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Hawaii’s 11% Climate ‘Green Fee’ TAT and the Ninth Circuit Cruise Injunction: Tonnage-Clause Limits, Wine-Country Caps, and 18.7% Island Stacks Across 163 Regimes

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Abstract. Analyzing Hawaii Act 96’s January 2026 climate surcharge alongside Pacific and wine-country permit caps across 163 enacted laws shows why land-lodging climate excises survive judicial review while prorated cruise-cabin taxes trigger federal Tonnage Clause injunctions. Empirical highlights: 18.71% Stack (Combined Hawaii land-lodging checkout burden in 2026 (11.0% State Green-Fee TAT + 3.0% County TAT + 4.712% GET)); Dec 31, 2025 (Ninth Circuit order enjoining Act 96’s prorated 11% TAT on cruise-ship fares (DoTAX Announcement No. 2026-01)); 163 Regimes (Enacted global and U.S. municipal visitor-levy and STR laws benchmarked in MTRI Dataset v14.0 (117 U.S. city previews)).

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18.71% Stack Combined Hawaii land-lodging checkout burden in 2026 (11.0% State Green-Fee TAT + 3.0% County TAT + 4.712% GET)	**Dec 31, 2025** Ninth Circuit order enjoining Act 96’s prorated 11% TAT on cruise-ship fares (DoTAX Announcement No. 2026-01)	**163 Regimes** Enacted global and U.S. municipal visitor-levy and STR laws benchmarked in MTRI Dataset v14.0 (117 U.S. city previews)

1. Act 96 in force: why Hawaii’s 11% land ‘Green Fee’ took effect while cruise collection stalled

On January 1, 2026, Hawaii implemented Act 96 (Session Laws of Hawaii 2025), raising the statewide Transient Accommodations Tax (TAT) by 0.75 percentage points—from 10.25 percent to 11.0 percent through December 31, 2030—to establish the United States’ first statutory climate-impact and wildfire-resiliency ‘Green Fee.’ Across Hawaii County (Big Island), Honolulu, Maui, and Kauai, where 3.0-percent county TAT surcharges and 4.712-percent General Excise Tax pass-throughs apply, overnight hotel and vacation-rental guests now pay an 18.712-percent statutory checkout stack.[1]

Yet Act 96’s companion provision extending the 11-percent TAT to prorated gross cruise-ship fares—calculated by the ratio of port days in Hawaii waters to total voyage days—was halted hours before taking effect. On December 31, 2025, the U.S. Court of Appeals for the Ninth Circuit enjoined enforcement against cruise vessels, prompting Hawaii Department of Taxation Announcement No. 2026-01 suspending cruise-fare TAT reporting.[2]

Table 1. Pacific, island, and California wine/coastal climate taxes, cruise rules, and STR caps across selected gateways (2026)

Jurisdiction	Enacted Tax Stack	Climate / Debt Split	Cruise / Maritime Rule	Residential STR Cap	Primary Statute
Hawaii County, HI	18.71% TAT + GET	+0.75% Act 96 Green	9th Cir. enjoined TAT	Bill 108 resort-only	Act 96 & Ord. 2018-114
Honolulu, HI	18.71% TAT + GET	+0.75% Act 96 + Rail	9th Cir. enjoined TAT	90-day min. (Ord 22-7)	HRS 237D & ROH 41-21
Anchorage, AK	12.0% Room Tax	4% Gen / 4% DMO / 4%	Land stay tax only	Platform operator tax	AMC Ch. 12.20
Juneau, AK	9% Hotel + $15–$18	Marine passenger fund	5-ship / 16k pax cap	CBJ registration	CLIA Settlement & CBJ
Napa, CA	14.0% (12% + 2% TID)	General + NVTID DMO	N/A (inland valley)	41 unhosted permit cap	NMC § 17.52.515
Santa Cruz, CA	12.0% Measure S TOT	General & housing	Coastal harbor berth	250 hosted permit cap	SCMC Ch. 24.12 Pt. 18
Encinitas, CA	10.0% City TOT	General & beach sand	Coastal bluff LCP	2.5% inland / 4% coast	EMC Ch. 9.38 & 3.12

2. Constitutional guardrails under the Tonnage Clause and 33 U.S.C. § 5(b)

Synthesizing all 20 empirical working papers and 163 enacted regimes in Version 14.0 of the Meridian Global Visitor Charges & Caps Dataset clarifies the bright constitutional line governing U.S. port and coastal jurisdictions. Under Article I, Section 10, Clause 3 of the U.S. Constitution (the Tonnage Clause) and the Rivers and Harbors Appropriation Act (33 U.S.C. § 5(b)), states and municipalities may not levy taxes on vessels or passengers merely for entering port, anchoring, or navigating federal waters unless proceeds exclusively fund direct, contemporaneous services rendered to those vessels and passengers.

Land-based hotel and short-term rental excises—such as Hawaii's 11-percent land TAT, Anchorage's 12-percent Room Tax (AMC Chapter 12.20), and Tacoma's 12.8-percent lodging plus $1.50 TPA stack—face zero Tonnage Clause exposure and enjoy broad state fiscal sovereignty. Conversely, maritime visitor charges survive federal litigation only when structured as strict port-infrastructure service fees or negotiated operator memorandums (such as Juneau's five-ship daily limit and 16,000 lower-berth passenger agreement).[3]

3. Pairing high-yield destination taxes with tight wine-country and coastal housing caps

Across California's wine and coastal corridors, municipalities increasingly pair 10-to-14-percent lodging and TBID stacks with surgical permit ceilings calibrated to local workforce housing supply. The City of Napa caps non-hosted vacation rentals at just 41 permits citywide alongside a 12-percent TOT and 2-percent Napa Valley TID; San Luis Obispo prohibits unhosted rentals entirely in favor of owner-occupied Homestays (13.5 percent combined stack); Santa Cruz caps hosted permits at 250 non-transferable licenses; and Encinitas enforces a Coastal Commission-certified 2.5-percent inland / 4.0-percent coastal housing-stock cap.[4]

State legislators and island/coastal finance officers designing 2027 climate-resilience or housing levies should anchor dedicated environmental tranches on land-based transient accommodations or disembarking point-of-entry landing fees tied to audited port-facility budgets rather than prorated ocean-voyage fares.

References

[1] Chaiwat Saechueng and Mukesh Thakur, Global Dataset of Enacted Visitor Levies, Cruise Berth Caps, Timed-Entry Quotas, and Short-Term Rental Laws (2026 Edition — 163 Jurisdictions), v14.0, Meridian Tourism Research Institute / Harvard Dataverse, https://doi.org/10.7910/DVN/YAQLA1.

[2] Hawaii Act 96, Session Laws of Hawaii 2025 (amending HRS Ch. 237D to 11.0% State TAT effective Jan. 1, 2026); Hawaii Department of Taxation Announcement No. 2026-01 (suspending cruise-fare TAT enforcement following Dec. 31, 2025 Ninth Circuit injunction).

[3] U.S. Const. art. I, § 10, cl. 3; 33 U.S.C. § 5(b); Cruise Lines International Association Alaska v. City and Borough of Juneau; Anchorage Municipal Code Ch. 12.20 (12% Room Tax); Tacoma Municipal Code Ch. 6B.20.

[4] Napa Municipal Code § 17.52.515 (41 unhosted cap) & Ch. 3.20; San Luis Obispo Municipal Code Ch. 17.86.150 (Homestay Only); Santa Cruz Municipal Code Ch. 24.12, Part 18 (250 cap); Encinitas Municipal Code Ch. 9.38 (2.5%/4.0% cap).

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