

1 **AMENDMENTS TO TOURISM, RECREATION,**
2 **CULTURAL, CONVENTION, AND AIRPORT**
3 **FACILITIES TAX ACT**

4 2009 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Wayne A. Harper**

7 Senate Sponsor: Wayne L. Niederhauser

8
9 **LONG TITLE**

10 **Committee Note:**

11 The Revenue and Taxation Interim Committee recommended this bill.

12 **General Description:**

13 This bill amends the Tourism, Recreation, Cultural, Convention, and Airport Facilities
14 Tax Act to address the taxation of sales by a restaurant.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ provides that sales of alcoholic beverages sold by a restaurant are subject to taxation
18 within a county that imposes a tax on certain sales by a restaurant; and
19 ▶ makes technical changes.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 This bill provides an immediate effective date.

24 This bill has retrospective operation to January 1, 2007.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-603**, as last amended by Laws of Utah 2008, Chapters 286 and 384



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

Section 1. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of the following that are sold by a restaurant:

~~[(A) prepared food; or]~~

(A) alcoholic beverages;

(B) food and food ingredients; [and] or

(C) prepared food; and

(iii) a county legislative body of a county of the first class may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for:

- 59 (i) financing tourism promotion; and
- 60 (ii) the development, operation, and maintenance of:
 - 61 (A) an airport facility;
 - 62 (B) a convention facility;
 - 63 (C) a cultural facility;
 - 64 (D) a recreation facility; or
 - 65 (E) a tourist facility.
- 66 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
- 67 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
- 68 marketing and ticketing system designed to:
 - 69 (i) promote tourism in ski areas within the county by persons that do not reside within
 - 70 the state; and
 - 71 (ii) combine the sale of:
 - 72 (A) ski lift tickets; and
 - 73 (B) accommodations and services described in Subsection 59-12-103(1)(i).
- 74 (3) A tax imposed under this part may be pledged as security for bonds, notes, or other
- 75 evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local
- 76 Government Bonding Act, or a community development and renewal agency under Title 17C,
- 77 Chapter 1, Part 5, Agency Bonds, to finance:
 - 78 (a) an airport facility;
 - 79 (b) a convention facility;
 - 80 (c) a cultural facility;
 - 81 (d) a recreation facility; or
 - 82 (e) a tourist facility.
- 83 (4) (a) In order to impose the tax under Subsection (1), each county legislative body
- 84 shall adopt an ordinance imposing the tax.
- 85 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
- 86 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
- 87 those items and sales described in Subsection (1).
- 88 (c) The name of the county as the taxing agency shall be substituted for that of the state
- 89 where necessary, and an additional license is not required if one has been or is issued under

90 Section 59-12-106.

91 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
92 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
93 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
94 amendments to Part 1, Tax Collection.

95 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
96 board in accordance with Section 17-31-8, the county legislative body of the county of the first
97 class shall create a tax advisory board in accordance with this Subsection (6).

98 (b) The tax advisory board shall be composed of nine members appointed as follows:

99 (i) four members shall be appointed by the county legislative body of the county of the
100 first class as follows:

101 (A) one member shall be a resident of the unincorporated area of the county;

102 (B) two members shall be residents of the incorporated area of the county; and

103 (C) one member shall be a resident of the unincorporated or incorporated area of the
104 county; and

105 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
106 towns within the county of the first class appointed by an organization representing all mayors
107 of cities and towns within the county of the first class.

108 (c) Five members of the tax advisory board constitute a quorum.

109 (d) The county legislative body of the county of the first class shall determine:

110 (i) terms of the members of the tax advisory board;

111 (ii) procedures and requirements for removing a member of the tax advisory board;

112 (iii) voting requirements, except that action of the tax advisory board shall be by at
113 least a majority vote of a quorum of the tax advisory board;

114 (iv) chairs or other officers of the tax advisory board;

115 (v) how meetings are to be called and the frequency of meetings; and

116 (vi) the compensation, if any, of members of the tax advisory board.

117 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
118 body of the county of the first class on the expenditure of revenues collected within the county
119 of the first class from the taxes described in Subsection (1)(a).

120 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part

121 shall be administered, collected, and enforced in accordance with:

122 (A) the same procedures used to administer, collect, and enforce the tax under:

123 (I) Part 1, Tax Collection; or

124 (II) Part 2, Local Sales and Use Tax Act; and

125 (B) Chapter 1, General Taxation Policies.

126 (ii) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or
127 Subsections 59-12-205(2) through (6).

128 (b) Except as provided in Subsection (7)(c):

129 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
130 commission shall distribute the revenues to the county imposing the tax; and

131 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
132 according to the distribution formula provided in Subsection (8).

133 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
134 administrative charge for collecting the tax as provided in Section 59-12-206.

135 (8) The commission shall distribute the revenues generated by the tax under Subsection
136 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
137 following formula:

138 (a) the commission shall distribute 70% of the revenues based on the percentages
139 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
140 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

141 (b) the commission shall distribute 30% of the revenues based on the percentages
142 generated by dividing the population of each county collecting a tax under Subsection
143 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

144 (9) (a) For purposes of this Subsection (9):

145 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
146 Annexation to County.

147 (ii) "Annexing area" means an area that is annexed into a county.

148 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
149 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
150 change shall take effect:

151 (A) on the first day of a calendar quarter; and

152 (B) after a 90-day period beginning on the date the commission receives notice meeting
153 the requirements of Subsection (9)(b)(ii) from the county.

154 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

155 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

156 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

157 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and

158 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
159 (9)(b)(ii)(A), the rate of the tax.

160 (c) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
161 the first billing period:

162 (A) that begins after the effective date of the enactment of the tax or the tax rate
163 increase; and

164 (B) if the billing period for the transaction begins before the effective date of the
165 enactment of the tax or the tax rate increase imposed under Subsection (1).

166 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
167 billing period:

168 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
169 and

170 (B) if the billing period for the transaction begins before the effective date of the repeal
171 of the tax or the tax rate decrease imposed under Subsection (1).

172 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
173 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
174 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

175 (A) on the first day of a calendar quarter; and

176 (B) after a 90-day period beginning on the date the commission receives notice meeting
177 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

178 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

179 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
180 repeal, or change in the rate of a tax under this part for the annexing area;

181 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

182 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

183 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
184 (9)(d)(ii)(A), the rate of the tax.

185 (e) (i) The enactment of a tax or a tax rate increase shall take effect on the first day of
186 the first billing period:

187 (A) that begins after the effective date of the enactment of the tax or the tax rate
188 increase; and

189 (B) if the billing period for the transaction begins before the effective date of the
190 enactment of the tax or the tax rate increase imposed under Subsection (1).

191 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
192 billing period:

193 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
194 and

195 (B) if the billing period for the transaction begins before the effective date of the repeal
196 of the tax or the tax rate decrease imposed under Subsection (1).

197 Section 2. **Effective date -- Retrospective operation.**

198 This bill:

199 (1) if approved by two-thirds of all the members elected to each house, takes effect
200 upon approval by the governor, or the day following the constitutional time limit of Utah
201 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
202 the date of veto override; and

203 (2) has retrospective operation to January 1, 2007.

Legislative Review Note
as of 11-25-08 3:35 PM

Office of Legislative Research and General Counsel

**Revised
Fiscal Note**

**H.B. 55 - Amendments to Tourism, Recreation, Cultural, Convention, and
Airport Facilities Tax Act**

2009 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations nor will it have an impact on revenue.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
