

TESTIMONY
Of Kate Murphy
Before the
Tourism & Recreational Development Committee
HB 1651
PENNSYLVANIA HOUSE OF REPRESENTATIVES
Monday, April 26, 2010

THANK YOU, MR. CHAIRMAN. MY NAME IS KATE MURPHY. I LIVE IN KING OF PRUSSIA AND I WORK AS THE PRESIDENT OF WINGS TRAVEL GROUP IN BLUE BELL, PENNSYLVANIA. WINGS TRAVEL HAS BEEN IN BUSINESS AS A TRAVEL AGENCY FOR 24 YEARS AND CURRENTLY EMPLOYS 28 FULL-TIME EMPLOYEES ACROSS THE NORTHEAST WITH 5 PENNSYLVANIA LOCATIONS. OUR BUSINESS IS TYPICAL OF WHAT MOST PEOPLE THINK OF AS A TRAVEL AGENCY: A LOCAL FAMILY BUSINESS WITH LONG-STANDING ROOTS IN THE COMMUNITY.

I AM SPEAKING TODAY IN OPPOSITION TO THE BILL HB 1651. YOU MAY WONDER WHY I AM DOING THIS SINCE THE PROPOSED EXTENSION OF THE HOTEL TAX IS NOT INTENDED TO DIRECTLY AFFECT THE COMMISSIONS OUR AGENCY EARNS FROM SELLING HOTEL ROOMS TO CONSUMERS. I ASSURE YOU AS A LOYAL AND PROUD CITIZEN OF PENNSYLVANIA THAT I HAVE GOOD REASON FOR BEING HERE.

BEFORE WE DO WHAT EVERY STATE IN THE COUNTRY HAS DECLINED TO DO BY ENACTING LEGISLATION OF THIS NATURE, IT IS VITAL THAT YOU UNDERSTAND THE MASSIVE EVOLUTION -- BORDERING ON REVOLUTION -- THAT IS UNDERWAY IN TRAVEL RETAILING. THE CHANGES ARE FORCING TRAVEL AGENCIES EVERYWHERE, LARGE AND SMALL, TO CONSIDER NEW

BUSINESS MODELS. ALTHOUGH OUR AGENCY DOESN'T CURRENTLY RELY UPON A "MERCHANT MODEL" TYPE OF SALE, THE REALITY IS THAT TRAVEL AGENCIES THROUGHOUT THE COUNTRY ARE EITHER LOOKING CLOSELY AT THIS BUSINESS MODEL OR ARE ALREADY USING IT.

ANY STEP WE TAKE IN PENNSYLVANIA TO MAKE BRINGING TRAVELERS HERE MORE COSTLY CAN SEVERELY AFFECT THE COMMUNITY'S PLACE IN TOURISM COMPETITION FOR CONSUMER SPENDING. THIS IS ONE REASON THAT NO STATE-LEVEL LEGISLATIVE BODY IN THE UNITED STATES THAT HAS BEEN FACED WITH THE SAME CHOICE AS YOU HAVE HAS DECIDED TO ADD AN OCCUPANCY TAX TO THE BURDEN ALREADY BORNE BY TRAVEL RETAILERS.

ONE OF THE ATTRACTIVE ASPECTS OF THE MERCHANT MODEL IS THAT IT REDUCES THE INHERENT RISK TO THE AGENT FROM THE SO-CALLED TRADITIONAL HOTEL SALE WITH COMMISSION. TRADITIONAL SALES OFTEN GO UNCOMPENSATED, AND THERE IS LITTLE AN AGENCY CAN PRACTICALLY DO TO PREVENT THAT. IN MANY CASES HOTELS JUST CLAIM THAT THE GUEST HAD "NO-SHOWED" OR MADE SOME OTHER CHANGE AT CHECK-IN THAT NULLIFIED THE OBLIGATION TO PAY THE AGENT.

BECAUSE THE AMOUNTS OF COMMISSION ARE USUALLY SMALL, TRACKING AND ENFORCING COLLECTION IS BURDENSOME OR IMPOSSIBLE.

THE INTERNET CHANGED EVERYTHING. ONE OF THE MOST IMPORTANT CHANGES BROUGHT ABOUT BY THE INTERNET HAS BEEN THAT THE MEANS TO DO SALES ON VARIABLE NET RATE CONCEPTS BECAME POSSIBLE. THIS NEW APPROACH REMOVES MUCH OF THE UNCERTAINTY ABOUT COLLECTION OF COMMISSIONS BECAUSE THE RETAILER-AS-MERCHANT IS COLLECTING THE

PAYMENT FOR ITS SERVICES DIRECTLY FROM THE CONSUMER AND FORWARDING THE NET PROCEEDS (INCLUDING APPLICABLE TAXES) TO THE HOTEL.

THE SELLING CAPACITY AND MARKET REACH OF THE ONLINE TRAVEL RETAILERS IS SUCH THAT THE DIFFERENCE BETWEEN THE NEGOTIATED RATE AND THE NET REMITTANCE WAS MORE PROFITABLE IN GENERAL, AS WELL AS MORE EFFICIENT, THAN THE TRADITIONAL COMMISSION MODEL.

IT IS IMPORTANT TO UNDERSTAND ALSO THAT UNDER THE TRADITIONAL COMMISSION MODEL, THE RETAILER'S COMPENSATION WAS TAXABLE INCOME FOR FEDERAL AND STATE TAX PURPOSES. OCCUPANCY TAXES WERE NEVER APPLIED DIRECTLY TO THE RETAILER'S COMMISSION, AND IN NO CASE WAS THE COMMISSION COMPENSATION IN THE HANDS OF THE RETAILER TAXED SEPARATELY UNDER AN OCCUPANCY TAX.

THE SAME SHOULD BE TRUE UNDER THE MERCHANT MODEL WHERE THE COMPENSATION COMPONENT IS STILL SUBJECT TO FEDERAL AND STATE INCOME TAXATION. THE DECISION TO IMPOSE THE PENNSYLVANIA HOTEL OCCUPANCY TAX ON THE RETAILER'S COMPENSATION IS AN UNPRECEDENTED CHANGE IN THE APPLICATION OF OCCUPANCY TAX AND UNDERMINES THE VIABILITY OF THE MERCHANT MODEL.

MORE IMPORTANTLY, EVERY TRAVEL AGENT THROUGHOUT THE COUNTRY WILL BE REEVALUATING WHETHER THEY WANT TO NOT ONLY ACCEPT A REDUCTION IN MARGINS, BUT ALSO SUBJECT THEMSELVES TO REGISTRATION, REPORTING AND REMITTING AND POSSIBLY OTHER ADMINISTRATIVE BURDENS IN THE TAXING STATE. IN MY OPINION TRAVEL

AGENTS AROUND THE COUNTRY WILL VIEW PENNSYLVANIA NEGATIVELY AS A PLACE TO PROMOTE TO TRAVELERS BECAUSE THE DIFFICULTY OF DOING BUSINESS HERE WILL OVERCOME EVERY OTHER ADVANTAGE THE STATE HAS WORKED SO HARD TO ACHIEVE. AND TO LOCAL AGENCIES, THE EXTENSION OF THIS TAX TO ANY MARKUPS WE CAN EARN WILL DETER US FROM SELLING PENNSYLVANIA AS A DESTINATION TO PEOPLE IN OTHER STATES, WHICH WE NOW HAVE THE ABILITY TO DO THROUGH THE INTERNET.

LIKE OTHER SMALL BUSINESS OWNERS, PARTICULARLY THOSE IN THE TRAVEL AND TOURISM INDUSTRY, MY FAMILY AND I ARE WORKING NONSTOP TO SUSTAIN AND GROW OUR BUSINESS EVEN IN THE MIDST OF THE RECESSION. I CAN TELL YOU THAT WE HAVE NEVER SEEN A MORE DIFFICULT CLIMATE IN WHICH TO SELL TRAVEL. FAMILIES ARE WATCHING THEIR EXPENSES MORE CAREFULLY THAN EVER, AND BUSINESSES ARE CURTAILING WHAT WOULD HAVE BEEN AS ROUTINE TRIPS EVEN A FEW YEARS AGO.

I WOULD SUGGEST TO YOU, THEN, THAT THIS IS EXACTLY THE WRONG TIME TO IMPOSE ADDITIONAL TAXES ON THE TRAVEL AND TOURISM INDUSTRY. THOSE OF US IN THE SMALL BUSINESS COMMUNITY SHOULD NOT HAVE OUR CHOICE OF BUSINESS MODELS FURTHER CONSTRAINED BY THE FEAR THAT WE WILL BE PUNISHED THROUGH THE TAX SYSTEM FOR INTEGRATING ONLINE BOOKING TECHNOLOGY INTO OUR BUSINESS PROCESSES. FURTHERMORE, LIKE ANY BUSINESS, WE WILL HAVE NO CHOICE BUT TO PASS ON AT LEAST A PORTION OF THESE NEW TAXES TO OUR CUSTOMERS IF AND WHEN THEY ARE IMPOSED ON US—A FURTHER DISINCENTIVE TO TRAVEL IN AN ALREADY-CHALLENGING CLIMATE.

I CONCLUDE BY EMPHASIZING THAT COMMUNITIES ARE IN DIRECT AND INTENSE COMPETITION WITH EACH OTHER FOR TOURIST DOLLARS. ADVERSE CHANGES IN LOCAL TAX POLICY CAN HAVE A PROFOUND EFFECT ON THE STANDING OF A COMMUNITY IN THE RACE FOR TOURIST PATRONAGE. THIS IS PARTICULARLY TRUE WHEN, AS IN OUR AREA, TOURISTS CAN JUST AS EASILY DECIDE TO VISIT OTHER, NEIGHBORING STATES IN THE NORTHEAST THAT OFFER A SIMILAR ARRAY OF DINING, SIGHTSEEING, AND ATTRACTIONS.

DECISIONS BY TRAVEL RETAILERS OF WHICH MARKETS TO SELL AFFECT THE EXPOSURE OF A COMMUNITY AS A TRAVEL DESTINATION. OTHER TRAVEL INTERMEDIARIES WHO COULD FILL THE VOID IN PROMOTING TRAVEL TO THE LOCALITY WILL LIKELY BE RELUCTANT TO DO SO FOR FEAR THAT THEY WILL BE TARGETED NEXT BY THE LOCALITY'S REVENUE COLLECTING AUTHORITY. PLEASE EITHER REJECT THIS LEGISLATION OR POSTPONE ACTION UNTIL THE CONSEQUENCES HAVE BEEN STUDIED MORE CAREFULLY AND FULLY UNDERSTOOD.

THANK YOU VERY MUCH FOR THE OPPORTUNITY TO TESTIFY.