

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

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The Honorable Chris Christie
Office of the Governor
State of New Jersey
P.O. Box 001
Trenton, NJ 08625

June 23, 2017

RE: **Veto request for AB 4587 – Expanding New Jersey Taxing Powers**

Dear Governor Christie,

We ask you to veto AB 4587 as it opens the gates for new taxes on short-term rental (STR) platforms and is likely to be found unconstitutional by courts.

Cities and states favor hotel taxes since they fall mostly on visitors – not on resident voters. While AB 4587 is currently limited to voluntary collection and remittance of taxes by STR platforms, it can quickly change from a voluntary action to a mandatory collection.

It should be noted that taxes are due on STR rentals. However, such taxes are the responsibility of the host, not the platform – AB 4587 blurs this distinction.

The internet is an open platform that enables people from all parts of New Jersey 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 4587 doesn't fully respect 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 4587.

This also raises concerns about violations with the Federal Internet Tax Freedom Act (ITFA) which forbids discriminatory taxes on online services. However, AB 4587 states:

“Transient space marketplace” means an *online marketplace* through which a person may offer transient accommodations or hotel rooms to individuals.

This is another way in which AB 4587 is likely unconstitutional.

We ask that you protect New Jersey residents from aggressive tax collectors and avoid enacting a facially unconstitutional law.

For these reasons, we ask that you veto AB 4587.

We appreciate your consideration of our views, and please let me know if I can provide further information.

Sincerely,

Carl Szabo
Senior Policy Counsel, NetChoice