Committee Report

REGULAR CALENDAR

March 11, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Majority of the Committee on Ways and Means to which was referred HB 15-FN,

AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies. Having considered the same, report the same with the following amendment, and the recommendation that the bill OUGHT TO PASS WITH AMENDMENT.

Rep. Tim Baxter

FOR THE MAJORITY OF THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

MAJORITY
COMMITTEE REPORT

Committee:	**Ways and Means**
Bill Number:	**HB 15-FN**
Title:	**relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.**
Date:	**March 11, 2021**
Consent Calendar:	**REGULAR**
Recommendation:	**OUGHT TO PASS WITH AMENDMENT 2021-0599h**

STATEMENT OF INTENT

The underlying bill intended to apply the existing tax law fairly to any business operating within New Hampshire. This bill levels the playing field between internet-based facilitators of both car and room rentals with traditional car rental establishments and traditional hotel type facilities when it comes to the meals and rooms tax under RSA 78-A. This bill strives to close this language and apply the tax fairly to all operators within New Hampshire. As written, some stakeholders and members of the committee were concerned that this legislation closes this gap too aggressively and traps commissions and compensation for services rendered by travel agents during the transaction; this is not the intended application of the meals and rooms tax and would effectively create a new tax on services rendered by travel agents. The existing meals and rooms tax, as defined in RSA 78-A, specifically applies to the rent of a unit or the gross rental receipts of a unit. To avoid creating a new tax on travel agent services, the amendment provided by the committee enhances the definition of "gross rental receipts" by excluding amounts paid by an operator to a travel agent as commission or compensation for the travel agent's services. This amended bill addresses the enforcement of only existing taxes on operators within New Hampshire. It does not expand existing taxes to include travel agencies' services, commissions, vacation packages, and other potential salable items. Most of the committee took into consideration and dismissed, on fairness grounds, the testimony from those with a vested interest in preventing tax parity between traditional brick and mortar businesses and the more current internet facilitator platforms. The Department of Revenue Administration has examined the language of this amendment carefully and has no objections to the committee's amendment. This legislation, as amended, now fairly applies the existing meals and rooms taxes to all operators within New Hampshire.

Vote 22-2.

Rep. Tim Baxter
FOR THE MAJORITY

Original: House Clerk
Cc: Committee Bill File

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Ways and Means

HB 15-FN, relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies. **MAJORITY: OUGHT TO PASS WITH AMENDMENT. MINORITY: INEXPEDIENT TO LEGISLATE.**

Rep. Tim Baxter for the **Majority** of Ways and Means. The underlying bill intended to apply the existing tax law fairly to any business operating within New Hampshire. This bill levels the playing field between internet-based facilitators of both car and room rentals with traditional car rental establishments and traditional hotel type facilities when it comes to the meals and rooms tax under RSA 78-A. This bill strives to close this language and apply the tax fairly to all operators within New Hampshire. As written, some stakeholders and members of the committee were concerned that this legislation closes this gap too aggressively and traps commissions and compensation for services rendered by travel agents during the transaction; this is not the intended application of the meals and rooms tax and would effectively create a new tax on services rendered by travel agents. The existing meals and rooms tax, as defined in RSA 78-A, specifically applies to the rent of a unit or the gross rental receipts of a unit. To avoid creating a new tax on travel agent services, the amendment provided by the committee enhances the definition of "gross rental receipts" by excluding amounts paid by an operator to a travel agent as commission or compensation for the travel agent's services. This amended bill addresses the enforcement of only existing taxes on operators within New Hampshire. It does not expand existing taxes to include travel agencies' services, commissions, vacation packages, and other potential salable items. Most of the committee took into consideration and dismissed, on fairness grounds, the testimony from those with a vested interest in preventing tax parity between traditional brick and mortar businesses and the more current internet facilitator platforms. The Department of Revenue Administration has examined the language of this amendment carefully and has no objections to the committee's amendment. This legislation, as amended, now fairly applies the existing meals and rooms taxes to all operators within New Hampshire. **Vote 22-2.**

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

March 11, 2021

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Minority of the Committee on Ways and Means to which was referred HB 15-FN,

AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies. Having considered the same, and being unable to agree with the Majority, report with the following resolution: RESOLVED, that it is INEXPEDIENT TO LEGISLATE.

Rep. Thomas Schamberg

FOR THE MINORITY OF THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

MINORITY
COMMITTEE REPORT

Committee:	**Ways and Means**
Bill Number:	**HB 15-FN**
Title:	**relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.**
Date:	**March 11, 2021**
Consent Calendar:	**REGULAR**
Recommendation:	**INEXPEDIENT TO LEGISLATE**

STATEMENT OF INTENT

The minority believes this bill should be found Inexpedient to Legislate based upon significant testimony in opposition. These testimonials submitted by Net Choice, The Internet Association, Tech Net, Turo, and ALEC imply by amending the meals and room tax to include online platforms within the definitions of "gross rental receipts," "operator," "the consideration received," and the "rental agreement" will increase regulatory and tax burdens. Net Choice testified that this bill "creates a new tax on services provided by online travel companies for researching, comparing, and booking rooms for travelers and for New Hampshire residents who share their cars and trucks." The Internet Association agreed, explaining that this bill "imposes a new tax on online travel companies (OTCs) and includes peer-to-peer car sharing on digital platforms under the definition of taxable motor vehicle rentals in the state meals and rooms tax." Tech Net testified that this bill "would create additional financial burdens for innovative platforms [currently] providing a boost to New Hampshire's travel and tourism." Tech Net highlighted that this bill "seeks to treat these platforms the same way as companies that own and operate vehicle fleets, rental desks and offices throughout the state." Turo, a peer-to-peer car sharing platform, testified "HB 15 creates a new tax on New Hampshire citizens who choose to share their car under the definitions of 'gross rental receipts' and 'rental agreements'." ALEC shared opposition to this bill stating "HB 15, is a net tax increase that would levy the state meals and rooms tax collected by online room facilitators because tax liabilities would be calculated to include services unrelated to the furnishing of hotel rooms." Based upon testimony submitted, the minority feels that this bill is anti-tourism, anti-entrepreneurial, and anti-innovation for small business creation.

Rep. Thomas Schamberg
FOR THE MINORITY

Original: House Clerk
Cc: Committee Bill File

Original: House Clerk
Cc: Committee Bill File

REGULAR CALENDAR

Ways and Means

HB 15-FN, relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies. **INEXPEDIENT TO LEGISLATE.**

Rep. Thomas Schamberg for the **Minority** of Ways and Means. The minority believes this bill should be found Inexpedient to Legislate based upon significant testimony in opposition. These testimonials submitted by Net Choice, The Internet Association, Tech Net, Turo, and ALEC imply by amending the meals and room tax to include online platforms within the definitions of "gross rental receipts," "operator," "the consideration received," and the "rental agreement" will increase regulatory and tax burdens. Net Choice testified that this bill "creates a new tax on services provided by online travel companies for researching, comparing, and booking rooms for travelers and for New Hampshire residents who share their cars and trucks." The Internet Association agreed, explaining that this bill "imposes a new tax on online travel companies (OTCs) and includes peer-to-peer car sharing on digital platforms under the definition of taxable motor vehicle rentals in the state meals and rooms tax." Tech Net testified that this bill "would create additional financial burdens for innovative platforms [currently] providing a boost to New Hampshire's travel and tourism." Tech Net highlighted that this bill "seeks to treat these platforms the same way as companies that own and operate vehicle fleets, rental desks and offices throughout the state." Turo, a peer-to-peer car sharing platform, testified "HB 15 creates a new tax on New Hampshire citizens who choose to share their car under the definitions of 'gross rental receipts' and 'rental agreements'." ALEC shared opposition to this bill stating "HB 15, is a net tax increase that would levy the state meals and rooms tax collected by online room facilitators because tax liabilities would be calculated to include services unrelated to the furnishing of hotel rooms." Based upon testimony submitted, the minority feels that this bill is anti-tourism, anti-entrepreneurial, and anti-innovation for small business creation.

Original: House Clerk
Cc: Committee Bill File

Voting Sheets

HOUSE COMMITTEE ON WAYS AND MEANS

EXECUTIVE SESSION on Bill # HB 15

BILL TITLE: relative to including under the meals and rooms tax facilitators ofInternet transactions of motor vehicle rentals and facilitators ofInternet transactions of room occupancies.

DATE: March 11, 2021

LOB ROOM: remote via Zoom

MOTION: (Please check one box)

☐ OTP ☐ ITL ☐ Retain (1st year) ☑ Adoption of Amendment # 2021-0599h

☐ Interim Study (2nd year)

Moved by Rep. Baxter Seconded by Rep. Nunez Vote: 12-11

MOTION: (Please check one box)

☐ OTP ☑ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. Baxter Seconded by Rep. Nunez Vote: 22-2

MOTION: (Please check one box)

☐ OTP ☐ OTP/A ☐ ITL ☐ Retain (1st year) ☐ Adoption of Amendment # *(if offered)*

☐ Interim Study (2nd year)

Moved by Rep. _____ Seconded by Rep. _____ Vote:

CONSENT CALENDAR: ☐ **YES** ☑ **NO** ☐ **n/a**

Minority Report? ☑ Yes ☐ No If yes, author, Rep: Schamberg Motion: ITL

Respectfully submitted: Alan Bershtein

Rep Alan Bershtein, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK
2021 Session - Ways and Means

Roll Call Committee Registers Report

transactions of motor vehicle rentals and facilitators ofInternet

Bill #	HB 15
Motion	
Amendment #	
Exec Session Date	3/10/21
Consent Calendar?	

Member	Motion / Seconded	Yea	Nay	NV
Major, Norman L. [Chairman]				
Abrami, Patrick F. [Vice Chairman]				
Notter, Jeannine (for Mary Griffin)				
Ulery, Jordan G.				
Ober, Russell T.				
Bershtein, Alan [Clerk]				
Doucette, Fred G.				
Elliott, Robert J.				
Janigian, John C.				
Nunez, Hershel				
Baxter, Tim				
Spilsbury, Walter				
Tudor, Paul D.				
Almy, Susan W.				
Ames, Richard				
Southworth, Thomas L.				
Malloy, Dennis J.				
Schamberg, Thomas C.				
Tucker, Edith M.				
Gomarlo, Jennie R.				
Loughman, Tom J.				
Gourgue, Amanda L.				
Hakken-Phillips, Mary A.				
Murphy, James Michael				
Total Vote				

Public Hearing

House Committee on Ways and Means
Public Hearing on: HB 15-FN

Bill Title: AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

Date:	January 28, 2021
LOB Room:	206 + remote
Time Public Hearing Called to Order:	2:00 PM
Time Public Hearing Adjourned:	2:57 PM

Committee Members: Reps. Major, Abrami, Bershtein, M. Griffin, Ulery, R. Ober, Doucette, Elliott, Janigian, Nunez, Baxter, Spilsbury, Tudor, Almy, Ames, Southworth, Malloy, Schamberg, Tucker, Gomarlo, Loughman, Gourgue, Hakken-Phillips and Murphy

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SPONSORS: Rep. Packard, Rock. 5; Rep. Major, Rock. 14; Rep. Almy, Graf. 13; Rep. Abrami, Rock. 19

TESTIMONY

Representative Sherman Packard, Rock. 5

- Introduced bill
- Hates taxes as much as the next guy, but this bill is about fairness and a level playing field.

Chryssa Alexis, Enterprise Holdings

- Supports bill
- Company has 400 employees at 30 locations throughout NH
- Enterprise pays a lot in taxes, employs many and contributes much to their community.
- “A level playing field is all we seek. This is not a new tax.”
- “This bill is about fairness”.

Steven Shur, The Travel Technology Association

- Opposes bill
- HB 15 would tax travel agent fee and would adversely affect NH tourism.
- HB 15 has a technical flaw that would make requirements unfeasible for travel agents.
- This is a new tax on services.

Carl Szabo, NetChoice

- Opposes bill
- The talking points in support of this bill are unfounded and cliche.
- This bill is a new tax, for it taxes services and other products that were not previously taxed.

John Olsen, Internet Association

- Opposes bill
- This is a new tax on NH residents
- “Considering the current environment, now is not the time for a new tax.”

House Committee on Ways and Means
Public Hearing on: HB 15-FN

Bill Title: AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

Date:	January 28, 2021
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Maura Weston, Turo
- Opposes bill
- HB 15 taxes a service.
- Bill harms NH residents because it taxes a valuable resource.
- Turo is NOT a car rental service.
- HB 15 imposes a new tax.
- “This is government interference in the use of personal property.”

Devin Rodrique, New Hampshire Department of Revenue Administration
Carollyn Lear, New Hampshire Department of Revenue Administration
- Neutral on bill
- These types of platforms are taxable. The only question is who pays the tax.
- The bill will increase compliance and raise revenue.

Respectfully submitted,
Alan Bershtein, Clerk

Work Session (02.10.21)

Major: Is this a new tax? Let’s hear from DRA tomorrow about this.

Schamberg: This is a new tax and inhibits entrepreneurship among small businesses. This bill broadens the definition of “operator” and increases taxes and regulation.

Almy: This isn’t a new tax, but instead makes the current tax fairer.

Abrami:

House Committee on Ways and Means
Public Hearing on: HB 15-FN

Bill Title: AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

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House Remote Testify

Ways and Means Committee Testify List for Bill HB15 on 2021-01-28

Support: 4 Oppose: 6 Neutral: 2 Total to Testify: 8

Export to Excel

Name	City, State Email Address	Title	Representing	Position	Testifying	Non-Germane	S
Veilleux, Henry	hveilleux@sheehan.com	A Lobbyist	NH Lodging & Restaurant Association	Support	Yes (0m)	No	
Szabo, Carl	cszabo@netchoice.org	A Member of the Public	NetChoice	Oppose	Yes (0m)	No	
Rodrique, Devin	Devin.R.Rodrique@dra.nh.gov	State Agency Staff	DRA	Neutral	Yes (0m)	No	
Lear, Carollynn	carollynn.j.lear@dra.nh.gov	State Agency Staff	NH Dept. of Revenue	Neutral	Yes (0m)	No	
Shur, Stephen	sshur@traveltech.org	A Member of the Public	The Travel Technology Association	Oppose	Yes (0m)	No	
Olsen, John	olsen@internetassociation.org	A Lobbyist	Internet Association	Oppose	Yes (0m)	No	
Weston, Maura	maurаweston@comcast.net	A Lobbyist	Turo	Oppose	Yes (0m)	No	
Alexis, Chryssa	chryssa.n.alexis@ehi.com	A Member of the Public	Enterprise Holdings	Support	Yes (0m)	No	
major, Norman	norman.major@leg.state.nh.us	An Elected Official	Myself	Support	No	No	
Rathbun, Eric	ericsrathbun@gmail.com	A Member of the Public	Myself	Support	No	No	
Roy, Terry	terry.roy@leg.state.nh.us	An Elected Official	Myself	Oppose	No	No	
Gilrein, Christopher	cgilrein@technet.org	A Lobbyist	TechNet	Oppose	No	No	

Testimony

Archived: Friday, March 5, 2021 11:00:42 AM
From: Van Arsdell, Jon
Sent: Wednesday, January 27, 2021 6:42:25 PM
To: ~House Ways & Means Committee
Subject: HB15 Comments (Car Sharing) - Avail
Importance: Normal
Attachments:
NH HB15 - Avail.pdf ;

Chairman Major and Committee Members –

Please consider the attached comments ahead of the committee's hearing on House Bill 15. Avail is a peer-to-peer car sharing company backed by Allstate and we look forward to working with the committee on this important issue and welcome any feedback.

Thank you.

Best Regards,

Jon Van Arsdell
Head of Government Relations
(202) 412-7714



Archived: Friday, March 5, 2021 11:00:42 AM
From: Walter Gonzales (ELCA)
Sent: Wednesday, January 27, 2021 10:08:17 AM
To: Norman Major; Patrick Abrami; Alan Bershtein
Cc: ~House Ways & Means Committee; Walter Gonzales (ELCA)
Subject: HB15-FN - Creating a New Tax on Travel Agents and Car Sharing Services
Importance: High
Attachments:
EG Oppose Ltr NH HB15 012521 FINAL.pdf ;

Dear Chair Major and Vice Chair Abrami:

I respectfully urge you to oppose House Bill 15, which would impose a new tax on travel services, hurt small businesses, and harm the recovery of travel and tourism economy in New Hampshire.

Online travel agencies provide a critical service to travelers, our hotel partners, and the destinations we market. Hotels voluntarily use our services because we market their properties on a global platform helping them reach new travelers and fill rooms that would otherwise remain vacant. For example, an out-of-state visitor planning a trip to New Hampshire might assume there is a Holiday Inn Express or Doubletree nearby, and there is. They could call the hotel chains' 24-hour reservation line and take care of their booking. But there is a much smaller chance that they would have heard of an independent boutique hotel, like The Centennial in Concord, without the help of an online travel agency that displays multiple properties in response to a geographic search, or without calling a brick-and-mortar travel agent to help make recommendations on where to stay.

Expedia Group brands shine an international spotlight on New Hampshire's small businesses. We connect them to a world of potential travelers on over 200 travel booking sites in more than 70 countries, allowing them to transact business in foreign languages and currencies, and to be displayed side-by-side with some of the biggest hotel chains in the world. This model helps travelers, helps hotels, helps homeowners, and helps the many other tourism-related industries, which are vital to a state's economy, like restaurants, museums, arts venues, transportation companies, excursion providers, and others.

There is a fundamental misconception among supporters of similar bills in other jurisdictions. That fallacy is that our companies "re-sell" or "rent" hotel rooms. We do not buy "blocks" of rooms. We never own rooms or carry any inventory risk if they go unsold for a given night. Room rates are set by the hotels themselves. We charge a service fee in exchange for providing a service to our customers.

Expedia Group is more than just an advertising platform; we are a true and dedicated partner to our hotel customers. Using the newly launched *Conversations* tool in Expedia Group Partner Central, a hotel was able to engage with their guests from the moment of booking – allowing them to offer superior service. By utilizing this, amongst other tools – this partner has increased their revenue by 35% and improved their average daily rate by 14% year on year. For that hotel, and for hotels across the state and globe, Expedia Group has local, multi-lingual teams on hand with relevant knowledge and support to help them reach your business goals. The truth is, our service fee makes it possible for us to offer millions of travelers the options they desire, *and* it helps us deliver the tools and support our hotel partners need.

Another myth some have prescribed to is that taxes are going “unpaid” under this fee-for-service model. This is simply false. When the hotel sends us an invoice after a customer has completed their stay, we pass on to the hotel the negotiated room rate we’ve collected from the customer up front, plus any taxes due on that hotel stay so that the hotel can then remit it to state and/or county authorities as required by law. As for any claim that we are collecting tax money from our customers and preventing it from being remitted, this too is 100 percent false. In fact, every single court that has ever considered this question has found it to be untrue.

Applying the Meals and Rooms tax to the fees charged by travel agents will have the opposite of the intended effect of raising revenue. Travel agents are the engines that help steer travelers to New Hampshire. Passing new taxes onto travel service providers operating in New Hampshire would incentivize them to steer travelers towards other states that do not levy onerous taxes on travel services.

Data has shown that many travelers who visit an online travel site do not have a destination in mind. HB 15 would not only be a clear reason for travel service providers to spend advertising dollars to send travelers elsewhere, but if passed, could impede upon contractual agreements between travel agents and hotels, and force travel industry players to reassess their engagement in New Hampshire.

Simply put, a new tax on travel services would make it harder for the entire New Hampshire travel economy to recover and succeed – from small businesses sustained by travel dollars to independent hotels and local travel service providers. The opportunity cost of this legislation is high. Passing a dangerous new tax on travel services at the height of a pandemic is not simply short-sighted, it could have long-term impacts on the state’s travel and tourism recovery.

I respectfully urge you to protect local tourism and not to go down the uncertain path of raising taxes on travel in New Hampshire.

Sincerely,

Walter R. Gonzales
Regional Government and Corporate Affairs Manager
11920 Alterra Parkway
Austin, Texas 78758
Direct: 512.505.1615
wagonzales@expediagroup.com

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Archived: Friday, March 5, 2021 10:40:34 AM
From: Carl M. Szabo
Sent: Wednesday, February 10, 2021 7:52:56 PM
To: ~House Ways & Means Committee
Cc: Chris Marchese; Steve DelBianco; Trace Mitchell
Subject: HB 15 is a new tax
Importance: Normal
Attachments:
HB 15 is a new tax.pdf

All,

As you consider HB 15, it should be clear that it does in fact create a new tax in the state. In essence, if a bill is increasing the amount of money flowing into the state coffers, it's hard to call that anything other than a new tax.

> HB 15 would apply a new 9% meals and rooms tax to any item that is also included in a bundled package.
>
> HB 15 also creates a new 9% meals and service tax application on services that are included in the total price of lodging activities.

We outline and provide examples of this in the attached.

If New Hampshire wants to make the law clear, it can follow the existing Missouri law that the meals and rooms tax should be applied only on the amount the hotel receives (Missouri HB 1442 (2010), signed into law July 2010).

We ask that you not advance this new tax and we welcome the opportunity to speak with you further about this.

-Carl

Carl Szabo | NetChoice
Vice President and General Counsel
cszabo@netchoice.org
202-420-7485

State of New Hampshire
Department of Revenue Administration

109 Pleasant Street
PO Box 457, Concord, NH 03302-0457
Telephone 603-230-5005
www.revenue.nh.gov

Lindsey M. Stepp
Commissioner

Carollynn J. Lear
Assistant Commissioner

February 19, 2020

Representative Norman Major, Chairman
Ways and Means Committee
New Hampshire House of Representatives
107 North Main Street
Concord, NH 03301

Re: HB 15, *relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.*

Dear Representative Major and Members of the Committee:

As the House Ways & Means Committee has had ongoing discussions regarding HB 15, it has been brought to our attention that the Committee would like clarification on whether HB 15 constitutes a "new tax" on internet platforms that facilitate room rentals and motor vehicle rentals. The Department of Revenue (DRA) has not taken a position on HB 15, however, we are happy to provide information to the Committee to assist you in considering that legislation.

In order to understand the origins of HB 15, it is helpful to understand the NH Supreme Court case of *State of New Hampshire v. Priceline.com.* The Meals & Rentals (M&R) Tax has always taxed room sharing, home sharing, and car sharing transactions. These transactions clearly constitute the rental of taxable accommodations or car rentals under the M&R Tax statute. As a result, under the law as it exists today, each individual home or car owner who rents their property using an on-line platform must become a registered operator with DRA and collect and remit the M&R Tax, unless the platform voluntarily becomes licensed and collects and remits the M&R Tax on their behalf.[1]

Similar to what most other states have done, the State of NH attempted to assert that the on-line platforms that facilitate home sharing and car sharing also meets the definition of "operator" under the M&R Tax statute, and therefore the operator must become licensed with the DRA and collect and remit the M&R Tax for the transactions facilitated by the platforms. There are several reasons why the State took the position that the platforms were "operators". First, it is far more efficient to license and collect the M&R Tax from several dozen platforms than it is to license and collect the M&R Tax from thousands of individual property owners. Secondly, the DRA would receive and process a fraction of the returns and conduct a fraction of the audits if the platform is the entity that collects and remits the M&R Tax instead of thousands of individual property owners. And lastly and perhaps most importantly, it is the platform that actually

[1] See DRA TIR 2017-008, regarding the M&R Tax for operators offering sleeping accommodations through Airbnb.

initiates the financial transaction with the consumer and receives the payment from the consumer, including for the M&R Tax. If the platform is the entity calculating, assessing, and collecting the M&R Tax it seems most appropriate for the platform to remit the tax, be responsible for responding to audits, correcting errors, etc.

The Department brought suit against a number of on-line travel companies alleging that they were "operators" under the M&R Tax statute and were therefore liable for collecting and remitting the M&R Tax for online sales of rooms and car rentals. After an adverse trial court ruling the State appealed to the New Hampshire Supreme Court. The NH Supreme Court affirmed the trial court. The Supreme Court's decision against the State interpreted the plain meaning of the term "operator" and held that on-line platforms do not meet the definition of "operator" in the statute.

HB 15, therefore, amends the definition of "operator" to provide that it includes on-line platforms that facilitate car rental and room rental transactions in response to the NH Supreme Court's decision in the *Priceline* case.

In the absence of HB 15, the DRA will continue to license, receive monthly returns, audit, and collect from the thousands of individuals who utilize on-line platforms to rent their rooms, homes, or vehicles. Therefore, the proposed legislation does not reflect a "new tax" but rather an attempt to simplify the administration of the M&R Tax by requiring on-line platforms to become licensed and to collect and remit the tax to the state in response to the *Priceline* decision.

Sincerely,

Carollynn J. Lear
Assistant Commissioner

Archived: Friday, March 5, 2021 10:55:48 AM
From: Maura Weston
Sent: Wednesday, January 27, 2021 9:43:34 PM
To: ~House Ways & Means Committee
Subject: HB 15
Importance: Normal
Attachments:
Turo testimony for NH HB15 final 012821.docx

Attached please find my testimony in opposition to HB 15 on behalf of Turo. I look forward to speaking with you in the morning and I appreciate your consideration.
Best,
Maura

Maura M Weston
MM Weston & Associates, PLLC
PO Box 990
Concord, New Hampshire 03301

603-491-2853 (mobile)
mweston@mmweston.com
maurаweston@comcast.net

Archived: Friday, March 5, 2021 10:55:48 AM
From: John Olsen
Sent: Wednesday, January 27, 2021 8:24:35 PM
To: ~House Ways & Means Committee
Subject: IA Letter Re: HB 15
Importance: Normal
Attachments:
IA Letter Re NH HB15.pdf

Good evening,

Please find attached written testimony in opposition to HB 15 in advance of tomorrow's hearing.

Regards,

--

John Olsen
Director, State Government Affairs, Northeast Region
O: 518-242-7828
olsen@internetassociation.org

INTERNET ASSOCIATION
111 Washington Ave Suite 602, Albany, NY 12210

Bill as Introduced

HB 15-FN - AS INTRODUCED

2021 SESSION

21-0670
10/08

HOUSE BILL ***15-FN***

AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

SPONSORS: Rep. Packard, Rock. 5; Rep. Major, Rock. 14; Rep. Almy, Graf. 13; Rep. Abrami, Rock. 19

COMMITTEE: Ways and Means

ANALYSIS

This bill adds and modifies definitions and requirements in the meals and rooms tax to include facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

- -

Explanation: Matter added to current law appears in ***bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

21-0670
10/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Meals and Rooms Tax; Definition; Gross Rental Receipts; Motor Vehicle Rentals. Amend the introductory paragraph of RSA 78-A:3, VI to read as follows:

VI. "Gross rental receipts" means value received or promised as consideration to the owner of a motor vehicle ***and any rental facilitator*** for [~~rental of the vehicle , but~~] ***a rental agreement, including any fee, service, or other charge or amount required to be paid by the renter as a condition for the rental agreement. The term*** shall not include:

2 Definition; Operator. Amend RSA 78-A:3, XIII to read as follows:

XIII. "Operator" means any person operating a hotel, charging for a taxable meal, or receiving gross rental receipts, whether as owner or proprietor or lessee, or otherwise. ***The term operator shall include a rental facilitator and a room facilitator.***

3 Definition; Rent; Room Facilitators Added. Amend RSA 78-A:3, XVII(a) to read as follows:

(a) The [~~consideration received~~] ***full retail price charged*** for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits, and property, or services of any kind or nature, and also any amount for which the occupant is liable for the occupancy without any deduction of any kind***, including any fee, service, or other charge required to be paid by the occupant to a room facilitator***; and

4 Definition; Rental Agreement. Amend RSA 78-A:3, XVIII to read as follows:

XVIII. "Rental agreement" means an agreement by the owner of a motor vehicle to provide, for not longer than 180 days, the exclusive use of that motor vehicle to another for consideration***, whether directly or indirectly, through a rental facilitator or otherwise***.

5 New Paragraph; Definition; Rental Facilitator. Amend RSA 78-A:3 by inserting after paragraph XVIII the following new paragraph:

XVIII-a. "Rental facilitator" means any person having any right, access, ability, or authority to offer, reserve, book, arrange for, remarket, distribute, broker, resell, coordinate, or otherwise facilitate rental of a motor vehicle to a renter, whether directly or indirectly, through an Internet transaction or any other means whatsoever.

6 New Paragraph; Definitions; Room Facilitator. Amend RSA 78-A:3 by inserting after paragraph XIX the following new paragraph:

XIX-a. "Room facilitator" means any person having any right, access, ability, or authority to offer, reserve, book, arrange for, remarket, distribute, broker, resell, coordinate, or otherwise facilitate occupancy to an occupant, whether directly or indirectly, through an Internet transaction or any other means whatsoever.

7 New Subparagraphs; Collection of Tax; Rental Facilitator; Room Facilitator. Amend RSA 78-A:7, I by inserting after subparagraph (b) the following new subparagraphs:

(c) If the rental of a motor vehicle is offered, reserved, booked, arranged for, or otherwise facilitated in whole or in part by a rental facilitator, the rental facilitator shall demand and collect the tax from the renter. The rental facilitator shall remit the tax to the state.

(d) If the occupancy is offered, reserved, booked, arranged for, or otherwise facilitated in whole or in part by a room facilitator, the room facilitator shall demand and collect the tax from the occupant. The room facilitator shall remit the tax to the state.

7 New Paragraphs; Assessment of Additional Tax; Rental Facilitator; Room Facilitator. Amend RSA 78-A:11 by inserting after paragraph I the following new paragraphs:

I-a. If a rental facilitator required to collect and remit a tax under this chapter fails to make a return, no assessment shall be made except against the rental facilitator.

I-b. If a room facilitator required to collect and pay a tax under this chapter fails to make a return, no assessment shall be made except against the room facilitator.

8 Effective Date. This act shall take effect 60 days after its passage.

LBA
21-0670
12/23/20

HB 15-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to including under the meals and rooms tax facilitators of Internet transactions of motor vehicle rentals and facilitators of Internet transactions of room occupancies.

FISCAL IMPACT: [X] State [ ] County [X] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2021**	**FY 2022**	**FY 2023**	**FY 2024**
Appropriation	$0	$0	$0	$0
Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0
Funding Source:	[X] General	[X] Education	[ ] Highway	[ ] Other

LOCAL:

Revenue	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	$0	$0	$0	$0

METHODOLOGY:

This bill clarifies "operator" within the Meals and Rooms tax includes room facilitators and motor vehicle rental facilitators and that for each occupancy or motor vehicle rental being facilitated by one of these facilitators, they must collect and remit the Meals and Rooms tax to the State. To the extent facilitators exist that do not currently collect and remit the Meals and Rooms tax when room or motor vehicle rental transactions are facilitated, General Fund and Education Trust Fund revenue will increase by an indeterminable amount.

The Department of Revenue Administration indicates it could administer this change without additional expenditures.

The Department also states the statutory Meals and Rooms Tax distribution formula (RSA 78-A:26,II) requires an increased municipal revenue distribution if tax revenue increases, as may result from this bill's operation. The distribution of revenue pursuant to this formula has been capped in past budget bills, including for the FY20-FY21 biennium, but the formula will be fully effective again beginning in FY22 without legislative action to suspend its operation.

It is assumed this bill will take effect July 1, 2021.

AGENCIES CONTACTED:

Department of Revenue Administration