

**NetChoice** *Promoting Convenience, Choice, and Commerce on The Net*

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Rep. David R Millard, Chair  
Tourism and Recreational Development  
Pennsylvania House of Representatives Senate

RE: **Opposition to HB 1810 – Limited Residential Lodging**

Dear Chairman Millard and members of the committee,

We ask that you not move forward with HB 1810.

This bill would:

- impose unworkable state-level requirements on Short-term rental (STR) platforms in Pennsylvania,
- force disclosure of private information of Pennsylvania residents to potentially every state employee, and
- be so broad it would capture advertisements on Post-Gazette.com and other sites.

We do, however, agree with reasonable requirements for STR hosts and regularly advocate for such requirements.

#### *Benefits to your constituents of short-term rentals*

STR services provide necessary income to many of your constituents. Over 52 percent of hosts nationwide live in low-to-moderate income households. More than 48 percent of the income hosts earn through certain short-term rental services is used to cover household expenses.

Consider, for example, families coming from across the country for graduation ceremonies at Penn State University. STR services allow constituents to earn income by sharing their homes.

The presence of STR services also brings new money into areas underserved by hotels as travelers are not likely to encounter businesses in areas under-served by hotels. Conversely, guests who stay in districts via STR services bring income to these districts as they visit restaurants, grocery stores, and businesses in these areas.

#### *Big hotel chains benefit most from HB 1810 passage*

Big hotel chains are backing HB 1810 for entirely selfish reasons. Big hotel chains see STRs as a threat to their business model – however, it's not for the reasons you may think.

Presently, the hotel industry enjoys record setting occupancy and pricing. However, the presence of STR services is seen by some in the hotel industry as forcing hotels to keep prices at reasonable levels. For instance,

LaSalle Hotel Properties's CEO told investors that a law curtailing short-term rental services would allow hotels to boost their prices by eliminating competition.<sup>1</sup>

Lower hotel room prices mean that visitors to Pennsylvania have more money to spend with Pennsylvania businesses. Likewise, when your constituents travel, STR services help them find more reasonably priced accommodations.

#### *HB 1810 imposes these requirements and liability on newspapers like Post-Gazette.com*

We are sure that the Committee would think it absurd to hold *newspapers* responsible for what customers write in their classified listings. But that is precisely what HB 1810 would require of classified sections of newspapers, bulletin boards in universities, and internet websites.

HB 1810 requires every business that advertises a room for a fee to comply with a litany of requirements – even if the advertiser is not a party to the rental transaction. Advertisements, of course, would include paid-for ads in the classified section of the local newspaper. Failure to comply with the onerous rules of HB 1810 would result in stiff penalties.

Much like the Classified ads listing in the Pittsburgh-Post, STR hosting platforms are just that, platforms for hosts to list their STR availability.

It would be absurd to impose HB 1810's requirements on the Post's classified section and we ask that you not do so for STR services.

#### *HB 1810 would undermine a key benefit of the internet and would likely be unconstitutional*

The internet is an open resource that enables people from all parts of Pennsylvania to freely communicate with one another and pursue their goals. While some nations discourage user-generated content, the United States created a fertile ground for business models that have transformed the world.

Moreover, this openness is bolstered by Section 230 of the federal Communications Decency Act, which says platforms can't be held strictly liable for content posted *by others*.

However, HB 1810 fails to recognize Section 230. This not only threatens a core tenet of the internet but is at odds with federal law – resulting in the likely injunction of the HB 1810.

#### *HB 1810 exposes the privacy of Pennsylvania residents and short-term rental guests to potentially all state employees*

The 4<sup>th</sup> Amendment of the US Constitution protects Pennsylvania citizens from unlawful search and seizure is a core privacy protection.

Unfortunately, HB 1810 ignores this privacy protection and instead requires platforms to disclose records and information about hosts and guests to state employees. And this disclosure does not require the state's employees to first obtain a warrant.

Moreover, HB 1810 gives the Department of Revenue broad authority to determine what information must be disclosed. This could include tax ID numbers, names and hometowns of guests, etc.

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<sup>1</sup> Gaby Del Valle, *Hotel CEO: New Airbnb Regulations Should Allow A 'Big Boost' In Hotel Room Rates*, Gothamist (Oct. 27, 2016) (Passage of a law limiting short-term rental services "should be a big boost in the arm for the business, certainly in terms of the pricing.")

This not only exposes the operating procedures and income of businesses but could also expose the privacy of Pennsylvania residents using the platform and people staying in Pennsylvania homes.

The hotel industry has successfully defeated in court disclosure mandates like HB 1810. When the city of Los Angeles demanded that a hotels proprietary business records, the hotel industry fought back in court – ultimately winning at the US Supreme Court (*see In re Patel*, 576 U. S. \_\_\_\_ (2015)). To protect this court ruling, we could see the hotel industry opposing HB 1810. And if HB 1810 is passed, Pennsylvania would likely see a similar court outcome.

Legal arguments aside, HB 1810 grants virtually any Pennsylvania public employee access to private information of Pennsylvania residents. As you can imagine, this provides an easily abused resource of information about your constituents and guests staying in the state.

Rather than advance HB 1810, which imposes all these burdens and unintended consequences, we instead encourage you to look to reasonable regulations that have proven beneficial in other jurisdictions.

We've seen high compliance rates when localities create reasonable registration and regulation for STRs.

A thoughtful approach to home-sharing by creating a registration process would benefit all Pennsylvania residents.

We welcome the opportunity to work with you on reasonable regulations that allow all to prosper.

Sincerely,

Carl Szabo

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*NetChoice is a trade association of e-Commerce and online businesses.* [www.netchoice.org](http://www.netchoice.org)