

House Bill 1651

**Testimony from Jason Fink
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Good morning Chairman Kirkland and members of the House Tourism Committee. Thank you for the opportunity to speak with you today regarding HB 1651 which if enacted would amend the Tax Reform Code of 1971 as it pertains to taxes collected on hotel room rentals. In reviewing the proposed bill, it will now be expanded to encompass not only the hotel operators but also those intermediaries that book hotels, primarily internet-based service providers. The bill will also address the way in which the room base is taxed when purchased through the intermediary to now be based on the gross amount that the internet company sells the room at and not the net which is the rate after the third party fees are removed.

The issue that you are trying to address is one that many states have begun looking at as part of a whole host of issues related to internet sales and the taxation of such sales. Today you have as part of your speakers, representatives from two companies that will detail to you why you shouldn't tax their transactions and why in their view it will be detrimental to their way of doing business. They will be basically stating that if you do this, it will cut into their profits. As a representative of the private sector, I can appreciate their aversion to taxes. However, when brick-and-mortar businesses in Pennsylvania are

required to collect and remit a tax from their customers for the full price transaction on a lodging property, yet these companies are not, I have a difficult time seeing the fairness to our in-state businesses.

Other states have looked into this issue and it bears to point out to you today the possible ramifications should this tax be implemented. A recent story in USA Today delved into this subject about taxation of the margin that these third party internet service providers receive as payment for their work from on-line users. Eric should have provided to you in your packet a copy of this article that I am referring to.

In the story it cites that there are many places in the country that are embroiled in similar deliberations on taxing internet transactions related to hotel sales. It also cites examples of what occurs should a community be successful in implementing a tax. The best example that they provide is of Columbus, GA, which is the corporate home of Aflac Insurance and Fort Benning. The article cited how Columbus was basically removed from the hotel reservations world of Expedia, Travelocity and Orbitz. Their reason for non-existence was because of the requirement of these companies to pay a tax on the margin for their services to the local municipality.

Being curious, I went to the websites for all three companies and found that two of the three refer you to a neighboring community while another doesn't prompts the consumer to look for another Columbus in other states.

This same article cites another example that has recently become an issue in a Pennsylvania county that has followed the path of Columbus. Lawrence County has been expunged from the on-line internet reservations world due their decision to collect tax on the gross sales transactions of third-party internet hotel sales companies.

It must be pointed out that there is nothing illegal in the actions these companies have taken. They have the right in these circumstances to select where they want to do business.

The problem is that who loses in the end. Ultimately it is the consumer who loses in the end. Unless they are closely monitoring this type of action, they don't realize that in the circumstances of Lawrence County and Columbus, they could actually be staying in those communities if they were sourcing these rooms through another venue. It is unfortunate that these companies have taken such a nuclear option in this issue. They are enjoying all the profits that are a derivative of their selling a room in a given community, yet unlike the bricks-and-

mortar hotels they are selling, they remit no tax back to the host community or state where these transactions ultimately occur.

Fritz in his testimony has cited that there is a taskforce in place looking at this bill and the implications and outcomes. The outcomes are of great concern because should this bill be enacted in its current form, there is no protection for the lodging properties of Pennsylvania to keep them from being removed from the search engines of these major third party travel providers. This must be considered because should this be their course of action from this bill, it would severely impact the lodging industry.

In looking at the track record of Expedia, Travelocity, and Orbitz they have already shown that they will go to great lengths in doing what they think is in their own corporate best interest. The roaming gnome already can't find himself to one county in Pennsylvania. We need to be sure that whatever action is taken doesn't put us in a position that the gnome and his counterparts start saying there's only 49 states in our country.

In closing, I would like to thank the Chairman and this committee for their support of our industry. It is important for us to be working together with the legislature on items such as this. We need to ensure that whatever action is taken relative to HB 1651, that in the end we don't jeopardize our private sector

lodging partners. Personally in looking at the prior actions of the online third party hotel reservations industry, it would be good to continue in the manner that you currently are in learning all aspects of the issue. The current economic climate cannot afford us with a misstep that could hurt our state's lodging partners.