



Legislation Text

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In December 2018, Columbus City Council passed Ordinance 3378-2018 which enacted Chapter 375 of the Columbus City Code in order to establish the Creation, Innovation, and Inclusion fund and an admissions tax on entrance to events within the city. This second piece of legislation will amend Chapter 375 of the Columbus City Code in order to strengthen the regulatory tax framework.

EMERGENCY ACTION: Emergency Action is being requested in order to amend the Columbus City Code Chapter 375 as it applies to tax periods beginning on or after January 1, 2020. The City must ensure the Columbus City Code is updated before that date.

To amend and enact various provisions of Chapter 375 of the Columbus City Code in order to strengthen the levying, collection, and allocation of admissions tax receipts; and to declare an emergency.

WHEREAS, the creative economy in Columbus serves as not only an integral component of economic development, but also a foundation for the city's profile as a vibrant, inclusive city; and

WHEREAS, in order to foster the next generation of artists, the city has a responsibility to invest in ways to open the doors of arts and culture for all residents; and

WHEREAS, the Creation, Innovation and Inclusion fund represents a commitment to the creative economy by dedicating significant funding for grants to artists, musicians, and performers, enabling them to explore their creativity; and

WHEREAS, the Creation, Innovation and Inclusion fund will further advance arts education and accessibility within our neighborhoods; and

WHEREAS, Chapter 375 of the Columbus City Codes regards the taxation of admissions to events and places within the city; and

WHEREAS, the City of Columbus, in promotion of its efforts to invest in the creative economy, finds it necessary to amend Chapter 375 which provides taxation regulations on admissions to events and places within the city; and

WHEREAS, an emergency exists in the usual daily operation of the City Auditor's Office in that it is necessary to provide for a January 1, 2020 effective date for the the amendments to Chapter 375 in order to apply those amendments to the tax periods beginning on or after that date; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

SECTION 1. That the City Auditor is hereby authorized to establish a special revenue fund titled "Creation, Innovation, and Inclusion Fund", Fund No. 2255.

SECTION 2. That Sections 375.01, 375.06, 375.07 and 375.13 of the Columbus City Codes are hereby amended to read as follows:

375.01 - Definitions.

- (a) "Admissions" means the charge levied by a vendor and paid by a person to gain entrance to any performance, place, or event in the city. Admissions includes, but is not limited to, charges for season tickets, ticket packages, movie theater tickets, memberships, subscriptions, golf course green fees, and cover charges, excepting those performances, places, and events which are exempted as provided in this chapter. Admissions applies only to the cost of entry and does not include service charges, handling fees, food and beverage costs, merchandise, or any charge levied for parking.
- (1) For the purposes of this definition and this chapter, the charge levied and paid for a "membership" or "subscription" shall equal the cost of a single admission ticket to a place multiplied by the number of persons to be admitted under the terms of the membership or subscription.
- (b) "Auditor" means the City Auditor or their designee.
- (c) "College or university" means any institution whose primary purpose is to provide post-secondary education or training for the purpose of conferring degrees, certifications, or any equivalency.
- (d) "Electronic marketplace" includes digital distribution services, digital distribution platforms, online portals, application stores, computer software applications, in-app purchase mechanisms, or other digital products.
- (e) "Marketplace facilitator" means a person that owns, operates, or controls a physical or electronic marketplace through which retail sales to purchasers of admission are facilitated on behalf of one or more marketplace sellers or resellers or an affiliate of such a person. "Marketplace facilitator" does not include a person that provides advertising services if the advertising service platform or forum does not engage directly or indirectly through one or more affiliated persons in the activities described in division (1)(B) of this section.
 - (1) A sale is "facilitated" by a marketplace facilitator on behalf of a marketplace seller if it satisfies divisions (e)(1)(A) and (B) of this division:
 - (A) The marketplace facilitator, directly or indirectly, does any of the following:
 - (i) Lists, makes available, or advertises the admissions that are the subject of the sale in a physical or electronic marketplace owned, operated, or controlled by the marketplace facilitator;
 - (ii) Transmits or otherwise communicates an offer or acceptance of the sale between the marketplace seller and the purchaser in a shop, store, booth, catalog, internet site, or other similar forum;
 - (iii) Owns, rents, licenses, makes available, or operates any electronic or physical infrastructure or any property, process, method, copyright, trademark, or patent that connects the marketplace seller to the purchaser for the purpose of making sales;
 - (iv) Provides the marketplace in which the sale was made or otherwise facilitates the sale regardless of ownership or control of the admissions that are the subject of the sale;
 - (v) Provides software development or research and development services directly related to a physical or electronic marketplace that is involved in one or more of the activities described in division (e)(1)(A) of this section;
 - (vi) Provides fulfillment services for the marketplace seller that are related to the admissions that are the subject of the sale;
 - (vii) Sets the price of the sale on behalf of the marketplace seller;
 - (viii) Provides or offers customer service to the marketplace seller or the marketplace seller's customers, or accepts or assists with taking orders, returns, or exchanges of the admissions that are the subject of the sale;
 - (ix) Brands or otherwise identifies the sale as a sale of the marketplace facilitator.
 - (B) The marketplace facilitator, directly or indirectly, does any of the following:
 - (i) Collects the price of the admissions sold to the consumer;
 - (ii) Provides payment processing services for the sale;
 - (iii) Collects payment in connection with the sale from the purchaser through terms and conditions,

agreements, or arrangements with a third party, and transmits that payment to the marketplace seller, regardless of whether the person collecting and transmitting such payment receives compensation or other consideration in exchange for the service;

(iv) Provides virtual currency that consumers are allowed or required to use to purchase the admissions that are the subject of the sale.

(f) "Marketplace seller" means a person on behalf of which a marketplace facilitator facilitates the sale of admissions.

~~(d)~~(g) "Nationwide Arena" means the structure located at 200 West Nationwide Boulevard within the city of Columbus and which currently bears the designation of Nationwide Arena.

~~(e)~~(h) "Person" means, but is not limited to, an individual, group, corporate entity, or other legally-defined entity.

~~(f)~~(i) "Place" means, but is not limited to, indoor and outdoor theaters, dance halls, amphitheaters, auditoriums, stadiums, movie theaters, athletic pavilions and fields, baseball and athletic parks, arenas, private clubs, conservatories, convention centers, festivals, carnivals, fairs, amusement parks and all other similar places located within the city of Columbus.

(1) For the purposes of this definition and this chapter, "movie theaters" refers to both single-screen and multi-screen complexes.

~~(g)~~(j) "Public or private primary educational institutions" means any institution that provides education to students in grades kindergarten through grade twelve.

~~(h)~~(k) "Vendor" means any entity making a sale or re-sale to a purchaser of admission or acting as a marketplace facilitator that facilitates a sale or re-sale of admission to a purchaser. A vendor may include, but is not limited to, an individual, a place, a reseller, broker, ~~or~~ a ticket sale and distribution company, or a marketplace facilitator.

375.06 - Liability.

(a) No person who pays to gain admission to any place or event in the city shall fail to pay and no person, ~~whether owner, lessee or operator, or vendor~~ who charges or causes to be charged admission to any place or event in the city shall fail to collect and remit the tax levied by this chapter, excepting those exemptions set forth in Section 375.09. If an owner or operator of a facility leases or rents such facility to another party who conducts an event in such facility, either the owner or operator or the party to whom the facility is leased may collect and remit the tax.

(b) The burden of proving that any transaction is not subject to the tax imposed by this chapter is upon the person upon whom the duty to collect the tax is imposed.

(c) A marketplace facilitator's rights and obligations are not affected by the amount of the price paid by the consumer that will accrue to or benefit the marketplace facilitator as compared to the marketplace seller for which the sale is facilitated. A marketplace seller that is required to collect and remit tax levied by this Chapter shall continue to do so for all sales other than those for which a marketplace facilitator collects and remits the tax levied by this Chapter.

375.07 - Collection and Remittance

(a) Each vendor shall on or before the twentieth day of each month make and file a return for the preceding month,

on forms prescribed by the Auditor, showing the receipts from admissions charged for events occurring within the period of the return, net of the amounts refunded for prior period admissions charged, the amount of tax due from the vendor to the City for the period covered by the return and such other information as the Auditor deems necessary for the proper administration of the tax. The return shall be signed by the vendor or an authorized agent thereof. Returns shall be filed by mailing, or, if available, via electronic submission as provided for by the division of income tax, same to the division of income tax: excise taxes, together with payment to the city treasurer in the amount of tax shown to be due thereon. Failure to timely file and pay shall result in the assessment of a penalty as set forth in Section 375.14~~13~~.

- (b) The Auditor may extend the time for making and filing returns. Additionally, the Auditor, if it is deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods.
- (c) The Auditor may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Auditor upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.
- (d) All returns shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

375.13 - Penalty

~~Whoever violates any section of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Upon subsequent conviction, such individual shall be deemed guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days or both in addition to any other penalties as imposed by this chapter.~~

Any person or vendor who fails to timely file and pay the tax levied under this chapter shall forfeit and pay to the city treasurer a penalty of ten percent (10%) of the tax owed. Should a person or vendor be imposed a penalty under the provisions of this chapter, such imposition shall carry a daily interest rate of one percent (1%) of the total penalty to be compounded and assessed each day the penalty is not paid to the City. Such interest rate stops accruing once all penalties and interest payments are remitted, collected, and deemed as satisfactory.

SECTION 3. That existing Sections 375.01, 375.06, 375.07 and 375.13 of the Columbus City Codes are hereby repealed.

SECTION 4. That new Section 375.15 of the Columbus City Codes is hereby enacted, reading as follows:

375.15 - Administration of Tax

(a) To defray the expenses incurred in the collection and administration of the tax, the auditor may retain one-half percent (0.5%) of the collected gross revenues from the admissions tax levied pursuant to section 375.02.

(b) The city auditor is hereby charged with the administration and enforcement of the provisions of this chapter and he is hereby empowered to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter.

(c) In any case where a person or vendor has failed to file a return or failed to pay the tax due on a return or has filed a return which does not show the proper amount of tax due, the city auditor may determine the amount of tax appearing to be due the City and shall send such person or vendor a written statement showing the amount of tax so determined, together with any interest and penalties.

SECTION 5. That for the reasons stated in the preamble hereto, which is hereby made a part hereof, this ordinance is hereby declared to be an emergency measure and shall go into effect and be in force from and after January 1, 2020.