HOUSE DOCKET, NO. 1106 FILED ON: 1/19/2011

HOUSE . . . . . No. 1693

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes and John Hart, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act relative to hotel rooms booked online.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Russell E. Holmes	*6th Suffolk*
Linda Dorcena Forry	*12th Suffolk*
Steven L. Levy	*4th Middlesex*

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HOUSE . . . . . No. 1693

By Representative Holmes of Boston and Senator Hart, a joint petition (accompanied by bill, House, No. 1693) of Russell E. Holmes, Linda Dorcena Forry and Steven L. Levy relative to the room occupancy excise tax for hotel rooms booked online. Revenue.

The Commonwealth of Massachusetts

An Act relative to hotel rooms booked online.

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

SECTION 1. Clause (h) of section 1 of chapter 64G of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking the words “a person”, in line 36, and inserting in place thereof with the following words:—

“the ultimate purchaser of any occupancy”

SECTION 2. Said section 1 of said chapter 64G of the General Laws, as so appearing, is hereby amended by adding the following definition:—

"Room reseller", any person or legal entity having any option, right, permission, license, or other authority from or through any operator to reserve, let or sell any room or rooms under the management, control, possession or ownership of any operator in any bed and breakfast establishment, bed and breakfast home, hotel, lodging house or motel, such that the occupancy or a reservation for such occupancy is arranged with the occupant, in whole or in part, by and through the efforts of said person or legal entity, whether or not final approval of such occupancy is left to the further decision, discretion or action of the operator.

SECTION 3. Said chapter 64G, as so appearing, is hereby further amended by inserting after section 4 the following section:—

Section 4A. (a) In any instance in which the transfer of occupancy of any room or rooms under the management, control, possession or ownership of any operator occurs, in whole or in part, as the result of any activity or arrangement by any room reseller, the amount of rent upon which the excise shall be calculated shall be the full amount of all considerations charged to and paid by the occupant to the room reseller or the operator or both the room reseller and the operator for the occupancy valued in money or otherwise as defined as rent in section 1. Any such room occupancy transaction as herein described shall be treated as a transfer by the operator

23 of such room or rooms such that the full consideration paid by the occupant for the occupancy
24 shall be the amount of rent upon which the excise shall be calculated, charged, collected,
25 reported and remitted to the commissioner.

26 (b) A room reseller that registers with the commissioner on such form and in such
27 manner as prescribed by him for the purposes stated herein may collect and remit to the
28 commissioner such amount of the total excise that is attributable to the amount of consideration
29 paid to it.

30 (c) In the instance of any transfer of occupancy that involves a room reseller that
31 has not registered under subsection (b), the operator shall obtain from the room reseller or from
32 the occupant such information that will permit it to timely and accurately calculate, charge and
33 collect the full and correct amount of the excise directly from the occupant and to timely and
34 accurately report and remit said excise to the commissioner in accordance with all applicable
35 provisions of this chapter. In the event that neither the room reseller nor the occupant reports
36 such information to the operator or, for any other reason, the operator does not include in any
37 return all components of consideration paid by an occupant in the measure of the rent upon
38 which the excise is calculated in such return, the commissioner may, using the best information
39 available to him, assess against the operator additional room occupancy excise such that the total
40 excise liability due from the operator for the period in question shall be based upon the total
41 consideration paid by each occupant to the room reseller or the operator or both room reseller
42 and operator for each occupancy in the period covered by the return.

43 (d) No room reseller shall collect, or hold itself out as a collector of, the excise
44 imposed under this chapter, unless it is registered for such purposes under subsection (b) or
45 licensed as an operator under this chapter.