



Legislation Details (With Text)

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Enactment date: 11/17/2017 **Yes** Ord 125442

Title: AN ORDINANCE relating to imposing a tax on engaging in the business of being a short-term rental operator; adding a new Chapter 5.54, Short-Term Rental Tax, to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

Sponsors: Rob Johnson, Tim Burgess

Indexes:

Attachments: 1. Memo and Proposed Amendments 1 - 3, 2. Summary and Fiscal Note v2, 3. Summary and Fiscal Note v1, 4. Central Staff Memo (9/15/17), 5. Signed Ord_125442, 6. Affidavit of Publication

| Date | Ver. | Action By | Action | Result |
|------------|------|--|---------------------------------|--------|
| 11/17/2017 | 3 | City Clerk | attested by City Clerk | |
| 11/17/2017 | 3 | Mayor | returned | |
| 11/17/2017 | 3 | Mayor | Signed | |
| 11/16/2017 | 3 | City Clerk | submitted for Mayor's signature | |
| 11/13/2017 | 2 | Full Council | passed as amended | Pass |
| 9/15/2017 | 1 | Affordable Housing, Neighborhoods, and Finance Committee | pass as amended | Pass |
| 9/11/2017 | 1 | Full Council | referred | |
| 9/11/2017 | 1 | Council President's Office | sent for review | |
| 9/11/2017 | 1 | City Clerk | sent for review | |

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to imposing a tax on engaging in the business of being a short-term rental operator; adding a new Chapter 5.54, Short-Term Rental Tax, to the Seattle Municipal Code; and amending Sections 5.30.010, 5.30.060, 5.55.010, 5.55.040, 5.55.060, 5.55.150, 5.55.165, 5.55.220, and 5.55.230 of the Seattle Municipal Code.

WHEREAS, The City of Seattle intends to exercise its taxing authority to raise revenue by imposing a tax on the short-term rental business; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. A new Chapter 5.54 is added to the Seattle Municipal Code as follows:

Chapter 5.54 SHORT-TERM RENTAL TAX

5.54.010 Administrative provisions

All the provisions contained in Chapter 5.55 shall have full force and application with respect to taxes imposed under this Chapter 5.54 except as may be expressly stated to the contrary.

5.54.020 Definitions

The definitions contained in Chapter 5.30 and Chapter 6.600 shall be fully applicable to this Chapter 5.54 except as may be expressly stated to the contrary. The following additional definition shall apply throughout this Chapter 5.54:

"Guest room" means a private or shared room offered or provided to a guest or guests by a short-term rental operator for sleeping purposes and that may share common bathrooms and cooking facilities.

5.54.030 Tax imposed; rates

There is imposed a tax on every person engaging within Seattle in the business of being a short-term rental operator. The amount of the tax due for each short-term rental shall be \$14 per night for each dwelling unit, and \$8 per night for each guest room, in Seattle.

5.54.040 Short-term rental tax - When due

The tax imposed by this Chapter 5.54 shall be due and payable in accordance with Section 5.55.040 in the same manner as the business license tax under Chapter 5.45. Taxpayers filing and paying their business license tax on a quarterly basis shall file and pay the short-term rental tax on a quarterly basis and taxpayers filing and paying their business license tax on an annual basis shall file and pay the short-term rental tax on an annual basis.

Forms for such filings shall be prescribed by the Director. Persons discontinuing their business activities in Seattle shall report and pay the short-term rental tax at the same time as they file their final business license tax return.

5.54.050 Exemptions

Persons that are exempt from taxation by Washington cities pursuant to federal or state statutes or regulations are exempt from the tax imposed by this Chapter 5.54.

Section 2. Section 5.30.010 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

5.30.010 Definition provisions

The definitions contained in this Chapter 5.30 shall apply to the following chapters of the Seattle Municipal Code: Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), 5.54 (Short-Term Rental Tax), and 5.55 (General Administrative Provisions) unless expressly provided for otherwise therein, and shall also apply to other chapters and sections of the Seattle Municipal Code in the manner and to the extent expressly indicated in each chapter or section. Words in the singular number shall include the plural and the plural shall include the singular. Words in one gender shall include the other genders.

Section 3. Subsection 5.30.060.C of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.30.060 Definitions, T-Z

* * *

C. "Taxpayer" means any "person," as herein defined, required by Chapter 5.55 to have a business license tax certificate, or liable for any license, tax, or fee, or for the collection of any tax or fee, under Chapters 5.32 (Revenue Code), 5.35 (Commercial Parking Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), ~~((and))~~ 5.53 (Sweetened Beverage Tax), and 5.54 (Short-Term Rental Tax), or who engages in any business or who performs any act for which a tax or fee is imposed under those chapters.

* * *

Section 4. Section 5.55.010 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

5.55.010 Application of chapter stated

Unless expressly stated to the contrary in each chapter, the provisions of this Chapter 5.55 shall apply with respect to the licenses and taxes imposed under this Chapter 5.55 and Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), ~~((5.37 (Employee Hours Taxes),))~~ 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), 5.53 (Sweetened Beverage Tax), 5.54 (Short-Term Rental Tax), and under other titles, chapters and sections in such manner and to such extent as indicated in each such title, chapter, or section.

Section 5. Subsection 5.55.040.A of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.040 When due and payable - Reporting periods - Monthly, quarterly, and annual returns - Threshold provisions - Computing time periods - Failure to file returns

A. Other than any annual license fee or registration fee assessed under this Chapter 5.55, the tax imposed by Chapters 5.32 (Amusement Devices), 5.35 (Commercial Parking Tax), 5.40 (Admission Tax), 5.45 (Business License Tax), 5.46 (Square Footage Tax), 5.48 (Business Tax-Utilities), 5.50 (Firearms and Ammunition Tax), 5.52 (Gambling Tax), ~~((and))~~ 5.53 (Sweetened Beverage Tax), and 5.54 (Short-Term Rental Tax) shall be due and payable in quarterly installments. The Director may use discretion to assign businesses to a monthly or annual reporting period depending on the tax amount owing or type of tax. Taxes imposed by subsections 5.52.030.A.2 and 5.52.030.B.2 for punchboards and pulltabs shall be due and payable in monthly installments. Tax returns and payments are due on or before the last day of the next month following the end of the assigned reporting period covered by the return.

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Section 6. Subsection 5.55.060.A of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.060 Records to be preserved - Examination - Inspection - Search warrants - Estoppel to question assessment

A. Every person liable for any fee or tax imposed by this Chapter 5.55 and Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((and))~~ 5.53, and 5.54 shall keep and preserve, for a period of five years after filing a tax return, such records as may be necessary to determine the amount of any fee or tax for which the person may be liable; which records shall include copies of all federal income tax and state tax returns and reports made by the person. All books, records, papers, invoices, ticket stubs, vendor lists, gambling games, and payout information, inventories, stocks of merchandise, and other data, including federal income tax and state tax returns, and reports needed to determine the accuracy of any taxes due, shall be open for inspection or examination at any time by the Director or a duly authorized agent. Every person's business premises shall be open for inspection or examination by the Director or a duly authorized agent. For the purposes of this Section 5.55.060, for the tax imposed by Chapter 5.53, "business premises" means wherever the person's business records and tax documents are maintained and does not mean every site owned or operated by the person.

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Section 7. Subsection 5.55.150.E of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.150 Appeal to the Hearing Examiner

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E. The Hearing Examiner shall ascertain the correct amount of the tax, fee, interest, or penalty due either by affirming, reversing, or modifying an action of the Director. Reversal or modification is proper if the Director's assessment or refund denial violates the terms of this Chapter 5.55, or Chapters 5.30, 5.32, 5.35, (~~5.37,)~~ 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((or))~~ 5.53, or 5.54.

Section 8. Section 5.55.165 of the Seattle Municipal Code, last amended by Ordinance 125324, is amended as follows:

5.55.165 Director of Finance and Administrative Services to make rules ((-))

The Director of Finance and Administrative Services shall have the power and it shall be the Director's duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this Chapter 5.55, or Chapters 5.30, 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ((~~or~~) 5.53, or 5.54), or with law for the purpose of carrying out the provisions of such chapters, and it shall be unlawful to violate or fail to comply with any such rule or regulation.

Section 9. Subsections 5.55.220.A and 5.55.220.B of the Seattle Municipal Code, which section was last amended by Ordinance 125324, are amended as follows:

5.55.220 Unlawful actions-Violation-Penalties

A. It shall be unlawful for any person subject to the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ((~~and~~) 5.53, and 5.54):

1. To violate or fail to comply with any of the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ((~~and~~) 5.53, and 5.54), or any lawful rule or regulation adopted by the Director;

2. To make or manufacture any license required by this Chapter 5.55 except upon authority of the Director;

3. To make any false statement on any license, application, or tax return;

4. To aid or abet any person in any attempt to evade payment of a license fee or tax;

5. To refuse admission to the Director to inspect the premises and/or records as required by this Chapter 5.55, or to otherwise interfere with the Director in the performance of duties imposed by Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ((~~and~~) 5.53, and 5.54);

6. To fail to appear or testify in response to a subpoena issued pursuant to Section 3.02.120 in

any proceeding to determine compliance with this Chapter 5.55 and Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((and))~~ 5.53, and 5.54;

7. To testify falsely in any investigation, audit, or proceeding conducted pursuant to this Chapter 5.55;

8. To continue to engage in any business activity, profession, trade, or occupation after the revocation of or during a period of suspension of a business license tax certificate issued under Section 5.55.030; or

9. In any manner, to hinder or delay the City or any of its officers in carrying out the provisions of this Chapter 5.55 or Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((and))~~ 5.53, and 5.54.

B. Each violation of or failure to comply with the provisions of this Chapter 5.55, or Chapters 5.32, 5.35, ~~((5.37,))~~ 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((or))~~ 5.53, or 5.54 shall constitute a separate offense. Except as provided in subsection 5.55.220.C, any person who commits an act defined in subsection 5.55.220.A is guilty of a gross misdemeanor, punishable in accordance with Section 12A.02.070. The provisions of Chapters 12A.02 and 12A.04 apply to the offenses defined in subsection 5.55.220.A, except that liability is absolute and none of the mental states described in Section 12A.04.030 need be proved.

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Section 10. Subsection 5.55.230.A of the Seattle Municipal Code, which section was last amended by Ordinance 125324, is amended as follows:

5.55.230 Denial, revocation of, or refusal to renew business license tax certificate

A. The Director, or the Director's designee, has the power and authority to deny, revoke, or refuse to renew any business license tax certificate or amusement device license issued under the provisions of this Chapter 5.55. The Director, or the Director's designee, shall notify such applicant or licensee in writing by mail in accordance with Section 5.55.180 of the denial, revocation of, or refusal to renew the license and on what grounds such a decision was based. The Director may deny, revoke, or refuse to renew any business license tax

certificate or other license issued under this Chapter 5.55 on one or more of the following grounds:

1. The license was procured by fraud or false representation of fact.
2. The licensee has failed to comply with any provisions of this Chapter 5.55.
3. The licensee has failed to comply with any provisions of Chapters 5.32, 5.35, 5.40, 5.45, 5.46, 5.48, 5.50, 5.52, ~~((€))~~ 5.53, or 5.54.
4. The licensee is in default in any payment of any license fee or tax under Title 5 or Title 6.

* * *

Section 11. The Council expresses the following intent as to the application of Seattle Municipal Code Chapter 5.54. To maintain a level playing field for the short-term rental industry and other lodging businesses, the Council intends to monitor proposals for any taxes imposed by the Washington State Convention Center Public Facilities District, King County, or the State of Washington, on the short-term rental industry. The City will work with such jurisdictions to ensure that short-term rental businesses are not subject to a short-term rental tax at the State or County level in addition to a City of Seattle short-term rental tax. In the event any short-term rental tax is imposed by any such jurisdiction and the jurisdiction imposing such tax enters into a legally binding agreement with the City to provide to the City proceeds equivalent to the City's collections from tax authorized under this ordinance, the City may commit in such agreement with the other jurisdiction to suspend collection of the City's tax for the duration of the term of such agreement.

Section 12. Services funded by the proceeds of the short-term rental tax are intended to support investments in affordable housing and to support community-initiated equitable development projects, including but not limited to projects described in Resolution 31711. Eligible expenditures include:

- A. Resources necessary to (1) fund one-time expenditures to administer the tax and ongoing administration of assessing and collecting the tax, and (2) to offset the cost of implementing and administering Chapter 6.600.
- B. The remainder of net proceeds shall be used as follows:

1. The first \$5,000,000 of net proceeds, after monies spent pursuant to subsection A of this section, shall be applied to investments in community-initiated equitable development projects;
2. The next \$2,000,000 of net proceeds shall be applied to investments in affordable housing;
3. The remainder of net proceeds shall be used to support community-initiated equitable development projects, including the affordable housing component of those projects.

C. In the annual City budget or by separate ordinance, the City’s legislative authority shall from year to year determine the services and funding allocations that will most effectively achieve the goals and outcomes in accordance with chapter 35.32A RCW.

Section 13. Sections 1 through 12 of this ordinance shall take effect on January 1, 2019, and the Short-Term Rental Tax shall be imposed beginning January 1, 2019, on every person engaging within the City in the business of being a short-term rental operator.

Section 14. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 15. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2017, and signed by me in open session in authentication of its passage this _____ day of _____, 2017.

President _____ of the City Council

Approved by me this _____ day of _____, 2017.

Tim Burgess, Mayor

Filed by me this _____ day of _____, 2017.

Monica Martinez Simmons, City Clerk

(Seal)