



## Legislation Details (With Text)

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<b>On agenda:</b>	5/22/2023	<b>Final action:</b>		5/22/2023	
<b>Title:</b>	To repeal City Code §§ 26-724, concerning definitions for transient lodging taxes, 26-725, concerning levy of transient lodging taxes, 26-726, concerning collection of transient lodging taxes, 26-727, concerning violations, 26-728, concerning reports required, 26-729, concerning enforcement, and 26-730, concerning the effective date of ch. 26, art. X of the City Code; to amend ch. 26, art. X of the City Code by adding therein new §§ 26-724.1-26-732, concerning transient occupancy taxes; and to amend City Code § 26-430, concerning penalties for non-payment of property taxes, all for the purpose of aligning the City Code with state law pertaining to transient occupancy taxes.				
<b>Sponsors:</b>	Mayor Stoney				
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<b>Code sections:</b>					
<b>Attachments:</b>	1. Ord. No. 2023-151				

Date	Ver.	Action By	Action	Result
5/22/2023	1	City Council	adopted	Pass
5/18/2023	1	Finance and Economic Development Standing Committee	recommended for approval	
5/8/2023	1	City Council	introduced and referred	

To repeal City Code §§ 26-724, concerning definitions for transient lodging taxes, 26-725, concerning levy of transient lodging taxes, 26-726, concerning collection of transient lodging taxes, 26-727, concerning violations, 26-728, concerning reports required, 26-729, concerning enforcement, and 26-730, concerning the effective date of ch. 26, art. X of the City Code; to amend ch. 26, art. X of the City Code by adding therein new §§ 26-724.1-26-732, concerning transient occupancy taxes; and to amend City Code § 26-430, concerning penalties for non-payment of property taxes, all for the purpose of aligning the City Code with state law pertaining to transient occupancy taxes.

THE CITY OF RICHMOND HEREBY ORDAINS:

§ 1. That sections 26-724 through 26-730 of the Code of the City of Richmond (2020) be and hereby are **repealed** as follows:

### **[Sec. 26-724. Definitions.]**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, ~~except where the context clearly indicates a different meaning:~~

~~Day means any 24-hour period or portion thereof for which a room rental charge is made.~~

~~Hotel means any public or private hotel, inn, hostelry, tourist home or house, motel, roominghouse or other lodging place containing ten or more bedrooms within the City offering lodging, as defined in this section, for compensation to any transient, as defined in this section.~~

~~Lodging means space or room furnished any transient.~~

~~Transient means any person who, for a period of not more than 90 consecutive days, either at the person's own expense or at the expense of another, lodges or obtains lodging at any hotel. However, this term shall be deemed not to include a person enrolled in and attending full-time a school, college or university within the corporate City limits; nor shall it include a person who is in the City for the commercial production of a film or video and who commits in advance to lodging at a hotel and actually stays for a minimum of 30 consecutive days.~~

**~~Sec. 26-725. Levy.~~**

~~There is hereby imposed and levied by the City on each transient a lodging tax in the amount of eight percent of the charge made for each room rented to such transient in a hotel. Such tax shall be collected from such transient at the time and in the manner provided in this article.~~

**~~Sec. 26-726. Collection.~~**

~~Every person receiving any payment for lodging with respect to which a tax is levied under this article shall collect the amount of such tax so imposed from the transient on whom such tax is levied or from the person paying for such lodging at the time payment for such lodging is made. The taxes required to be collected under this section shall be deemed to be held in escrow by the person required to collect such taxes until remitted to the City as required in this article.~~

**~~Sec. 26-727. Violations.~~**

~~(a) It is unlawful not to remit the tax due under this article.~~

~~(b) Each such violation or failure shall constitute a separate offense. Such conviction shall not~~

relieve any such person from the payment, collection or remittance of such tax, penalties and interest, as provided in this article.

(c) The City reserves the right to prosecute violations of the City's tax laws under the applicable criminal provisions of State law.

**~~Sec. 26-728. Reports required.~~**

The person collecting any tax as provided in this article shall make out a report thereof upon such forms and setting forth such information as the Director of Finance may prescribe and require, showing the amount of lodging charges collected and the tax required to be collected, and shall sign and deliver such report to the Collector with a remittance of such tax. Such report and remittance shall be made as required by the Director of Finance which shall be at least once in every 30-day period and not later than the 20th day of the month next following the month in which such tax was collected.

**~~Sec. 26-729. Enforcement.~~**

~~It shall be the duty of the Director or designee to enforce this article.~~

**~~Sec. 26-730. Effective date.~~**

This article shall be in force and effect July 1, 1970, and shall continue to be in force and effect until otherwise provided by law or ordinance.]

§ 2. That Chapter 26, Article X of the Code of the City of Richmond (2020) be and hereby is amended and reordained by **adding therein new sections** numbered 26-724.1 through 26-732 as follows:

**Sec. 26-724.1. Definitions.**

For the purposes of this article, the following words and phrases shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accommodations* means, any room or space for which tax is imposed on the retail sale pursuant to this article and includes but is not limited to, any public or private hotel, inn, apartment, hostelry, tourist

home or house, motel, rooming house, or other lodging place within the city of Richmond offering lodging, and the owner and operator thereof, who for compensation, furnishes lodging to any transients as hereinafter defined.

*Accommodations intermediary* means any person other than an accommodations provider that (i) facilitates the sale of accommodations and (ii) either (a) charges to or collects from the transient a room charge or (b) charges a fee to the customer, which fee it retains as compensation for facilitating the sale. For purposes of this definition, “facilitates the sale” includes brokering, coordinating, or in any other way arranging for the purchase of the right to use accommodations via a transaction directly, including via one or more payment processors, between a transient and an accommodations provider.

The phrase “accommodations intermediary” does not include a person:

1. If the accommodations are provided by an accommodations provider operating under a trademark, trade name, or service mark belonging to such person;
2. Who facilitates the sale of an accommodation if (i) the price paid by the transient to such person is equal to the price paid by such person to the accommodations provider for the use of the accommodations and (ii) the only compensation received by such person for facilitating the sale of the accommodation is a commission paid from the accommodations provider to such person; or
3. Who is licensed as a real estate licensee pursuant to Article 1 (§ 54.1-2100 et seq.) of Chapter 21 of Title 54.1 of the Code of Virginia, when acting within the scope of such license.

*Accommodations provider* means any person that furnishes accommodations to the general public for compensation. The term “furnishes” includes the sale of use or possession or the sale of the right to use or possess.

*Collector* means the Director of Finance or the designee thereof.

*Person* means, but is not limited to, individuals, firms, partnerships, associations, corporations,

persons acting in a representative capacity, and combinations of individuals of whatever form and character.

*Retail Sale* means the sale or charges for any accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration.

*Room charge* means the full retail price charged to the transient for the use of the accommodations before taxes. “Room charge” includes any fee charged to the customer and retained as compensation for facilitating the sale, whether described as an accommodations fee, facilitation fee, or any other name. Any additional charges made in connection with the rental of accommodations are deemed to be a part of the charge for the room and are subject to the tax. For example, additional charges for movies, local telephone calls and similar services are subject to the tax.

*Transient* means any person who, for any period of fewer than 90 consecutive days, either at his own expense or at the expense of another, obtains the use or possession of accommodations as herein above defined, for which lodging or use of space a price is charged.

#### **Sec. 26-725.1. Levy and rate.**

In addition to all other taxes of every kind now or hereafter imposed by law, there is hereby imposed and levied, for the purpose of funding the general operation of the city government, a tax equivalent to eight percent of the total room charge paid by the transient for the use or possession of a room or space occupied for lodging by or for any such transient to any accommodations.

#### **Sec. 26-726.1. Exceptions.**

No tax shall be payable hereunder on room charge paid:

- (a) To any hospital, medical clinic, convalescent home or home for the aged.
- (b) In the form of a space rental paid to any travel campground.
- (c) By any person enrolled in and attending full-time a school, college, or university within the corporate City limits.
- (d) By any person who is within the corporate City limits for commercial production of a film or video and who commits in advance to lodging at accommodations for a minimum of 30 days and who actually lodges at the accommodations for a minimum of 30 days.

**Sec. 26-727.1. Collection.**

- (a) For any retail sale of accommodations not facilitated by an accommodations intermediary, the accommodations provider shall collect the tax imposed pursuant to this article, computed on the room charge paid for the use or possession of the accommodations, and shall remit the same to the City and shall be liable for the same.
- (b) For any retail sale of accommodations facilitated by an accommodations intermediary, the accommodations intermediary shall be deemed under this article as a facility making a retail sale of an accommodation. The accommodations intermediary shall collect the tax imposed pursuant to this article, computed on the room charge and shall remit the same to the City and shall be liable for the same.
- (c) For any retail sale of accommodations facilitated by an accommodations intermediary, nothing herein shall relieve the accommodations provider from liability for retail sales and use taxes on any amounts charged directly to the customer by the accommodations provider that are not collected by the accommodations intermediary.
- (d) In any retail sale of any accommodations in which an accommodations intermediary does not facilitate the sale of the accommodations, the accommodations provider shall separately state the amount of the

tax in the bill, invoice, or similar documentation and shall add the tax to the total price paid for the use or possession of the accommodations. In any retail sale of any accommodations in which an accommodations intermediary facilitates the sale of the accommodations, the accommodations intermediary shall separately state the amount of the tax on the bill, invoice, or similar documentation and shall add the tax to the room charge; thereafter, such tax shall be a debt from the customer to the accommodations intermediary, recoverable at law in the same manner as other debts.

- (e) All taxes collected pursuant to this chapter are deemed in be held in trust for the City.

#### **Sec. 26-728.1. Reports and remittances.**

(a) The person collecting any such tax shall make out a report upon such forms and setting forth such information as the collector may prescribe and require, showing the total room charge paid by the transient for the use or possession of a room or space occupied for lodging by or for a transient and the tax required to be collected. The report shall be submitted to the collector.

- (b) The collector shall determine whether the report is in proper form.

- (c) The person collecting any such tax shall remit the tax to the collector.

(d) Subject to applicable laws, an accommodations intermediary shall submit to the collector the property addresses and gross receipts for all accommodations facilitated by the accommodations intermediary within the corporate limits of the City. Such information shall be submitted monthly.

(e) Said reports and remittances shall be made on or before the twentieth day of the month following each month and covering the amount of tax collected during the preceding month.

#### **Sec. 26-729.1. Determination of tax due by the collector.**

If any person required to collect and remit the tax imposed by this article fails to file a report, or if the collector has reasonable cause to believe that an erroneous report has been filed, the collector may proceed to

determine the amount due to the City and, in connection therewith, the collector shall make such investigations, take such testimony and other evidence as may be necessary, and report such collector's determination; provided, however, that notice and opportunity to be heard be given any person who may become liable for the amount owing prior to any determination by the collector

**Sec. 26-730.1. Cessation of business; report and tax due immediately.**

Whenever any person required to collect and pay to the City a tax under this article shall quit or otherwise dispose of their business, any tax under the provisions of this article shall become immediately due, and such person shall immediately make a report and pay the tax due.

**Sec. 26-731. Collector; other powers and duties.**

It shall be the duty of the collector to ascertain the name of every person operating accommodations within the corporate limits of the City that is liable for the collection of the tax levied by this article. The collector shall have the power to adopt rules and regulations not inconsistent with the provisions of this article for the purpose of determining the amount due to the City under this article; and a copy of such rules and regulations shall be on file and available for public examination in the collector's office. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this article.

**Sec. 26-732. Penalty.**

Any person intentionally failing to file a report required by this article shall be guilty of a misdemeanor, and upon conviction thereof, punishment shall not exceed that prescribed for a Class 3 misdemeanor as provided in Section 18.2-11 of the Code of Virginia (1950), as amended. Each such failure shall constitute a separate offense. Such conviction shall not relieve any such person from the payment, collection or remittance of such tax, penalties and interest, as provided in this chapter.



§ 3. That section 26-430 of the Code of the City of Richmond (2020) be and is hereby **amended** and reordained as follows:

**Sec. 26-430. Penalty.**

(a) Whenever any taxpayer shall fail, refuse or neglect to pay any property taxes levied under Sections 26-458 and 26-460 on or before June 5 or within 60 days of acquiring a tax situs in the City in the year for which they are levied, there shall be added a penalty of ten percent of the total taxes due or \$10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax.

(b) Whenever any person shall fail, refuse or neglect to pay any tangible personal property or machinery and tools taxes levied under Section 26-459 on or before June 5 of the tax year, there shall be added a penalty of ten percent of the taxes due or \$10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax. Any tax remaining unpaid, in whole or in part, 60 days after the due date of each year shall incur an additional penalty of five percent of the tax due and unpaid.

(c) If any person shall fail, refuse or neglect to remit to the collector any [~~admissions, lodging, meals or short-term rental~~] taxes required to be collected and paid under Articles VIII through X and XVII of this chapter within the time and amount specified, there shall be added to such tax a penalty of ten percent or \$10.00, whichever is greater. In no case shall the penalty exceed the amount of the tax.

§ 4. This ordinance shall be in force and effect on July 1, 2023.