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Senator Tim Neville, Chair  
Senator Owen Hill, Vice Chair  
Senate Finance Committee  
Colorado General Assembly

April 3, 2017

**RE: Support for SB 17-238, Notifications Regarding Online Purchases**

Dear Chairman Neville, Vice Chair Hill, and members of the committee:

We strongly recommend you approve SB 17-238 when it comes before you on April 4, for three reasons:

- SB 17-238 would repeal serious privacy problems inherent in a law passed in 2010 and set to take effect later this year.
- Repeal the law's privacy problems now –*before Coloradans realize the state is collecting personal data that polling shows they overwhelmingly see as an invasion of privacy.*
- Repeal the present law's privacy problems now – *before other states adopt similar laws to assault Colorado businesses that sell online.*

***SB 17-238 would repeal serious privacy problems inherent in a law passed in 2010 and set to take effect later this year.***

A Colorado law passed on 2010 has been blocked by court orders – until now. Over a century of federal doctrine holds that states cannot force out-of-state retailers to pay sales tax. But this new Colorado law requires out-of-state catalog and online retailers to either pay sales tax, or to disclose to state tax authorities personal information on Colorado shoppers' purchases, including:

- The name of the catalog or online store where the Colorado resident made purchases
- The name and address of the Colorado resident paying for the products or services
- The address of the Colorado resident receiving the products or services
- How much the Colorado resident spent during the prior year

In many cases, linking a particular retailer to a specific customer will reveal information on that Coloradan's health issues, political leanings, sexual orientation, personal tastes, and financial circumstances. [see examples at right]

And by collecting shipping addresses, the state government will learn when a Colorado citizen has their gift purchases delivered to a different address, revealing what could be personal and very private relationships.

The state will soon know what any Coloradan spends at websites or catalogs with names that include:

*Depression ... Alzheimer's*  
*Adult media ...LGBT ...Transgender*  
*Guns ... Ammunition*  
*Socialism ... Tea Party ... Right Wing*  
*Bankruptcy ... Divorce*

Moreover, the law has *no provision for protecting the confidentiality of the information* collected by the Department of Revenue, meaning it might be shared with other government agencies and used for purposes other than collection of Use Taxes.

***Repeal the law's privacy problems now – before Coloradans realize the state is collecting personal data that polling shows they overwhelmingly see as an invasion of privacy.***

An overwhelming majority of Coloradans say that forcing online and catalog businesses to report personal purchase information to state tax authorities is an invasion of privacy, per a 2017.<sup>1</sup>

Seventy-eight (78) percent of Coloradans said the state should not force businesses to turn over information on their internet purchases, including the retailer's name, the customer's name, the billing address, the shipping address, and the amount of purchases.

Sixty-seven (67) percent said the Colorado law violates their expectation of privacy from government intrusion into their online and catalog purchases. Eight-four (84) percent said that when making online purchases, their privacy is "very important" and another 14 percent said it is "somewhat important." Only 2 percent of Coloradans indicated privacy was not an important factor.

Two of three Coloradans said the state should not attempt to regulate online businesses located in other states and force them to report on their Colorado customers.

***Repeal the law's privacy problems now – before other states adopt similar laws to assault Colorado businesses that sell online.***

Today, Colorado businesses are only required to collect and remit taxes only for places where they have a physical presence. So they are not required to comply with 12,000 tax jurisdictions or face audits from 46 states. Nor are these Colorado businesses forced to disclose customer purchase data to states where they have no physical presence.

But the enforcement of Colorado's purchase reporting law would encourage *other* states to force Colorado businesses to comply with *their* reporting mandates.

Please consider the harms to your local Colorado businesses if New York and Illinois tax auditors come after them for purchase reporting on sales to out-of-state customers. This is an additional reason to support SB 17-238 and repeal the privacy problems inherent in Colorado's purchase reporting law.

Thank you for considering our views and please let me know if we can provide further information.

Sincerely,



Carl M. Szabo  
Senior Policy Counsel, NetChoice

**NetChoice** is trade association of leading e-commerce and online businesses, at [www.NetChoice.org](http://www.NetChoice.org)

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<sup>1</sup> (This January 2017 interactive survey of 500 Colorado residents was conducted by Morar Consulting, and has a margin of error of +/- 4%. Poll results are available at [NetChoice.org/COpoll](http://NetChoice.org/COpoll) )