



NetChoice

CompTIA **INTERNET**
COALITION

March 7, 2017

The Honorable Chuck Hufstetler
Chairman, Senate Finance Committee
121-C State Capitol
Atlanta, GA 30334

The Honorable Hunter Hill
Chairman, Subcommittee on Sales Tax
421-B State Capitol
Atlanta, GA 30334

RE: Opposition to HB 225, Ride Share Networks; Licensing and Sales Tax Exemption

Dear Members of the Sales Tax Subcommittee:

The undersigned associations represent hundreds of the country's leading technology companies in high-tech manufacturing, computer networking, information technology, clean energy, life sciences, internet media, ecommerce education, and sharing economy sectors. Our member companies are committed to advancing public policies and private sector initiatives that make the U.S. the most innovative country in the world.

We have a number of significant concerns with HB 225 which will be heard in your committee on Wednesday, March 8. The proposal would require remote sellers without any presence in the state to collect and remit sales taxes to Georgia tax authorities. We are extremely concerned about the implications this policy would have on small and large businesses— in the state as well as the negative precedent it would set for online commerce nationally.

The bill is constitutionally suspect and will likely be the subject of protracted legal challenges while purportedly generating revenues that are speculative at best. Further, the proposed nexus provision creates a messy and perplexing new layer of bureaucracy and liability for small businesses that may unknowingly be required to comply with the collection of sales/use taxes.

The proposed language also requires online marketplaces to collect and remit Georgia sales tax on behalf of its retailers who are not already registered with the state for any interaction involving Georgia buyers, even when the seller has no connection with Georgia. Furthermore, the language would also subject online marketplaces to audits for such activity. This represents an **unprecedented** attempt to circumvent the Commerce Clause of the United States Constitution by unlawfully shifting the sales tax collection obligation to a party other than the seller or the buyer. Other states have made similar failed attempts to get around federal law and United States Supreme Court precedent. Each of these schemes led to expensive and

protracted litigation. In fact, it took five years before the U.S. Supreme Court issued its decision on whether or not the Tax Injunction Act barred the case from being brought in federal court in *Direct Marketing Assoc. v. Colorado Dep't of Rev.*

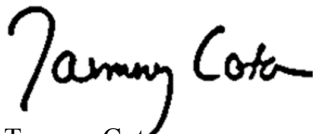
It is certain that a number of impacted businesses will litigate numerous portions of the proposed plan. It would be unwise to rely on obtaining any immediate revenue from this speculative tax that could take years for the state to see any revenue from.

Further, the proposed language creates confusion and uncertainty for individuals and businesses as to whether or not they have engaged in a practice that would trigger the collection requirement. The language leaves small businesses open to a number of new liabilities based on practices employed by nearly all websites and internet media, including the use of information or software on a user's computer. This means that the state of Georgia will simply be choosing at-will winners and losers, creating uncertainty for businesses of all sizes.

If HB 225 were to pass, other states would look to enact similar legislation, creating a piecemeal tax approach that would allow other states and local jurisdictions to require Georgia businesses to collect and pay sales taxes for doing basic internet marketing activities. The bill sets a dangerous precedent that could negatively impact businesses everywhere, regardless of size or location.

HB 225 sets a tone of overly-broad taxation that threatens small businesses outside the state and ultimately those in Georgia as well as other states' tax authorities will follow suit. For these reasons, we respectfully urge you to reject HB 225.

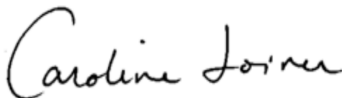
Thank you for your consideration.



Tammy Cota
Executive Director
Internet Coalition



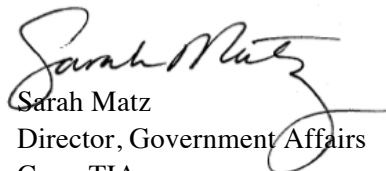
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