

AN ACT

relating to the authority of certain counties to impose a hotel occupancy tax.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 352.002(a), Tax Code, as amended by Chapters 64, 637, 741, 1097, and 1108, Acts of the 78th Legislature, Regular Session, 2003, is reenacted and amended to read as follows:

(a) The commissioners courts of the following counties by the adoption of an order or resolution may impose a tax on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room that is in a hotel, costs \$2 or more each day, and is ordinarily used for sleeping:

(1) a county that has a population of more than 3.3 million;

(2) a county that has a population of 90,000 or more, borders the United Mexican States, and does not have three or more cities that each have a population of more than 17,500;

(3) a county in which there is no municipality;

(4) a county in which there is located an Indian reservation under the jurisdiction of the United States government;

(5) a county that has a population of 30,000 or less, that has no more than one municipality with a population of less than 2,500, and that borders two counties located wholly in the

1 Edwards Aquifer Authority established by Chapter 626, Acts of the  
2 73rd Legislature, Regular Session, 1993;

3 (6) a county that borders the Gulf of Mexico;

4 (7) a county that has a population of less than 5,000,  
5 that borders the United Mexican States, and in which there is  
6 located a major observatory;

7 (8) a county that has a population of 12,000 or less  
8 and borders the Toledo Bend Reservoir;

9 (9) a county that has a population of less than 12,000  
10 and an area of less than 275 square miles;

11 (10) a county that has a population of 30,000 or less  
12 and borders Possum Kingdom Lake;

13 (11) a county that borders the United Mexican States  
14 and has a population of more than 300,000 and less than 600,000;

15 (12) a county that has a population of 35,000 or more  
16 and borders or contains a portion of Lake Fork Reservoir;

17 (13) a county that borders the United Mexican States  
18 and in which there is located a national recreation area;

19 (14) a county that borders the United Mexican States  
20 and in which there is located a national park of more than 400,000  
21 acres;

22 (15) a county that has a population of 28,000 or less,  
23 that has no more than four municipalities, and that is located  
24 wholly in the Edwards Aquifer Authority established by Chapter 626,  
25 Acts of the 73rd Legislature, Regular Session, 1993;

26 (16) a county that has a population of 25,000 or less,  
27 whose territory is less than 750 square miles, and that has two

1 incorporated municipalities, each with a population of 800 or less,  
2 located on the Frio River; ~~and~~

3 (17) a county that has a population of 34,000 or more  
4 and borders Lake Buchanan; ~~+~~

5 (18) ~~[(17)]~~ a county that has a population of more  
6 than 45,000 and less than 75,000, that borders the United Mexican  
7 States, and that borders or contains a portion of Falcon Lake; ~~+~~

8 (19) ~~[(17)]~~ a county with a population of 21,000 or  
9 less that borders the Neches River and in which there is located a  
10 national preserve; ~~+~~

11 (20) ~~[(17)]~~ a county that has a population of 22,500  
12 or less and that borders or contains a portion of Lake Livingston;  
13 and

14 (21) a county that has a population of less than 22,000  
15 and in which the birthplace of a president of the United States is  
16 located.

17 SECTION 2. Section 352.002(d), Tax Code, as amended by  
18 Chapters 64, 1097, and 1108, Acts of the 78th Legislature, Regular  
19 Session, 2003, is reenacted and amended to read as follows:

20 (d) The tax imposed by a county authorized by Subsection  
21 (a)(4), (6), (8), (10), (11), (12), ~~or~~ (17), (19), (20), or (21)  
22 to impose the tax does not apply to a hotel located in a  
23 municipality that imposes a tax under Chapter 351 applicable to the  
24 hotel. This subsection does not apply to a county authorized by  
25 Subsection (a)(6) to impose the tax that:

26 (1) has a population of less than 40,000 and adjoins  
27 the most populous county in this state; or

1           (2) has a population of more than 200,000 and borders  
2 the Neches River.

3           SECTION 3. Section 352.002, Tax Code, is amended by adding  
4 Subsection (e) to read as follows:

5           (e) In addition to the prohibition provided by Subsection  
6 (d), the tax imposed by a county authorized by Subsection (a)(17) to  
7 impose the tax does not apply to a hotel located in the  
8 extraterritorial jurisdiction of a municipality that imposes a tax  
9 under Chapter 351 applicable to that hotel. If, after the date the  
10 county begins to impose a tax under this chapter, a municipality in  
11 the county adopts an ordinance under Section 351.0025 authorizing  
12 the imposition of the municipal tax in the municipality's  
13 extraterritorial jurisdiction, the county may not impose a tax  
14 applicable to a hotel located in that territory on or after the date  
15 the municipality begins to impose that tax.

16           SECTION 4. This Act takes effect immediately if it receives  
17 a vote of two-thirds of all the members elected to each house, as  
18 provided by Section 39, Article III, Texas Constitution. If this  
19 Act does not receive the vote necessary for immediate effect, this  
20 Act takes effect September 1, 2005.

David Swihart

President of the Senate

Jim Caddell

Speaker of the House

I certify that H.B. No. 214 was passed by the House on April 22, 2005, by the following vote: Yeas 141, Nays 0, 1 present, not voting; and that the House concurred in Senate amendments to H.B. No. 214 on May 19, 2005, by the following vote: Yeas 140, Nays 0, 2 present, not voting.

Robert Honey

Chief Clerk of the House

I certify that H.B. No. 214 was passed by the Senate, with amendments, on May 17, 2005, by the following vote: Yeas 31, Nays 0.

Datsy Spaw

Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

\_\_\_\_\_

Governor

FILED IN THE OFFICE OF THE  
SECRETARY OF STATE  
4:00 P.M. O'CLOCK

Roger Williams  
JUN 18 2005  
Secretary of State