

REFERENCE TITLE: vacation rentals; short-term rentals; enforcement

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1379

Introduced by
Senator Mesnard

AN ACT

AMENDING SECTIONS 9-500.39, 11-269.17, 42-1125.02 AND 42-5042, ARIZONA
REVISED STATUTES; RELATING TO VACATION RENTALS AND SHORT-TERM RENTALS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-500.39, Arizona Revised Statutes, is amended
3 to read:

4 9-500.39. Limits on regulation of vacation rentals and
5 short-term rentals; state preemption; definitions

6 A. A city or town may not prohibit vacation rentals or short-term
7 rentals.

8 B. A city or town may not restrict the use of or regulate vacation
9 rentals or short-term rentals based on their classification, use or
10 occupancy except as provided in this section. A city or town may regulate
11 vacation rentals or short-term rentals ~~for the following purposes~~ AS
12 FOLLOWS:

13 1. ~~Protecting~~ TO PROTECT the public's health and safety, including
14 rules and regulations related to fire and building codes, health and
15 sanitation, transportation or traffic control, solid or hazardous waste
16 and pollution control, and designation of an emergency point of contact,
17 if the city or town demonstrates that the rule or regulation is for the
18 primary purpose of protecting the public's health and safety.

19 2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~
20 ENFORCE ordinances, including ordinances related to noise, protection of
21 welfare, property maintenance and other nuisance issues, if the ordinance
22 is applied in the same manner as other property classified under sections
23 42-12003 and 42-12004.

24 3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation
25 rental or short-term rental for the purposes of housing sex offenders,
26 operating or maintaining a sober living home, selling illegal drugs,
27 liquor control or pornography, obscenity, nude or topless dancing and
28 other adult-oriented businesses.

29 4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or
30 short-term rental to provide the city or town with contact information for
31 the owner or the owner's designee who is responsible for responding to
32 complaints in a timely manner in person, over the phone or by email at any
33 time of day before offering for rent or renting the vacation rental or
34 short-term rental. THE CITY OR TOWN MAY IMPOSE A CIVIL PENALTY OF UP TO
35 \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE
36 CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE CITY OR TOWN
37 SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL
38 CIVIL PENALTY.

39 5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE
40 VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE
41 THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL
42 ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE
43 THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

44 6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL
45 TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL

1 OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO
2 ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A
3 HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

4 C. Within thirty days after a verified violation, a city or town
5 shall notify the department of revenue and the owner of the vacation
6 rental or short-term rental of the verified violation of the city's or
7 town's applicable laws, regulations or ordinances and, if the owner of the
8 vacation rental or short-term rental received the verified violation,
9 whether the city or town imposed a civil penalty on the owner of the
10 vacation rental or short-term rental and the amount of the civil penalty,
11 if assessed. If multiple verified violations arise out of the same
12 response to an incident at a vacation rental or short-term rental, those
13 verified violations are considered one verified violation for the purpose
14 of assessing civil penalties pursuant to section 42-1125.02, subsection B.
15 NOTWITHSTANDING ANY OTHER LAW, A CITY OR TOWN MAY IMPOSE A CIVIL PENALTY
16 AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN
17 AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS
18 ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED
19 VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING
20 ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE
21 SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR
22 THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE
23 FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED BY THE SAME
24 VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME TWELVE-MONTH
25 PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING AS PROVIDED
26 IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION PRIVILEGE TAX
27 LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT HAS
28 THREE VERIFIED VIOLATIONS WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO
29 SECTION 42-5042.

30 D. If the owner of a vacation rental or short-term rental has
31 provided contact information to a city or town pursuant to subsection B,
32 paragraph 4 of this section and if the city or town issues a citation for
33 a violation of the city's or town's applicable laws, regulations or
34 ordinances or a state law that occurred on the owner's vacation rental or
35 short-term rental property, the city or town shall make a reasonable
36 attempt to notify the owner or the owner's designee of the citation within
37 seven business days after the citation is issued using the contact
38 information provided pursuant to subsection B, paragraph 4 of this
39 section. If the owner of a vacation rental or short-term rental has not
40 provided contact information pursuant to subsection B, paragraph 4 of this
41 section, the city or town is not required to provide such notice.

42 E. This section does not exempt an owner of a residential rental
43 property, as defined in section 33-1901, from maintaining with the
44 assessor of the county in which the property is located information
45 required under title 33, chapter 17, article 1.

F. A vacation rental or short-term rental may not be used for nonresidential uses, including for a special event that would otherwise require a permit or license pursuant to a city or town ordinance or a state law or rule or for a retail, restaurant, banquet space or other similar use.

G. For the purposes of this section:

1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN SECTION 42-5076.

~~3.~~ 3. "Transient" has the same meaning prescribed in section 42-5070.

~~4.~~ 4. "Vacation rental" or "short-term rental":

(a) Means any individually or collectively owned single-family or one-to-four-family house or dwelling unit or any unit or group of units in a condominium, cooperative or timeshare, that is also a transient public lodging establishment or owner-occupied residential home offered for transient use if the accommodations are not classified for property taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 2. Section 11-269.17, Arizona Revised Statutes, is amended to read:

11-269.17. Limits on regulation of vacation rentals and short-term rentals; state preemption; definitions

A. A county may not prohibit vacation rentals or short-term rentals.

B. A county may not restrict the use of or regulate vacation rentals or short-term rentals based on their classification, use or occupancy except as provided in this section. A county may regulate vacation rentals or short-term rentals ~~for the following purposes~~ AS FOLLOWS:

1. ~~Protecting~~ TO PROTECT the public's health and safety, including rules and regulations related to fire and building codes, health and sanitation, transportation or traffic control, solid or hazardous waste and pollution control, and designation of an emergency point of contact, if the county demonstrates that the rule or regulation is for the primary purpose of protecting the public's health and safety.

2. ~~Adopting~~ TO ADOPT and ~~enforcing residential use and zoning~~ ENFORCE ordinances, including ordinances related to noise, protection of welfare, property maintenance and other nuisance issues, if the ordinance is applied in the same manner as other property classified under sections 42-12003 and 42-12004.

3. ~~Limiting~~ TO LIMIT or ~~prohibiting~~ PROHIBIT the use of a vacation rental or short-term rental for the purposes of housing sex offenders, operating or maintaining a sober living home, selling illegal drugs, liquor control or pornography, obscenity, nude or topless dancing and other adult-oriented businesses.

4. ~~Requiring~~ TO REQUIRE the owner of a vacation rental or short-term rental to provide the county with contact information for the owner or the owner's designee who is responsible for responding to complaints in a timely manner in person, over the phone or by email at any time of day before offering for rent or renting the vacation rental or short-term rental. THE COUNTY MAY IMPOSE A CIVIL PENALTY OF UP TO \$1,000 AGAINST THE OWNER FOR EVERY THIRTY DAYS THE OWNER FAILS TO PROVIDE CONTACT INFORMATION AS PRESCRIBED BY THIS PARAGRAPH. THE COUNTY SHALL PROVIDE THIRTY DAYS' NOTICE TO THE OWNER BEFORE IMPOSING THE INITIAL CIVIL PENALTY.

5. TO RESTRICT THE MAXIMUM NUMBER OF ADULT OCCUPANTS ALLOWED IN THE VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY AT ANY ONE TIME TO NOT MORE THAN TWO ADULTS PER BEDROOM, UP TO FOUR BEDROOMS, PLUS TWO ADDITIONAL ADULTS PER ONE THOUSAND SQUARE FEET OF LIVABLE SPACE IN EXCESS OF THREE THOUSAND SQUARE FEET OF LIVABLE SPACE OF THE RESIDENCE.

6. TO REQUIRE THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL TO MAINTAIN LIABILITY INSURANCE APPROPRIATE TO COVER THE VACATION RENTAL OR SHORT-TERM RENTAL IN THE AGGREGATE OF NOT LESS THAN \$500,000 OR TO ADVERTISE AND OFFER EACH VACATION RENTAL OR SHORT-TERM RENTAL THROUGH A HOSTING PLATFORM THAT PROVIDES EQUAL OR GREATER COVERAGE.

C. Within thirty days after a verified violation, a county shall notify the department of revenue and the owner of the vacation rental or short-term rental of the verified violation of the county's applicable laws, regulations or ordinances and, if the property owner received the verified violation, whether the county imposed a civil penalty on the owner of the vacation rental or short-term rental and the amount of the civil penalty, if assessed. If multiple verified violations arise out of the same response to an incident at a vacation rental or short-term rental, those verified violations are considered one verified violation for the purpose of assessing civil penalties pursuant to section 42-1125.02, subsection B. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY IMPOSE A CIVIL PENALTY AGAINST THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL OF UP TO AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR THE FIRST VERIFIED VIOLATION, AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE

1 LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE FOR
2 THE SECOND VERIFIED VIOLATION AND AN AMOUNT EQUAL TO THREE NIGHTS' RENT
3 FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING
4 MARKETPLACE FOR THE THIRD AND ANY SUBSEQUENT VERIFIED VIOLATION RECEIVED
5 BY THE SAME VACATION RENTAL OR SHORT-TERM RENTAL PROPERTY WITHIN THE SAME
6 TWELVE-MONTH PERIOD. THE DEPARTMENT OF REVENUE AFTER NOTICE AND A HEARING
7 AS PROVIDED IN SECTION 42-5005, SUBSECTION N, MAY REVOKE THE TRANSACTION
8 PRIVILEGE TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM
9 RENTAL THAT HAS THREE VERIFIED VIOLATIONS PURSUANT TO SECTION 42-5042.

10 D. If the owner of a vacation rental or short-term rental has
11 provided contact information to a county pursuant to subsection B,
12 paragraph 4 of this section and if the county issues a citation for a
13 violation of the county's applicable laws, regulations or ordinances or a
14 state law that occurred on the owner's vacation rental or short-term
15 rental property, the county shall make a reasonable attempt to notify the
16 owner or the owner's designee of the citation within seven business days
17 after the citation is issued using the contact information provided
18 pursuant to subsection B, paragraph 4 of this section. If the owner of a
19 vacation rental or short-term rental has not provided contact information
20 pursuant to subsection B, paragraph 4 of this section, the county is not
21 required to provide such notice.

22 E. This section does not exempt an owner of a residential rental
23 property, as defined in section 33-1901, from maintaining with the
24 assessor of the county in which the property is located information
25 required under title 33, chapter 17, article 1.

26 F. A vacation rental or short-term rental may not be used for
27 nonresidential uses, including for a special event that would otherwise
28 require a permit or license pursuant to a county ordinance or a state law
29 or rule or for a retail, restaurant, banquet space or other similar use.

30 G. For the purposes of this section:

31 1. "LODGING ACCOMMODATION" HAS THE SAME MEANING PRESCRIBED IN
32 SECTION 42-5076.

33 2. "ONLINE LODGING MARKETPLACE" HAS THE SAME MEANING PRESCRIBED IN
34 SECTION 42-5076.

35 ~~1.~~ 3. "Transient" has the same meaning prescribed in section
36 42-5070.

37 ~~2.~~ 4. "Vacation rental" or "short-term rental":

38 (a) Means any individually or collectively owned single-family or
39 one-to-four-family house or dwelling unit or any unit or group of units in
40 a condominium, cooperative or timeshare, that is also a transient public
41 lodging establishment or owner-occupied residential home offered for
42 transient use if the accommodations are not classified for property
43 taxation under section 42-12001. ~~Vacation rental and short-term rental do~~

(b) DOES not include a unit that is used for any nonresidential use, including retail, restaurant, banquet space, event center or another similar use.

~~5.~~ 5. "Verified violation" means a finding of guilt or civil responsibility for violating any state law or local ordinance relating to a purpose prescribed in subsection B or F of this section that has been finally adjudicated.

Sec. 3. Section 42-1125.02, Arizona Revised Statutes, is amended to read:

42-1125.02. Civil penalties: online lodging operators: appeal; definitions

A. An online lodging operator that fails to comply with section 42-5042 shall pay the following civil penalty:

1. For a first offense, \$250.
2. For a second and any subsequent offense, \$1,000.

B. If an online lodging operator received a verified violation, the online lodging operator shall pay the following civil penalty:

1. For a first verified violation received for a property, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$500~~ AN AMOUNT EQUAL TO ONE NIGHT'S RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

2. For a second verified violation received on the same property within a twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~\$1,000~~ AN AMOUNT EQUAL TO TWO NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE.

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

3. For a third and any subsequent verified violation received on the same property within the same twelve-month period, either:

(a) If the city, town or county did not impose a civil penalty on the online lodging operator for the verified violation, ~~fifty percent of the gross monthly revenues of the lodging accommodation at which the violation occurred for the month in which the violation occurred or~~

~~\$1,500, whichever is greater~~ AN AMOUNT EQUAL TO THREE NIGHTS' RENT FOR THE LODGING ACCOMMODATION AS ADVERTISED ON AN ONLINE LODGING MARKETPLACE

(b) If the city, town or county imposed a civil penalty on the online lodging operator for the verified violation, the difference between the amount prescribed in subdivision (a) of this paragraph and the amount of the civil penalty the city, town or county imposed on the online lodging operator for the verified violation.

C. If the department imposes a civil penalty pursuant to subsection B, paragraph 1 of this section and the online lodging operator appeals the civil penalty, the hearing officer may waive or lower the civil penalty based on the online lodging operator's diligence in attempting to prohibit renters from violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances. In determining whether to waive or lower the civil penalty, the hearing officer shall consider both of the following:

1. Whether rules that prohibit activities violating state law or the city's, ~~or~~ town's OR COUNTY'S applicable laws, regulations or ordinances were included in the advertisement for the lodging accommodation, vacation rental or short-term rental.

2. Whether the rules described in paragraph 1 of this subsection were posted in a conspicuous location inside the lodging accommodation, vacation rental or short-term rental.

D. For the purposes of this section:

1. "Lodging accommodation" has the same meaning prescribed in section 42-5076.

2. "Online lodging marketplace" has the same meaning prescribed in section 42-5076.

3. "Online lodging operator" has the same meaning prescribed in section 42-5076 and includes an owner of a vacation rental or short-term rental that is not offered through an online lodging marketplace.

4. "Vacation rental" and "short-term rental" have the same meanings prescribed in section 9-500.39 or 11-269.17.

5. "Verified violation" has the same meaning prescribed in section 9-500.39 or 11-269.17.

Sec. 4. Section 42-5042, Arizona Revised Statutes, is amended to read:

42-5042. Online lodging operators; requirements; definitions

A. An online lodging operator may not offer for rent or rent a lodging accommodation without a current transaction privilege tax license. The online lodging operator shall list the transaction privilege tax license number on each advertisement for each lodging accommodation the online lodging operator maintains, including online lodging marketplace postings.

1 B. THE DEPARTMENT OF REVENUE MAY REVOKE THE TRANSACTION PRIVILEGE
2 TAX LICENSE OF THE OWNER OF A VACATION RENTAL OR SHORT-TERM RENTAL THAT
3 HAS THREE VERIFIED VIOLATIONS BY THE SAME VACATION RENTAL OR SHORT-TERM
4 RENTAL WITHIN THE SAME TWELVE-MONTH PERIOD PURSUANT TO SECTION 9-500.39 OR
5 11-269.17.

6 ~~B.~~ C. For the purposes of this section:

7 1. "Lodging accommodation" has the same meaning prescribed in
8 section 42-5076.

9 2. "Online lodging marketplace" has the same meaning prescribed in
10 section 42-5076.

11 3. "Online lodging operator" has the same meaning prescribed in
12 section 42-5076 and includes an owner of a vacation rental or short-term
13 rental, as defined in section 9-500.39 or 11-269.17, that is not offered
14 through an online lodging marketplace.

15 4. "VERIFIED VIOLATION" HAS THE SAME MEANING PRESCRIBED IN SECTION
16 9-500.39 OR 11-269.17.