

By Mr. Doran of Lexington, petition of Stephen W. Doran relative to regulating the taxation of bed and breakfast establishments. Taxation.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Seven.

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AN ACT REGULATING THE TAXATION OF BED AND BREAKFAST ESTABLISHMENTS.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 1 of chapter 64G of the General Laws,  
2 as appearing in the 1984 Official Edition, is hereby amended by  
3 striking out section one and inserting in place thereof the following  
4 section: —

5 Section 1. When used in this chapter the following words shall,  
6 unless the context otherwise requires, have the following  
7 meaning: —

8 (a) "Bed and breakfast establishment", a private owner-  
9 occupied house where three or more rooms are let and a breakfast  
10 is included in the rent, and all accommodations are reserved in  
11 advance.

12 (b) "Bed and breakfast home", a private owner-occupied house  
13 where two or fewer rooms are let and a breakfast is included in  
14 the rent, and all accommodations are reserved in advance.

15 (c) "Hotel", any building used for the feeding and lodging of  
16 guests, licensed or required to be licensed under the provisions  
17 of section six of chapter one hundred and forty.

18 (d) "Lodging house", a house where lodgings are let to four or  
19 more persons not within the second degree of kindred to the  
20 person conducting it, licensed or required to be licensed under  
21 section twenty-three of chapter one hundred and forty.

22 (e) "Motel", any building or portion of a building, other than  
23 a hotel or lodging house, in which persons are lodged for hire with

24 or without meals and which is licensed or required to be licensed  
25 under the provisions of section thirty-two B of chapter one  
26 hundred and forty, or is a private club.

27 (f) "Operator", any person operating a bed and breakfast  
28 establishment, hotel, lodging house or motel in the common-  
29 wealth, including, but not limited to, the owner or proprietor of  
30 such premises, lessee, sublessee, mortgagee in possession, licensee  
31 or any other person otherwise operating such bed and breakfast  
32 establishment, hotel, lodging house or motel.

33 (g) "Occupancy", the use or possession, or the right to the use  
34 or possession, of any room or rooms in a bed and breakfast  
35 establishment, hotel, lodging house or motel designed and  
36 normally used for sleeping and living purposes, or the right to the  
37 use or possession of the furnishings or the services and  
38 accommodations, including breakfast in a bed and breakfast  
39 establishment, accompanying the use and possession of such room  
40 or rooms, for a period or ninety consecutive calendar days or less,  
41 regardless of whether such use and possession is as a lessee, tenant,  
42 guest or licensee.

43 (h) "Occupant", a person who, for a consideration, uses,  
44 possesses or has a right to use or possess any room or rooms in  
45 a bed and breakfast establishment, hotel, lodging house or motel  
46 under any lease, concession, permit, right of access, license or  
47 agreement.

48 (i) "Person", includes an individual, partnership, trust or  
49 association, with or without transferable shares, joint-stock  
50 company, corporation, society, club, organization, institution,  
51 estate, receiver, trustee, assignee, or referee, and any other person  
52 acting in a fiduciary or representative capacity, whether appointed  
53 by a court or otherwise, or any combination of individuals acting  
54 as a unit.

55 (j) "Rent", the consideration received for occupancy valued in  
56 money, whether received in money or otherwise, including all  
57 receipts, cash, credits and property or services of any kind or  
58 nature, and also any amount for which credit is allowed by the  
59 operator to the occupant, without any deduction therefrom  
60 whatsoever.

1 SECTION 2. Section 2 of said chapter 64G, as so appearing,

2 is hereby amended by striking out, in line 7, the word “and” and  
3 inserting at the end of line 8, the following words: — ; and (f)  
4 a bed and breakfast home.

1 SECTION 3. Section 3 of said chapter 64G, as so appearing,  
2 is hereby amended by striking out the first sentence and inserting  
3 in place thereof the following sentence: — An excise is hereby  
4 imposed upon the transfer of occupancy of any room or rooms  
5 in a bed and breakfast establishment, hotel, lodging house, or  
6 motel in this commonwealth by any operator at the rate of five  
7 per cent of the total amount of rent for each such occupancy.

1 SECTION 4. Section 3A of said chapter 64G, as most recently  
2 amended by chapter 423 of the acts of 1986, is hereby further  
3 amended by striking out the first sentence and inserting in place  
4 thereof the following sentence: — Any city or town which accepts  
5 the provisions of this section shall be authorized to impose a local  
6 excise tax upon the transfer of occupancy of any room or rooms  
7 in a bed and breakfast establishment, hotel, lodging house or  
8 motel located within such city or town by any operator at a rate  
9 up to but not exceeding four per cent of the total amount of rent  
10 for each such occupancy.

1 SECTION 5. Said chapter 64G, as so appearing, is hereby  
2 further amended by striking out section 6 and inserting in place  
3 thereof the following section: —

4 Section 6. No person shall operate a bed and breakfast  
5 establishment, hotel, lodging house or motel in this common-  
6 wealth unless a certificate of registration has been issued to him  
7 in accordance with section sixty-seven of chapter sixty-two C.

1 SECTION 6. Paragraph (h) of section 6 of chapter 64H, as  
2 most recently amended by section 62 of chapter 488 of the acts  
3 of 1986, is hereby further amended by adding at the end of the  
4 third subparagraph, after the word “dollar”, the following  
5 words: — ; and provided, further, that a bed and breakfast  
6 establishment or bed and breakfast home, as defined in chapter  
7 sixty-four G, shall not be considered an eating establishment  
8 within the meaning of this chapter where the value of a breakfast

9 served is included in the rent subject to tax under said chapter  
10 sixty-four G.

1 SECTION 7. The provisions of chapter sixty-four G of the  
2 General Laws in effect prior to nineteen hundred and eighty-seven  
3 shall not apply to the transfer of room occupancies in a bed and  
4 breakfast home, as defined in section one of said chapter as  
5 amended by this act, made prior to January first, nineteen  
6 hundred and eighty-seven; provided, however, such provisions  
7 shall continue to apply if the excise imposed by said chapter was  
8 collected by such bed and breakfast home from the occupant.

1 SECTION 8. Sections one to six, inclusive, of this act shall  
2 take effect on January first, nineteen hundred and eighty-seven  
3 and shall apply to the transfer of room occupancies in bed and  
4 breakfast homes and establishments, as defined in section one of  
5 chapter sixty-four G of the General Laws, as amended by this act,  
6 made on or after said date.