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Lawmakers say online hotel brokers dodging occupancy tax

Keith M. Phaneuf

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Internet brokers who refer business to hotels and motels no longer would be spared from Connecticut's 15 percent occupancy tax under a new bill raised by a legislative panel.

And while Gov. Dannel P. Malloy's revenue commissioner and several legislators on the Finance, Revenue and Bonding Committee said the measure is about tax fairness, opponents warned it could be a thorn in Connecticut's tourism industry.

"It's not a new tax," Revenue Services Commissioner Kevin B. Sullivan testified before the committee Monday. "It's one, one would argue, that should have been paid by (Internet brokers) long ago."

According to the American Hotel and Lodging Association, about 10 percent of its members' business, on average, comes from these referral services like Expedia, Travelocity and the Norwalk-based Priceline.

Hotels that contract with these brokers receive a portion of the funds consumers pay online. This represents the hotel's share, plus the occupancy tax -- applied to that share.

For example, if a one-night hotel stay reserved and paid for through an online service cost the purchaser $200, the hotel might agree to accept $150, and also would receive another $22.50 to cover its occupancy tax -- on that $150 price.

That would leave $27.50 for the online broker to keep.

But Rep.Elissa T. Wright, D-Groton, a member of the Finance committee and one of the legislators spearheading the new bill, argues that from the consumer's point of view, the hotel room cost $200. So why isn't the tax applied to the entire fee imposed by the Internet broker when it is imposed on the hotel?

Wright, who lives in Connecticut's southeastern corner where most of the state's top tourism attractions are located, noted that lawmakers in New York have taken steps to close what they see as a loophole.

New York City passed a local measure in 2009 that both increased its hotel occupancy tax to 5.875 percent, and requires online brokers to collect and remit and levy back to the city. Expedia and Priceline challenged that ordinance, but lost before the New York Supreme Court.

And the legislature in Albany closed another loophole in 2010, requiring online travel brokers to collect and remit sales tax. This means a broker helping to arrange a hotel stay in New York City must charge the city's occupancy tax, a 4.5 percent municipal sales tax and a 4 percent state sales levy. That statute has not been subjected to a court challenge.

But Chris Soder, Priceline's president and chief executive officer, said online travel brokers are not comperable to hotel owners, and shouldn't be taxed as such.

"We do not buy blocks of hotel rooms and re-sell them," he said. "We run a website. We provide a service that allows hotels to market themselves to consumers around the world. ... And we add our own fee for providing the links between hotel and traveler."

Though legislative analysts haven't developed an estimate yet on any revenue gain the state might receive, Soder predicted it would be small compared to the damage the change would do to the state's tourism industry.

"Hotels use our services because we help them reach travelers that they would not otherwise have the money or resources to reach," he said, adding that his firm and other online brokers combined spent more than $2 billion globally on marketing in 2011. "This marketing muscle is particularly important to the independent hotels and B&Bs in Connecticut and elsewhere that depend on us as their primary -- and in many cases only -- online marketing tool. We believe that online travel companies like Priceline.com are Connecticut's biggest tourism cheerleaders."

Soder's arguments were echoed by the Internet Alliance and the Interactive Travel Services Association, two Washington, D.C.-based coalitions representing online travel intermediaries.

Levying the tax on these Internet brokers would drive up overall prices and ultimately reduce hotel use, argued Tammy Cota, executive director of the Internet Alliance. "Visitors are happy to -- and already do -- pay local taxes like everyone else," she wrote in testimony filed with the committee. "But when it is clear that they are being singled out unfairly with hotel taxes, ... they easily get turned off."

Some members of the Finance panel also questioned whether the legislation might stymie tourism growth.

"My concern is we might make ourselves less competitive economically at a time when we are trying to grow our tourism business," said Rep. Christopher Wright, D-Bristol.

But Rep. Edward Moukawsher, D-Groton, noted that if the online brokers are that vital to the hotel industry, the latter would not be supporting the bill.

"This different tax burden is neither fair nor justified," testified Chuck Moran, regional manager for The Waterford Hotel Group and legislative chairman of the Connecticut Lodging Association.

Hotel owners make capital investments, pay taxes within Connecticut and hire local residents, yet they are subject to the occupancy tax and online brokers are not, Moran noted.

Contrary to popular belief, he said, "consumers generally pay the same amount for a hotel room whether they book directly through the hotel or through an" online broker.

"The question is how money already being paid by the consumer gets divided," Moran added. "It can either be retained by (online) middlemen, or the government can collect what it is due in room occupancy taxes based on the actual retail rates consumers are paying for rooms."