

## OHLA Fights for Online Travel Company Tax Parity

Legislation backed by OHLA (HB 571) and a coalition of local government groups and travel economy organizations had a hearing in the Ohio House Ways and Means Committee on June 5. The sponsor, Rep. Dave Greenspan (R-Westlake) testified on the need for the state to create tax parity between hotels and other entities which sell identical accommodations for the exact same price.

Key excerpts from Rep. Greenspan's official testimony:

- A tax disparity exists in Ohio between different entities that sell an identical product for an identical price. This disparity robs the State of Ohio and local jurisdictions of essential revenue, deprives our community convention and visitors bureaus of a part of their lifeline and resources needed for business-creating activities, and most importantly, uses Ohio's public policy as a means to pick winners and losers and provide unfair advantages in a vital sector of our economy.
- HB 571 was introduced with the intent and effect of the clarifying the Ohio Revised Code to create a level economic playing field and to codify the obvious -- that taxing jurisdictions did not intend to provide out-of-state online travel companies with an economic advantage over lodging facilities with respect to taxation. Rather, OTCs must operate like any other seller of goods, and collect and remit sales tax on the sales price of their goods paid by the consumer, and not the amount akin to a wholesale price.
- To forestall these legislative efforts, opponents have argued that the clarifying legislation amounts to a tax increase. This argument is without merit. The room guest bears the economic burden of the occupancy tax. OTCs are only responsible for collecting and remitting the proper amount of tax. Since the occupancy tax is borne by the guest, and the guest will not be obligated to pay more as a result of the clarifying legislation, how could the legislation be viewed as a tax increase? Secondly, the legislation makes no reference to changing existing tax rates.
- The enactment of any clarifying legislation will not legally obligate room guests to pay a higher room rate, nor should it have the practical effect of causing room guests to pay more for a room stay. This so-called "increase cost of family vacation" argument is essentially a political tactic. At the end of the day, the customer will pay the same amount.
- Most recently, the Colorado Supreme Court ruled that OTCs owed millions in hotel room taxes. On April 24, 2017, the court stated online booking companies failed to remit the right amount of lodging tax, because they sell hotel rooms to consumers: "Although the OTCs maintain that even in merchant-model transactions they do not sell, or furnish for consideration, a right to occupy or use the hotel rooms in question, no matter what terminology they may choose to use in describing their transactions, as a functional matter that is precisely what they do."

- When consumers make other purchases on any other product in Ohio, they expect to pay, and have vendors remit, tax on the retail rate. All of Ohio's hotel businesses follow this simple principle. It is time to end the tax avoidance that the out-of-state online travel companies profess to practicing in their own internal memoranda. There is too much at stake for the state, and most importantly for our local communities, to allow this to continue any longer.

Representative Greenspan spotlighted the support for HB 571 from a coalition including local governments (county, municipal and townships), local community convention and visitors bureaus, travel economy associations and other industry partners.

The next action anticipated on online travel company tax parity is the opportunity for proponent testimony in favor of the bill. While the House of Representatives is expected to break for summer recess prior to the July 4 holiday, Ohio's legislature will be in session until December.

## **Cleveland Pushes for Massive Shuttle Fee on Hotels**

OHLA members and leaders attended a meeting of the Cleveland City Council Transportation Committee on May 30 in Cleveland City Hall to represent hotel operator concerns about a proposed massive fee increase for shuttle vehicle trips to Cleveland Hopkins Airport.

The change to a \$4 per-trip fee could cost some hotels that had paid less than \$2,000 a year under the current model as much as \$50,000 a year or more under the new scheme. OHLA's Greater Cleveland Lodging Council is working with other affected ground transportation providers to demonstrate the negative impacts and propose alternatives. As a result, the proposal has been moved back to 2019 to allow more time for discussion and input.

OHLA gathered opposition from more 30 different hotels, owners, management companies and operators for a joint letter to the Mayor, Airport Director, and City Council. The letter pointed out key pitfalls in the proposal, including that the proposal for the Per Trip User Fee presents significant challenges to our businesses that have not been discussed or addressed:

- **Proposed implementation mid-year does not allow hotels to budget and prepare for a massive new expense**
- **The plan to implement 100 percent of the increase overnight will not be sustainable for some operators**
- **The fee is higher than that at airports serving Ohio's other major markets**
- **The overall increase for some hotels will be impossible to meet, with increases in some cases greater than 3000% and annual costs in excess of \$50,000 or more**

If implemented as proposed, the fee plan will cause some hotels to curtail or even eliminate shuttle service, negatively impacting travelers and aircrews, and leading to even more congestion at the airport with less-efficient individual vehicle alternatives.

OHLA asked city officials to include impacted ground transportation partners in this discussion and allow adequate time for consideration of alternatives, including:

- A reasonable implementation timeline starting Jan. 1 to allow impacted companies time to budget for increase
- Phase-in of the increase to help mitigate negative impacts of a large increase in operating costs
- Determination of an appropriate fee based on full analysis of needs at CLE and levels of similar fees at other airports to, avoid competitive disadvantage for Cleveland businesses and employers

- The possibility of a separate drop-off in a non-fee area, or exemption from the fee, for shuttle trips of airline crews staying at impacted hotels

## Need for Short-term Rental Oversight Recognized by Largest Cities

OHLA is actively working with City Council members in Columbus and Cincinnati on separate legislative proposals in each of those cities.

Columbus City Council recently held a public hearing to gather input from impacted hosts, neighbors and others. OHLA provided formal comments at the event reinforcing the need for the city to guard against the trend of illegal hotels which use short term online rental platforms to avoid oversight and the need to hold the rental platforms accountable for meeting obligations to the community, including fair application of the taxes to these businesses.

From OHLA's comments before Columbus City Council on May 29:

- Our industry believes that when it comes to providing great experiences for visitors to our community, more choices are a good thing – but they need to be good choices. This principle guides us in advocating for reasonable oversight of short-term rental businesses.
- Our goals are simple: guest health and safety come first; a level playing field in oversight, regulation, and taxation is necessary; and steps should be taken to ensure there are no negative impacts on neighbors and neighborhoods.
- It is important to recognize the aspects of the short-term rental market which, left unregulated, can produce unintended and damaging impacts. Data shows that a growing portion of business for the largest rental platforms is made up of full-time, non-owner-occupied commercial operators. This type of rental has been shown to change the fabric of neighborhoods, limit affordable housing options for permanent residents, and increase demand for public services.
- In worst-case scenarios, some operators attempt to avoid scrutiny and regulation by operating illegal hotels, by listing multiple rooms in a building as individual short-term rental units. Avoiding critical fire safety, health, accessibility, and other regulations is good neither for visitors, nor Columbus' reputation as a destination of choice. This legislation contains important tools to effectively prohibit and prevent illegal hotels -- one of the most important aspects of oversight.
- The legislation extends some simple oversight provisions to short-term rentals that already govern other lodging businesses, including registration, liability protections, reporting of data to the city, the ability for the city to inspect when necessary, and provisions to combat trafficking, drugs, and other illegal activity.
- In moving legislation forward, we must also ensure that it holds the rental platforms accountable for being a responsible partner and meeting obligations to the community, while contributing to the local economy in the same way as other businesses. This includes fair application of the taxes paid by other lodging providers to these online platforms and ensuring the platforms don't facilitate illegal rentals.

Columbus City Council will hold additional public meetings and continue deliberations on the proposed short-term rental ordinance, with a goal of enacting new regulations this year.