

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

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Rep. Edgar Flores, Chair
Assembly Government Affairs Committee
101 N Carson St
Carson City, NV 89701

RE: **Opposition to AB 321 - Requires a hosting platform to make certain reports to a county or city**

Dear Chairman Flores and the Government Affairs Committee,

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 AB 321 would require of classified sections of newspapers, bulletin boards in universities, and internet websites.

AB 321 requires every business that advertises a short-term rental to report proprietary business information to the city or county. Advertisements, of course, would include paid-for ads in the classified section of the local newspaper. Failure to make the report could result in stiff penalties.

The state has never imposed these responsibilities and penalties on newspapers for their classified ads, or for coffee shops that charge customers to post rental offers on their bulletin boards. This not only exposes the operating procedures and income of businesses, but could also expose the privacy of Nevada residents using the platform.

The hotel industry has successfully defeated in court disclosure mandates like AB 321. When the city of Los Angeles demanded that a hotel's 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 AB 321. And if AB 321 is passed, Nevada would likely see a similar court outcome.

The internet is an open platform that enables people from all parts of Nevada to participate and say whatever they want.

While some nations discourage user-generated content, the United States created fertile ground for business models that have transformed the world.

Moreover, this innovation is protected by Section 230 of the federal Communications Decency Act. Section 230 operates as the backbone for our favorite e-Commerce sites. Without Section 230 we might not have platforms like eBay, Kickstarter, Stubhub, HomeAway, or YouTube. Put simply, Section 230 says platforms can't be held strictly liable for content posted by others.

However, AB 321 ignores 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 AB 321.

Not only is AB 321 unconstitutional, they covertly seek to upend the STR economy in Nevada – a platform that enables state residents to use their homes to earn additional income.

Instead of moving forward with AB 321, we instead suggest that you follow Arizona and other states that are taking a reasonable approach to short-term rentals. Arizona successfully and proudly adopted legislation that creates registration requirements for hosts, opportunity for platforms to collect and remit taxes, state-wide standards, and local control for noise and other issues.

We ask that you not pass AB 321.

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

Sincerely,



Carl Szabo

Senior Policy Counsel, NetChoice

NetChoice is a trade association of e-Commerce and online businesses. www.netchoice.org