

# SENATE BILL REPORT

## SB 5870

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As of February 15, 2019

**Title:** An act relating to short-term rentals.

**Brief Description:** Concerning short-term rentals.

**Sponsors:** Senators Liias and Walsh.

**Brief History:**

**Committee Activity:** Financial Institutions, Economic Development & Trade: 2/14/19.

**Brief Summary of Bill**

- Requires short term rental operators and platforms to obtain a business license, maintain a certain level of liability insurance, pay applicable taxes, and provide certain information to guests.

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**SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, ECONOMIC DEVELOPMENT & TRADE**

**Staff:** Kellee Gunn (786-7429)

**Background:** Short Term Rentals and Transient Accommodations. Within the last decade, home-sharing services, or short-term rentals (STRs), have become common. These services provide a platform to connect individuals looking for a place to stay with those who have rentable space available. Laws and regulations pertaining to these types of rentals vary depending on the city. Whether or not state and local sales tax is collected by the hosting website, or platform, is dependent on the platform.

In Washington State, a person offering and advertising three or more lodging units to guests for periods of less than 30 days needs to possess a transient accommodations license from the Department of Health (DOH). Transient accommodations include but are not limited to hotels, motels, bed and breakfasts, resorts, rustic resorts, inns, condominiums, apartments, crisis shelters, hostels, and retreats.

Local Governments and Short Term Rentals. Many local governments in Washington State have adopted regulations regarding STRs. These regulations typically concern the collection

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of lodging and sales tax, mitigation of traffic, parking, noise, and other impacts, and consumer safety. Some local governments with STR regulations include Seattle, Bellingham, Poulsbo, Leavenworth, and Spokane.

**Summary of Bill:** A STR operator and an STR platform must obtain a business license from the Department of Revenue. Advertising STR units without a license is prohibited.

An STR operator is any person who receives payment for owning or operating a dwelling unit as an STR unit. An STR platform provides a way for an operator to offer a dwelling unit for STR use, and provides the means for the person to receive payment for the unit.

An STR is a dwelling unit offered to a guest through a platform for a fee and for fewer than 30 consecutive nights. An STR does not include:

- a dwelling unit occupied by the owner for at least six months in a calendar year and where fewer than three rooms rented at any one time;
- a dwelling unit, or portion thereof, used by the same person for 30 or more consecutive nights; and
- a dwelling unit operated by an organization, or government entity, registered as a charitable organization with the state or the federal government and that provides temporary housing to individuals or the individual's family members being treated for trauma, injury, or disease.

Any STR meeting the definition of transient accommodations must comply with the regulations and license requirements overseen by the Department of Health.

Taxes. STR operators must pay all applicable local, state, and federal taxes unless the platform does this on the operator's behalf. This includes occupancy, sales, lodging, and other taxes, fees, and assessments applicable to that jurisdiction. The platform must inform operators it is their responsibility to pay all applicable taxes and fees.

Consumer Safety. All STR operators must provide:

- their contact information;
- assurance the STR has a functional carbon-monoxide alarm; and
- certain information on the STR's floor plan indicating fire exits and escape routes, the STR unit's address, maximum occupancy limits, and contacts for emergency services.

Insurance. An STR operator must maintain liability insurance of not less than \$1 million to cover the unit or conduct each STR transaction through a platform that provides equal or greater insurance coverage.

Penalties. The following penalties may be imposed on STR platforms not in compliance:

- \$500 per day for each violation for the first ten days; and
- \$1,000 per day for each violation for each day beyond ten days of noncompliance until compliance is achieved.

The following penalties may be imposed on STR operators:

- \$500 for a first violation; and
- \$1,000 for any subsequent violation within a five-year period.

**Appropriation:** None.

**Fiscal Note:** Requested on February 7, 2019.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: These STRs create a burden on cities to regulate them. Statewide regulations that provide some consumer safety regulations, and that impose the same taxes for other lodging units, would help consumers. Consumers should have the same basic safety regulations in these rentals and in other lodging options. There are technical amendments forthcoming for this bill. Currently, STRs are required to get a business license, and pay taxes. This bill establishes certain basic consumer safety requirements such as getting a carbon monoxide detector, providing emergency contact information, and a floor plan with fire exits. This is also a tax fairness issue—STRs should pay the same amount as other lodging and rental options.

I am a local bed and breakfast operator. There are 89 AirBnB rentals available in Olympia, and over 30 are whole house rentals. There is an affordable housing shortage and these rentals are adding to the problem. The bill does not go far enough. Bed and breakfasts are required to have a transient accommodations license from the DOH, which STRs are not required to do. Small municipalities and cities like Olympia do not have the resources to regulate these rentals. The three goals of this bill are good: insurance, taxes, and consumer safety. Owner occupied short-term rentals should not be exempt as they are in this bill.

CON: Section 230 of Communications Decency Act of 1996 states that platforms cannot be held liable for what has been posted by third parties on their platforms. Section 6 of this bill violates this federal law and imposes requirements that are not workable for smaller platforms. This pushes STR advertisers onto less regulated websites which increases consumer safety issues for everyone. The DOH's transient accommodations license and requirements would put me out of business if this bill were enacted. Any STR with more than three units would then be considered a hotel. I already have a million dollar insurance policy and a carbon monoxide detector. This would disproportionately affect condo owners who use their unit as a STR and make a condominium a hotel. The Seattle ordinance was focused on affordable housing so did not affect all STR operators equally.

Expedia has an interest in a level playing field. The tax issues this bill is trying to solve are a red herring. Lodging taxes should apply to STRs. Expedia has entered into a voluntary collection agreement with the DOR to remit all taxes, and in 2015 AirBnB did the same. The transient accommodations license and regulations were made to apply to hotels. There is privacy issue with this bill requiring all advertisements to include a business license number because that information allows people to know where people live and where vacant properties are. Local governments have not had a problem regulating short-term rentals.

**Persons Testifying:** PRO: Senator Marko Liias, Prime Sponsor; Julia Gorton, Washington Hospitality Association; Nathan Allan, Swantown Inn; Don Malatesta, The Inn at Mallard Cove.

CON: Richard Lazaro, Expedia Group; Brooke Davies, Internet Association; Darik Eaton, Seattle Oasis Vacation Rentals—NWVRP.

**Persons Signed In To Testify But Not Testifying:** No one.