

# **Transient Guest Statutes**

## **Updated Through the 2016 Legislative Session**

**12-1692. Promotion of tourism and conventions; definitions.** As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons; (b) "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests; (c) "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days; (d) "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court; (e) "Convention and tourism promotion" means: (1) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel; and (2) support of those activities and organizations which encourage increased lodging facility occupancy; and (f) "Accommodations broker" means any business which maintains an inventory of two or more rooms in one or more locations which are offered for pay to a person or persons for not more than 28 consecutive days. History: L. 1975, ch. 490, § 1; L. 1992, ch. 117, § 1; L. 1997, ch. 185, § 2; July 1.

**12-1693. Same; tax levy by city or county; basis of tax; payment and collection; requirements prior to levy; election; reduction or increase in rate.** (a) In order to provide revenues to promote tourism and conventions, the governing body of any county having a population of more than 300,000 or the governing body of any city, all or any portion of which is located within such county, is hereby authorized to levy a transient guest tax at not to exceed the rate of 2% upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations in any hotel, motel or tourist court. The percentage of such tax shall be determined by the governing body levying the same and shall be specified in the resolution authorizing the same. (b) Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker. (c) The taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 12-1694, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such taxes. (d) A transient guest tax authorized by this section shall not be levied until: (1) The governing body of such county has either passed, or has received from the governing body of any city within such county, a resolution calling for an election for approval by the qualified electors of a transient guest tax; (2) The governing body of the county has notified all of the incorporated cities, all or any portion of which are located within such county, of the intent to call such election. Incorporated cities, all or any portion of which are located within such county, shall have the option to decline participation in such election within 30 days of the date of such notification. The governing body of the county shall have the option to decline participation in such election within the same 30 day period as provided to incorporated cities, in which case individual cities may hold separate elections to submit the proposition to the qualified electors of such city and such propositions, if approved, would have force only in cities adopting the tax. If the governing body of the county resolves to participate in such election, it shall submit such proposition for approval by the qualified electors of the unincorporated portions of such county and all incorporated cities within such county which have not declined participation in the election; and (3) the governing body of the county or, if the county declines to hold such election, the governing body of the city, has given notice of its intention to submit any such proposition for approval by the qualified electors in the manner required by K.S.A. 10-120, and amendments thereto, for giving notice of elections for the issuance of bonds. The notice shall state the time of the election and the rate and effective date of the proposed tax. If a majority of the votes cast and counted on any such proposition are not in favor thereof, such proposition may be resubmitted under the conditions and in the manner provided herein. If a majority of the votes cast and counted on any such proposition are in favor thereof, the governing body of the county or city shall provide by resolution for the levy of such tax. Any repeal of such tax or any reduction or increase in the rate thereof shall be accomplished in the manner provided herein for the adoption and approval of such

tax. (e) The collection of any county transient guest tax authorized at a primary or general election or a transient guest tax levied by a city authorized at a city primary or general election shall commence on the first day of the calendar quarter next following the 30th day after the date of the election authorizing the levy of such tax. The collection of any transient guest tax of a county or city approved at any other election shall commence on the first day of the calendar quarter next following the 60th day after the date of the election authorizing the levy of such tax. History: L. 1975, ch. 490, § 2; L. 1989, ch. 60, § 1; L. 1997, ch. 185, § 3; July 1.

**12-1694. Same; collection, payment and disposition of transient guest tax; administration by secretary of revenue; rules and regulations; monthly reports.** (a) Any tax levied and collected pursuant to K.S.A. 12-1693, and amendments thereto, shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of the month specified in the resolution of the governing body which levies the tax, but any person filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, may, with the approval of the secretary of revenue and upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time such person pays the retailer's sales tax. Each business shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein. (b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports. (c) The secretary of revenue is hereby authorized to administer and collect any transient guest tax levied pursuant to this act and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the state general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the county and city transient guest tax fund, which fund is hereby established. All moneys in the county and city transient guest tax fund shall be remitted at least quarterly by the state treasurer, on instruction from the secretary of revenue, to the treasurers of those cities which, by virtue of their participation in the election provided for in K.S.A. 12-1693, and amendments thereto, are qualified to receive disbursements from such transient guest tax fund for the amount collected within such city, and to the treasurer of such county for the amount collected in the unincorporated areas of such county. (d) The director of taxation shall provide, upon request by a city or county clerk or treasurer of any city or county levying a transient guest tax, of any city located within any such county or of any county within which is located any such city, monthly reports identifying each person doing business in such city or county to which such tax is applicable setting forth the tax liability and the amount of such tax remitted by such business during the preceding month, and identifying each business location maintained by the person within such city or county. Such report shall be made available to the clerk or treasurer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be kept confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner, except that such information may be divulged by any such clerk or treasurer to any financial officer designated to receive such information by the governing body of any such city or county. Any violation of this paragraph by a city or county officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office. (e) All such moneys received by the county treasurer or city treasurer from disbursements from the county and city transient guest tax fund shall be credited to the tourism and convention promotion fund of such county or city and shall only be expended for convention and tourism promotion, except that not more than 20% of the moneys credited to such fund shall be expended for tourism promotion. History: L. 1975, ch. 490, § 3; L. 1976, ch. 81, § 1; L. 1977, ch. 61, § 1; L. 1984, ch. 351, § 1; L. 1990, ch. 70, § 2; L. 1992, ch. 9, § 1; L. 2000, ch. 140, § 4; L. 2001, ch. 5, § 50; L. 2001, ch. 188, § 1; July 1.

**12-1694a. Same; establishment of transient guest tax refund fund; maintenance by secretary of revenue.** There is hereby established in the state treasury the "transient guest tax refund fund" which shall

be used for the payment of refunds of the transient guest tax which is levied and collected pursuant to K.S.A. 12-1692 to 12-1695, inclusive, and amendments thereto. The transient guest tax refund fund shall be held by the state treasurer for prompt refunding of all transient guest tax overpayments. Said fund shall be maintained by the secretary of revenue from the transient guest tax collections in an amount determined by the secretary of revenue as necessary to meet the current refunding requirements for the transient guest tax under said statutes but such amount shall not exceed five thousand dollars (\$5,000). History: L. 1976, ch. 81, § 2; April 23.

**12-1694b. Same; interest and penalties for failure to pay or untimely payment of transient guest tax.** From and after July 1, 1984, (a) if any taxpayer shall fail to pay the tax levied pursuant to K.S.A. 12-1693, and amendments thereto, at the time required by or under the provisions of K.S.A. 12-1694, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid. (b) If any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of K.S.A. 12-1694, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due. (c) If any person fails to make a return, or to pay any tax, within 60 days from the date the return or tax was due, except in the case of an extension of time granted by the director, there shall be added to the tax due a penalty equal to 25% of the amount of such tax. (d) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of K.S.A. 12-1694, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due. (e) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other. (f) Whenever, in the judgment of the director, the failure of the taxpayer to comply with the provisions of subsections (b) and (c) was due to reasonable causes and not willful neglect, the director may waive or reduce any of the penalties upon making a record of the reasons therefor. (g) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under K.S.A. 12-1693, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the secretary of revenue, for the enforcement and administration of the provisions of K.S.A. 12-1692 to 12-1695, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed by K.S.A. 12-1693, and amendments thereto, or who violates any other provision of K.S.A. 12-1692 to 12-1695, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than one month nor more than six months, or be both so fined and imprisoned, in the discretion of the court. History: L. 1984, ch. 351, § 2; L. 1992, ch. 9, § 2; July 1.

**12-1695. Convention and tourism committee; appointment; terms; contracts for programs.** The governing body of any city or county which levies a transient guest tax pursuant to this act may establish a convention and tourism committee to make recommendations concerning the programs and expenditures for promotion of conventions and tourism. If the governing body decides to appoint a convention and tourism committee, the governing body shall appoint 10 members to such committee, a majority of which shall be representatives of businesses coming within the terms of this act. In appointing such members, the governing body shall attempt to create a representative balance of large and small businesses and businesses from the various geographic areas of such city or county. The governing body shall provide, by resolution, for the method of appointment and the length of term of members. The length of term shall not exceed four years. The governing body levying such tax shall have the authority to contract for convention and tourism programs to be implemented. History: L. 1975, ch. 490, § 4; L. 2001, ch. 135, § 1; July 1. 12-1696. Promotion of tourism and conventions; definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein: (a) "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons; (b) "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than two bedrooms furnished for the accommodation of such guests; (c) "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days; (d) "Business" means any person engaged in the business of renting, leasing or letting living

quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court; (e) "Convention and tourism promotion" means: (1) Activities to attract visitors into the community through marketing efforts, including advertising, directed to at least one of the five basic convention and tourism market segments consisting of group tours, pleasure travelers, association meetings and conventions, trade shows and corporate meetings and travel; and (2) support of those activities and organizations which encourage increased lodging facility occupancy; and (f) "Accommodations broker" means any business which maintains an inventory of two or more rooms in one or more locations which are offered for pay to a person or persons for not more than 28 consecutive days. History: L. 1977, ch. 93, § 1; L. 1992, ch. 117, § 2; L. 1997, ch. 185, § 4; July 1.

**12-1697. Same; tax levy by city or county; basis of tax; payment and collection; requirements prior to levy.**

(a) In order to provide revenues to promote tourism and conventions, the governing body of any county or the governing body of any city is hereby authorized to levy a transient guest tax at not to exceed the rate of 2% upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court. The percentage of such tax shall be determined by the board of county commissioners or the city governing body and shall be specified in the resolution or ordinance authorizing the same. (b) Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker. (c) The taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the state department of revenue in the manner prescribed by K.S.A. 12-1698, and amendments thereto, and the state department of revenue shall administer and enforce the collection of such taxes. (d) A transient guest tax authorized by this section shall not be levied until the governing body of such county or city has passed a resolution or ordinance authorizing the same. (e) The collection of any county or city transient guest tax authorized to be levied pursuant to this section shall commence on the first day of the calendar quarter next following the 30th day after the date of the receipt by the department of revenue of the resolution or ordinance authorizing the levy of such tax. History: L. 1977, ch. 93, § 2; L. 1989, ch. 60, § 2; L. 1997, ch. 185, § 5; July 1.

**12-1698. Same; collection, payment and disposition of transient guest tax; administration by secretary of revenue; rules and regulations; monthly reports.** (a) Any tax levied and collected pursuant to K.S.A. 12-1697, and amendments thereto, shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of the month specified in the resolution of the governing body which levies the tax, but any person filing an annual or quarterly return under the Kansas retailers' sales tax act, as prescribed in K.S.A. 79-3607, and amendments thereto, shall, upon such conditions as the secretary of revenue may prescribe, pay the tax required by this act on the same basis and at the same time such person pays the retailers' sales tax. Each business shall make a true report to the department of revenue, on a form prescribed by the secretary of revenue, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein. (b) The secretary of revenue or the secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports. (c) The secretary of revenue is hereby authorized to administer and collect any transient guest tax levied pursuant to this act and to adopt such rules and regulations as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the retailers' sales tax by K.S.A. 79-3617, and amendments thereto. All of the taxes collected under the provisions of this act shall be remitted by the secretary of revenue to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury, and the state treasurer shall credit 2% of all taxes so collected to the state general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the county or city transient guest tax fund, which fund is hereby established. All moneys in the county or city transient guest tax fund shall be remitted at least quarterly by the state treasurer to the county or city treasurer of each county or city levying a transient guest tax under the provisions of this act in the proportion, as certified by the director of taxation, that the amount collected

from such tax in each such county or city bears to the total amount collected from such taxes in all counties or cities for the period covered by the distribution. (d) The director of taxation shall provide, upon request by a city or county clerk or treasurer of any city or county levying a transient guest tax of any city located within any such county or of any county within which is located any such city, monthly reports identifying each person doing business in such city or county to which such tax is applicable setting forth the tax liability and the amount of such tax remitted by such business during the preceding month, and identifying each business location maintained by the person within such city or county. Such report shall be made available to the clerk or treasurer of such city or county within a reasonable time after it has been requested from the director of taxation. The director of taxation shall be allowed to assess a reasonable fee for the issuance of such report. Information received by any city or county pursuant to this section shall be kept confidential, and it shall be unlawful for any officer or employee of such city or county to divulge any such information in any manner, except that such information may be divulged by any such clerk or treasurer to any financial officer designated to receive such information by the governing body of any such city or county. Any violation of this paragraph by a city or county officer or employee is a class B misdemeanor, and such officer or employee shall be dismissed from office. (e) Except as otherwise provided in K.S.A. 12-1774, and amendments thereto, all such moneys received by the county or city treasurer from disbursements from the county or city transient guest tax fund shall be credited to the tourism and convention promotion fund of such county or city and shall only be expended for convention and tourism promotion. History: L. 1977, ch. 93, § 3;L. 1984, ch. 351, § 3;L. 1990, ch. 70, § 3;L. 1992, ch. 9, § 3;L. 1993, ch. 213, § 4;L. 2000, ch. 140, § 5;L. 2001, ch. 5, § 51;L. 2001, ch. 188, § 2; July 1.

**12-1698a. Same; interest and penalties for failure to pay or untimely payment of transient guest tax.**

From and after July 1, 1984, (a) if any taxpayer shall fail to pay the tax levied pursuant to K.S.A. 12-1697, and amendments thereto, at the time required by or under the provisions of K.S.A. 12-1698, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by subsection (a) of K.S.A. 79-2968, and amendments thereto, from the date the tax was due until paid. (b) If any taxpayer due to negligence or intentional disregard fails to file a return or pay the tax due at the time required by or under the provisions of K.S.A. 12-1698, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.(c) If any person fails to make a return, or to pay any tax, within 60 days from the date the return or tax was due, except in the case of an extension of time granted by the director, there shall be added to the tax due a penalty equal to 25% of the amount of such tax.(d) If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of K.S.A. 12-1698, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.(e) Penalty or interest applied under the provisions of subsections (a) and (d) shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections (b) and (c) shall be mutually exclusive of each other. (f) Whenever, in the judgment of the director, the failure of the taxpayer to comply with the provisions of subsections (b) and (c) was due to reasonable causes and not willful neglect, the director may waive or reduce any of the penalties upon making a record of the reasons therefor. (g) In addition to all other penalties provided by this section, any person who willfully fails to make a return or to pay any tax imposed under K.S.A. 12-1697, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the secretary of revenue, for the enforcement and administration of the provisions of K.S.A. 12-1696 to 12-16,101, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed by K.S.A. 12-1697, and amendments thereto, or who violates any other provision of K.S.A. 12-1696 to 12-16,101, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not less than \$100 nor more than \$1,000, or be imprisoned in the county jail not less than one month nor more than six months, or be both so fined and imprisoned, in the discretion of the court. History: L. 1984, ch. 351, § 4;L. 1992, ch. 9, § 4; July 1.

**12-1699. Same; levy of tax prohibited, when.** No county shall levy a transient guest tax within the corporate limits of any city in such county where a transient guest tax is being levied and collected according to law. No city located within a county where a transient guest tax is being levied and collected according to law shall levy any such tax. History: L. 1977, ch. 93, § 4; April 2.

**12-16,100. Same; transient guest tax refund fund.** There is hereby established in the state treasury the "transient guest tax refund fund" which shall be used for the payment of refunds of the transient guest

tax which is levied and collected pursuant to this act. The transient guest tax refund fund shall be held by the state treasurer for prompt refunding of all transient guest tax overpayments. Said fund shall be maintained by the secretary of revenue from the transient guest tax collections in an amount determined by the secretary of revenue as necessary to meet the current refunding requirements for the transient guest tax under this act but such amount shall not exceed five thousand dollars (\$5,000). History: L. 1977, ch. 93, § 5; April 2.

**12-16,101. Convention and tourism committee; appointment; terms; contracts and programs.**

The governing body of any city or county which levies a transient guest tax pursuant to this act may establish a convention and tourism committee to make recommendations concerning the programs and expenditures for promotion of conventions and tourism. If the governing body decides to appoint a convention and tourism committee, the board of county commissioners or city governing body shall appoint 10 members to such committee, a majority of which shall be representatives of businesses coming within the terms of this act. In appointing such members, the board of county commissioners or city governing body shall attempt to create a representative balance of large and small businesses and businesses from the various geographic areas of such county. The board of county commissioners or city governing body shall provide, by resolution, for the method of appointment and the length of the term of members. The length of term shall not exceed four years. The board of county commissioners or city governing body levying such tax shall have the authority to contract for convention and tourism programs to be implemented. History: L. 1977, ch. 93, § 6; L. 2001, ch. 135, § 2; July 1.