah Outdoor Recreation Grant Advisory
166 Committee, composed of the following 14 members knowledgeable about outdoor recreation
167 activities, youth programs, or tourism-based economic development:

168 (a) five members representing state or federal government as follows:

169 (i) the director;

170 (ii) the director of the Division of Parks and Recreation created in Section [79-4-201](#) or
171 the director's designee;

172 (iii) one member who is an employee of the office engaged in the duties described in
173 Section [63N-7-201](#), appointed by the executive director;

174 (iv) one member representing the Bureau of Land Management, appointed by the
175 executive director; and

176 (v) one member representing the National Park Service Rivers, Trails and
177 Conservation Assistance Program, appointed by the executive director;

178 (b) nine members representing local government, the private sector, or the public,
179 appointed by the executive director as follows:

180 (i) one member representing municipal government, recommended by the Utah League
181 of Cities and Towns;

182 (ii) one member representing county government, recommended by the Utah

183 Association of Counties;

184 (iii) two members representing the outdoor industry;

185 (iv) one member representing the Utah Tourism Industry Association;

186 (v) one member representing the Utah Hotel and Lodging Association;

187 (vi) one member representing the health care industry;

188 (vii) one member representing multi-ability groups or programs; and

189 (viii) one member representing a university outdoor recreation, parks, or tourism
190 department; and

191 (c) one of the members appointed under Subsection (2)(b)(i) or (ii) shall represent rural
192 interests.

193 (3) The advisory committee shall advise and make recommendations to the office
194 regarding infrastructure grants.

195 (4) (a) Except as required by Subsection (4)(b), as terms of appointed advisory
196 committee members expire, the executive director shall appoint each new member or
197 reappointed member to a four-year term.

198 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,
199 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
200 of appointed advisory committee members are staggered so that approximately half of the
201 appointed advisory committee members are appointed every two years.

202 (5) The director shall serve as chair of the advisory committee.

203 (6) The advisory committee shall elect annually a vice chair from the advisory
204 committee's members.

205 (7) When a vacancy occurs in the membership for any reason, the executive director
206 shall appoint the replacement for the unexpired term.

207 (8) A majority of the advisory committee constitutes a quorum for the purpose of
208 conducting advisory committee business and the action of a majority of a quorum constitutes
209 the action of the advisory committee.

210 (9) The office shall provide administrative staff support for the advisory committee.

211 (10) A member may not receive compensation or benefits for the member's service, but
212 a member appointed under Subsection (2)(b) may receive per diem and travel expenses in
213 accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) The advisory committee, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and the advisory committee meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 9. Section 63N-9-205 is enacted to read:

63N-9-205. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.

(1) There is created a restricted account within the General Fund known as the "Outdoor Recreation Infrastructure Account," which may be used to implement and administer the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202.

(2) The restricted account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the restricted account;

(c) appropriations made by the Legislature; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The office shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204, administer the restricted account.

(4) The cost of administering the restricted account shall be paid from money in the restricted account.

(5) Interest accrued from investment of money in the restricted account shall remain in the restricted account.

Section 10. **Effective date.**

This bill takes effect on July 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel