

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

TOURISM AND RECREATIONAL DEVELOPMENT  
COMMITTEE

STATE CAPITOL  
HARRISBURG, PA

MAIN BUILDING  
ROOM B-31

MONDAY, APRIL 9, 2018  
11:29 A.M.

PRESENTATION ON HOUSE BILL 1810

BEFORE:

HONORABLE DAVID MILLARD, MAJORITY CHAIRMAN  
HONORABLE KAREN BOBACK  
HONORABLE BUD COOK  
HONORABLE RUSS DIAMOND  
HONORABLE MARCIA HAHN  
HONORABLE DOYLE HEFFLEY  
HONORABLE SUE HELM  
HONORABLE DANIEL MOUL  
HONORABLE CHRISTOPHER QUINN  
HONORABLE JACK RADER  
HONORABLE JUDY WARD  
HONORABLE PARKE WENTLING  
HONORABLE MARK LONGIETTI, MINORITY CHAIRMAN  
HONORABLE TIM BRIGGS  
HONORABLE VANESSA LOWERY BROWN  
HONORABLE DANIEL DEASY  
HONORABLE SID MICHAELS KAVULICH  
HONORABLE BRIAN KIRKLAND

1 COMMITTEE STAFF PRESENT:

2 ALLEN TAYLOR, MAJORITY COMMITTEE EXECUTIVE  
3 DIRECTOR  
4 MORGAN DUX, MAJORITY COMMUNICATIONS SPECIALIST  
5 DENISE MURRAY, MAJORITY ADMINISTRATIVE  
6 ASSISTANT  
7 DANIELLE BOWERS, MINORITY COMMITTEE EXECUTIVE  
8 DIRECTOR

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*Pennsylvania House of Representatives*  
*Commonwealth of Pennsylvania*

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SUBMITTED WRITTEN TESTIMONY

\* \* \*

(See submitted written testimony and handouts online.)

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Summer A. Miller, Court Reporter  
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## P R O C E E D I N G S

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MAJORITY CHAIRMAN MILLARD: I would like to call this meeting of the House Tourism and Recreational Development Committee to order.

Before we begin, I'd like to remind the committee and the public that this meeting is being recorded on video that will be made available to the news media and will be posted on the internet. I'd also request that you silence any cell phones or electronic devices. Thank you.

Please join me in saying the Pledge of Allegiance. All members and guests please rise.

(Pledge of Allegiance recited.)

MAJORITY CHAIRMAN MILLARD: Members and guests please be seated.

Will the secretary please take roll?

(Roll call taken.)

MAJORITY CHAIRMAN MILLARD: Good morning, everyone.

The topic of today's public hearing is House Bill 1810, which is sponsored by Representative Doyle Heffley. The bill requires online hosting platforms that facilitate the booking of overnight lodging in Pennsylvania to register with the Department of Revenue.

1                   Representative Longietti, do you have any  
2 opening remarks?

3                   MINORITY CHAIRMAN LONGIETTI: Sure.

4                   Thank you, Chairman Millard, and thank you  
5 all for being here this morning.

6                   You know, we know as technological advances  
7 come along, it opens up a new world and it provides many  
8 benefits, but at the same time, it can also provide some  
9 challenges for state and local governments, particularly on  
10 the tax collection side. So I'm looking forward to the  
11 testimony this morning as we ferret through House Bill 1810  
12 and the issues involved.

13                   Thank you, Mr. Chairman, for calling this  
14 hearing.

15                   MAJORITY CHAIRMAN MILLARD: Thank you,  
16 Chairman Longietti.

17                   Before we go to our first testifier,  
18 Representative Heffley is the sponsor of the bill. Do you  
19 have any brief remarks on the bill?

20                   REPRESENTATIVE HEFFLEY: Yes, very brief,  
21 sir. It's a great bill.

22                   All right. Thank you, Chairman Millard.

23                   House Bill 1810 would require online sharing  
24 and short-term rental companies doing business in  
25 Pennsylvania to register with the state and share

1 information with taxing authorities.

2           At this point, all hotels,  
3 bed-and-breakfasts, and persons who provide temporary,  
4 overnight accommodations to the public are required to  
5 collect state and county hotel taxes for their customers.  
6 This not only includes actual hotels, but also individuals  
7 who offer their home or a room in their home for transient  
8 stays of less than 30 days, either through conventional  
9 advertising or through an online company. So essentially,  
10 if you are renting your space, room, your spare room for a  
11 day or a week or any time for money, that room is  
12 considered a hotel and the hotel tax purposes. So you have  
13 to collect it from all your patrons.

14           With the advent of online rental businesses,  
15 such as Airbnb and HomeAway, more and more individuals are  
16 doing this to earn extra money. Some have even turned it  
17 into full-time businesses offering multiple units for  
18 short-term housing. However, some of these hosts, as  
19 Airbnb calls them, are not aware of their obligation to  
20 collect state and county hotel taxes or are ignoring it.

21           A tax is only fair if all who are required  
22 to participate do so. It is the job of the state and the  
23 county taxing authorities to make these hotel hosts aware  
24 of their obligation to collect a tax from their patrons.

25           This is a minimal obligation on the part of

1 these companies that will help ensure that conventional  
2 hotels and bed-and-breakfasts are not put at a competitive  
3 disadvantage with hosts that do not collect a tax.  
4 Competition on a level playing field is a good thing, but  
5 the competition must be fair to all players.

6 Thank you, Mr. Chairman.

7 MAJORITY CHAIRMAN MILLARD: Thank you,  
8 Representative Heffley.

9 And before we call our first testifiers, I  
10 do want to mention to the members that we've received  
11 written testimony that will be added into the record from  
12 the Pocono Mountains Visitors Bureau, the Lebanon Valley  
13 Destination Marketing Organization, the County of Lancaster  
14 Office of the County Treasurer, and the County of Butler  
15 Board of Commissioners.

16 With that having been said, our first two  
17 testifiers are Troy Flanagan of the American Hotel and  
18 Lodging Association, and Dee Fegan of the State Bed and  
19 Breakfast Association.

20 If you'd like to come up, you may begin as  
21 soon as you're seated.

22 MR. FLANAGAN: Thank you, Chairman Millard  
23 and Chairman Longietti.

24 Thank you, Representative Heffley, for your  
25 legislation.

1 I appreciate the opportunity to be here  
2 today to speak on behalf of the American Hotel and Lodging  
3 Association in support of House Bill 1810.

4 HLA, just by way of background, is the  
5 national trade association representing the 54,000 strong  
6 companies and properties in the lodging industry from  
7 individual properties -- the mini-brands that you all may  
8 know -- management companies, real estate investment trusts  
9 invested in the hotel industry, as well as  
10 bed-and-breakfasts. And we also have partnerships with  
11 over 40 state lodging associations, including the  
12 Pennsylvania Restaurant and Lodging Association.

13 I want to start out by restating what I  
14 think, you know, we've tried to make very clear in  
15 testimony, including when I spoke before the Pennsylvania  
16 House about a year and a half ago, is that the lodging  
17 industry is not opposed to competition. We welcome  
18 competition. As I said, there are 54,000 participants in  
19 the lodging industry in the United States. They are  
20 constantly trying to innovate to improve the customer  
21 experience, the customer price, the view, the spa  
22 experience, whatever it is, to attract more customers in  
23 the marketplace.

24 What we are opposed to is an uneven playing  
25 field, and I appreciate Representative Heffley for noting



1 that. And I think that that is what we have experienced a  
2 growing trend towards in recent years.

3 We're not against the home sharing industry,  
4 the occasional sharing or renting of your primary residence  
5 for supplemental income. That's been done for decades.  
6 And that's also the genesis of many of the companies that  
7 have been mentioned as far as the, you know, subject matter  
8 of this bill.

9 I think what has concerned us, as an  
10 industry, is the growing proliferation of individuals who  
11 have multiple units in the marketplace, none of which are  
12 their primary or secondary residences, or they have units  
13 that are available 365 days a year. Neither of those would  
14 qualify as what we would see as home sharing. That's some  
15 form of the lodging business. You can call it a hotel, you  
16 can call it a B&B, but it should be part of the regulated  
17 and taxed lodging industry.

18 I think that I do want to point out that  
19 since I was last here, there have been some advances in  
20 this debate. This is certainly a very hot debate, not only  
21 in this state, but across the country in states and cities  
22 and certainly around the world. Some of the first  
23 jurisdictions that have passed and enacted legislation have  
24 already had them tested in the courts. And I think we're  
25 seeing that there is a growing precedence that

1 jurisdictions are justified in holding platforms  
2 accountable for the activity that occurs on their website.  
3 Whether that's challenges to the Communications Decency Act  
4 or the Stored Communications Act, both have been challenged  
5 in court fairly recently and have been favorably, have been  
6 ruled favorably in support of the jurisdictions that  
7 enacted those ordinances.

8           So I think you should feel confident in  
9 enacting legislation that implements strong statewide tax  
10 remittance standards and also recognizes the role of local  
11 governments because that's, in many cases, why local  
12 governments formed themselves, was to make important  
13 decisions about land use and zoning. And that should  
14 continue to be the primary responsibility, especially with  
15 the growing proliferation of commercial rentals.

16           I'll stop there. I have testimony that goes  
17 into greater detail. I'm happy to answer any further  
18 questions or yield to Dee.

19           Thank you.

20           MAJORITY CHAIRMAN MILLARD: We'll go to you  
21 first, Dee.

22           MS. FEGAN: Chairman Millard, Chairman  
23 Longietti, and members of this committee, thank you for  
24 allowing me to come and talk to you today about House Bill  
25 1810. This bill does have -- it's an important issue

1 affecting my small business and many other small businesses  
2 like mine across the Commonwealth.

3 My husband, Chuck, and I own 30 Timber Road  
4 Bed and Breakfast just outside Mechanicsburg, and we have  
5 just three rooms. Prior to this bed-and-breakfast, we did  
6 own a larger bed-and-breakfast for 19 years before we  
7 decided to right size for this time in our life.

8 I am actively involved in the lodging  
9 community here in Pennsylvania. I serve on the board of  
10 directors of the Pennsylvania Restaurant and Lodging  
11 Association. I was one of the founders of the Pennsylvania  
12 Association of Bed and Breakfast Inns, PABBI, and I'm still  
13 on the board of directors of that organization, as well.

14 PABBI, our state association, represents  
15 more than 650 registered bed-and-breakfasts in the  
16 Commonwealth. Our mission is to provide support, guidance,  
17 and education to innkeepers, build strong relationships  
18 with key industry leaders, and lobby for state laws that  
19 fairly deal with the needs of our Commonwealth's innkeepers  
20 and guests. And that's why I'm here today.

21 Over the past four years, PABBI has had a  
22 mission to educate elected officials, municipal employees,  
23 other state and local association leaders, short-term  
24 rental hosts, and the traveling public about the impact of  
25 nonregulated short-term rental businesses. You have

1 examples of some of the educational materials PABBI has  
2 produced. One was produced in conjunction with my county's  
3 Economic Development Office. So many of the topics that  
4 House Bill 1810 deals with, you can also find on those  
5 documentation pieces that you have in front of you.

6           The 650 registered bed-and-breakfast inns  
7 and farm stays in the Commonwealth have followed the rules,  
8 regulations, and ordinances that apply to operating a  
9 lodging facility in Pennsylvania. Some of these innkeepers  
10 have only one or two guest rooms, but they still process  
11 their zoning applications, adhere to Building and Fire Code  
12 specifications, and now collect and remit the state,  
13 county, and in some cases, local occupancy taxes.

14           For many innkeepers in Pennsylvania, running  
15 a bed-and-breakfast is not their sole source of income; it  
16 is supplemental income. All of these innkeepers desire and  
17 request that they be treated fairly in the short-term  
18 rental world. That means providing a level playing field  
19 where all short-term rental hosts play by the same rules.  
20 I believe that House Bill 1810 sets a course for equal  
21 treatment of all hosts and innkeepers.

22           This bill will assist the tourism industry  
23 in Pennsylvania by providing much needed income to the  
24 Commonwealth in the form of occupancy tax.

25           While some online platforms already collect

1 and remit state occupancy tax, not all do. Platforms such  
2 as Craigslist, Rent Like A Champion, Tripping.com, VRBO,  
3 and HomeAway also need to be responsible and accountable  
4 for the state tax that should be charged to the guests.

5 As the Pennsylvania budget for tourism  
6 promotion has dwindled, more effort to promote our state is  
7 required from the county and regional DMOs and CVBs. House  
8 Bill 1810 will aid in the collection of county hotel taxes  
9 and assist in promoting local and regional tourism assets.

10 As it stands now, county treasurers must  
11 enter into a time-consuming, labor-intensive effort to  
12 search out noncompliant short-term rental properties. And  
13 many counties do not have the staff available to ensure  
14 that the county occupancy tax is collected and remitted.  
15 House Bill 1810 will drastically improve the efficiency by  
16 giving counties basic information to use in their efforts  
17 to ensure that all hosts are submitting the proper tax  
18 revenue and documentation about their businesses.

19 The fact that the short-term rental property  
20 locations can be provided to the municipal level will help  
21 zoning officers to do their job, as well. Zoning plans  
22 help keep neighborhoods intact. In many small  
23 municipalities, there are areas that permit  
24 bed-and-breakfasts, inns, and hotels to operate. And there  
25 are areas where residents want a quiet neighborhood, free

1 from potentially loud parties and busy traffic. House Bill  
2 1810 will provide that information to local municipal  
3 authorities to know where any short-term rental properties  
4 are located.

5 Today there are short-term rental properties  
6 located in condominium developments where the homeowners  
7 association does not allow short-term rentals, but those  
8 properties have not been located. We must try to protect  
9 our residential neighborhoods, as well.

10 Representative Heffley, I thank you for  
11 authoring this bill, and thanks to all of the cosponsors on  
12 this bill. You have heard your constituents and responded.

13 In summary, I ask that you please move this  
14 legislation forward for the good of the Commonwealth, in  
15 support of tourism promotion, for the benefit of your  
16 neighbors, and to provide a level playing field for  
17 Pennsylvania's innkeepers.

18 Thank you for your time and attention.

19 MAJORITY CHAIRMAN MILLARD: Thank you for  
20 your testimony.

21 Chairman Longietti, questions?

22 MINORITY CHAIRMAN LONGIETTI: Thank you, Mr.  
23 Chairman.

24 You know, one of the concerns that, at  
25 least, Airbnb provided in their written testimony was a

1 privacy concern. That somehow making available the names  
2 and addresses of hosts to the county treasurers, to  
3 possibly political subdivisions, in a case of the general  
4 public, only the names being made available, somehow  
5 violates privacy and they have privacy concerns.

6 In, you know, sorting through that, I wanted  
7 to get your reaction to that because I've never used a  
8 hosting platform, but from what I understand, when you use  
9 that, at least in the locale you're looking at, you're  
10 going to have the names and addresses of whoever is  
11 offering a place to stay. So, you know, I just wanted to  
12 get your reaction to the privacy concerns that are being  
13 raised.

14 MR. FLANAGAN: I think from our perspective,  
15 you know, we haven't advocated for, you know, any type of,  
16 you know, mass publication of where homes are, certainly  
17 people's names and, you know, when they're renting their  
18 place out -- because we understand that obviously it could  
19 be a tip that someone's not home. You know, that makes  
20 sense.

21 But I think what localities and the state  
22 need to properly collect taxes, enforce the law, and audit  
23 for taxes, much as they do for every other lodging business  
24 and every other business in the Commonwealth of  
25 Pennsylvania, I think that is where the data is required.

1           MS. FEGAN:  And I think as soon as you open  
2 your home to potential guests of any kind, like you do on  
3 Airbnb, you're making yourself public.  And as soon as  
4 someone reserves a room with you, they get your  
5 information.  They know where they're going to be going.  
6 They know who the host is.  And I don't see that as an  
7 issue.

8           When you start collecting money for someone  
9 to stay, short-term, in your house, you become a hotel in  
10 Pennsylvania by the Department of Revenue's rules, so that  
11 should be public.

12           MINORITY CHAIRMAN LONGIETTI:  Thank you.

13           Now, is your facility, your  
14 bed-and-breakfast, is that in Cumberland County?

15           MS. FEGAN:  Yes.

16           MINORITY CHAIRMAN LONGIETTI:  So in  
17 Cumberland County, at least when I read Airbnb's testimony,  
18 is there -- do you know, is there a voluntary collection  
19 agreement in place for --

20           MS. FEGAN:  There is not in Cumberland  
21 County yet.

22           MINORITY CHAIRMAN LONGIETTI:  So what  
23 happens in that case?  I assume there must be properties  
24 that are available on some of the hosting platforms for  
25 Cumberland County.



1 MS. FEGAN: There are. And there are  
2 properties on the hosting platforms that have not  
3 registered with the county. And what happens is, if a  
4 neighbor or if some other business shows the county  
5 treasurer where those properties are -- and in some cases,  
6 when you list on Airbnb, people actually put a picture of  
7 the front of their house, you can see the address and all  
8 of that -- the county treasurer has on occasion gone out  
9 and searched these properties and found the addresses. And  
10 then he has mailed the registration form, along with that  
11 one document that you see from Cumberland County, telling  
12 them that they must register to collect the taxes, the  
13 county tax. Many times he just does not get a reply.

14 But when we started that procedure with that  
15 one card that you have in front of you, shortly after that  
16 went out, 17 new properties did register with the county.  
17 So that did increase our tourism promotion funds.

18 MINORITY CHAIRMAN LONGIETTI: So at least  
19 from what you're seeing, absent a voluntary collection  
20 agreement, the hosting platform itself in those counties is  
21 not collecting and remitting the taxes, that burden is  
22 falling to the actual host and it's hit-or-miss a little  
23 bit.

24 MS. FEGAN: Yes, yes.

25 MINORITY CHAIRMAN LONGIETTI: All right.

1 Thank you, Mr. Chairman.

2 MAJORITY CHAIRMAN MILLARD: Thank you,  
3 Chairman Longietti.

4 Representative Rader.

5 REPRESENTATIVE RADER: Thank you for your  
6 testimony.

7 I think this is first time I ever agreed  
8 with Doyle on any bill, so this is a great start.

9 I know in the Poconos, where I live, there  
10 are actually thousands of homes that are opened up and  
11 compete with the local resorts. One question --

12 And in our county, it's actually best if  
13 these homeowners, who are renting their homes, actually  
14 know about the tax because our county will go after back  
15 taxes. And then they can't get it from the people who  
16 stayed there anymore. They have to pay it themselves.

17 So it's best that that gets out in the open  
18 and people know that they have to pay and I think some of  
19 these platforms should actually be doing that service, so  
20 the homeowners don't get caught. Because I've gotten phone  
21 calls of, "Gee, we didn't know," but they still owe the  
22 gosh darn taxes because the people stayed. So there's that  
23 issue also.

24 Another issue I've come across in our  
25 county -- and our county does go after it -- they were

1 trying to get fancy and taking the cleaning out and putting  
2 the cleaning after the tax, when it's actually considered  
3 part of the rental. So is there an amendment or  
4 something we can put on Doyle's bill to take care of that  
5 issue also? Because I saw some of the platforms had the  
6 cleaning in the taxes and some do not. So is there a way  
7 that we could clean up that issue, too? Because it should  
8 be the same for everybody. I mean, you can't take your TVs  
9 out or your refrigerators out that you purchase, you know,  
10 it's not part of the rental, it's all part of it.

11 Is there something we can do to clean that  
12 issue up?

13 MS. FEGAN: I certainly don't see why that  
14 couldn't be included and just collect the tax on the  
15 complete stay.

16 REPRESENTATIVE RADER: Right. I think it  
17 would have to be that you have to require it on the  
18 platform, I assume that's what we're doing here. So if it  
19 was required that they include everything that is taxable,  
20 you know, up above the line, not after the tax line, I  
21 think that should be something we could clean up at the  
22 same time, because it should be a level playing field there  
23 also.

24 MAJORITY CHAIRMAN MILLARD: Thank you.

25 Well, thank you both for your testimony.

1                   Our next testifier is going to be Kevin  
2 Boozel, the Commissioner of Butler County.

3                   Kevin, you can begin.

4                   MR. BOOZEL: Good morning.

5                   Thank you very much for hosting this bill.  
6 Also, I would like to thank Chairman Millard and Chairman  
7 Longietti for hearing this testimony, along with the rest  
8 of the committee.

9                   As a county commissioner, I see ourselves in  
10 a unique situation where we're partners with the state on  
11 many issues, one of those being tourism. Tourism funds  
12 have dropped down from the state and we know that. And in  
13 Butler County, we've experienced a growth. We've increased  
14 the taxes to five percent. And because of that, it is our  
15 second largest market in Butler County as far as -- second  
16 only to agriculture.

17                  So knowing that, we have the Jeep Festival,  
18 we've hosted golf events. A lot of folks are taking  
19 advantage of that, which is great. We want people to come  
20 to Butler County. However, it doesn't seem to be a fair  
21 and equitable trade on the short-term stays. We would  
22 encourage that you would take this to a next level, where  
23 we have been working continuously.

24                  We do have an agreement with Airbnb where we  
25 are receiving some of those funds. And in a year, it's

1 approximately a \$20,000 difference. And that may not be a  
2 lot in a lot of arenas, but it is a lot when you're talking  
3 about a single platform. And that's only what they are  
4 reporting to us. We have no way to go back and check on  
5 the information, the housing that's being used. It's  
6 pretty much "take our word for it." And so that could be  
7 difficult for us to explain to our other taxing bodies,  
8 that this is kind of how it works. So our treasurers asked  
9 also for us to come up with a way to support this bill and  
10 be able to get behind it for that reason.

11 We also believe that -- I'm also  
12 representing the County Commissioners Association of  
13 Pennsylvania, along with many of my constituents, as in the  
14 Economic and Development Committee, and we've seen this  
15 coming across the table several times from several  
16 different counties and they're handling it different ways.  
17 And I think that what I'm looking for more than anything is  
18 fair and equitable. I don't think that we should be  
19 putting a lien against one hotelier that refused to pay  
20 their tax on time and letting another industry go. So I  
21 want to make it fair and equitable, and make sure that we  
22 are doing that across the board.

23 There's been some other suggestions to us  
24 about using and purchasing a subscription to AirDNA. It's  
25 not 100 percent foolproof. We really need the support of

1 the state to make sure that this is --

2           Again, I come back to fair and equitable.  
3 It's got to be across the board. And I like the fact of  
4 the gentleman's statement about the cleaning and making  
5 sure that everything is billed into that, as well. I would  
6 support that, as well.

7           As the other lady had testified, the  
8 HomeAway, Tripping.com, and FlipKey are three other  
9 platforms that we're aware of that are being used in Butler  
10 County.

11           So understanding that we have a strong  
12 desire to see our tourism market grow. We've been  
13 successful in Butler County as using it for things such as  
14 helping the Lemieux Center take off in our Cranberry  
15 Township Market, as well as providing for basic tours and  
16 setting up additional arenas where we're actually going to  
17 be talking about setting up convention centers in Butler  
18 County. And a lot of that has to do with our tourism  
19 market and our tourism director and his staff.

20           Without funding, we would not be seeing the  
21 success of Butler County. We're one of the only growing  
22 counties in western Pennsylvania. A lot of it, I would  
23 attest, is coming from our tourism market. We have a lot  
24 of state parks. That's part of our tourism market. We  
25 make sure that that gets out, as well.

1           But I truly want to represent ourselves as a  
2 county, as county commissioners, as the County  
3 Commissioners Association, as a partner with what the state  
4 is wanting to do, and I think it's about making it fair.  
5 And we would support you 100 percent.

6           And, Representative Heffley, I appreciate  
7 this bill. Thank you very much.

8           MAJORITY CHAIRMAN MILLARD: Thank you.

9           MR. BOOZEL: If you have any questions...

10          MAJORITY CHAIRMAN MILLARD: Thank you for  
11 your testimony.

12          MR. BOOZEL: Absolutely.

13          MAJORITY CHAIRMAN MILLARD: We've been  
14 joined by Representative Briggs.

15          Chairman Longietti, questions?

16          MINORITY CHAIRMAN LONGIETTI: Thank you very  
17 much for your testimony.

18          Just want to -- and your written testimony  
19 delves into it a bit with Luzerne County, but I want to  
20 understand a little bit better.

21          You know, Airbnb states, "Well, one of the  
22 controls is that you could audit and they could provide  
23 anonymized data and that that should be sufficient to," you  
24 know, "verify that taxes are being collected on these  
25 stays."

1                   What do you see from your vantage point with  
2 that process?

3                   MR. BOOZEL: It's the proverbial nailing  
4 Jell-O to the wall effect. You can't capture this. You  
5 can get a snapshot of what's going on, but again, you're  
6 dealing with a single platform. It's not across the board.

7                   We have a very ferocious solicitor that  
8 worked with Airbnb and it took a lot of work to get to  
9 where we are.

10                   Unfortunately, as these platforms come out,  
11 they can just shift or move their properties to a different  
12 platform. As they see one being taxed and another one is  
13 not, where would you go? So I think it's extremely  
14 important that we conduct this at a state level and get it  
15 all registered at one location. I think that's going to be  
16 critical.

17                   MINORITY CHAIRMAN LONGIETTI: And to  
18 piggyback on your statement, it took a long time to  
19 negotiate the voluntary collection agreement. Why is that  
20 so complex? I mean, on first blush, it seems like it  
21 shouldn't be particularly complex, but...

22                   MR. BOOZEL: Have you ever had more than two  
23 lawyers in a room? It's a lot like that.

24                   MINORITY CHAIRMAN LONGIETTI: Well, I'm a  
25 lawyer --



1 MR. BOOZEL: Sorry, if anyone's a lawyer.

2 MINORITY CHAIRMAN LONGIETTI: -- so anytime  
3 I walk into a room with another lawyer.

4 MR. BOOZEL: It becomes very complex very  
5 quickly because then someone throws out the, you know,  
6 privacy part of it. They'll throw -- and so then lawyers  
7 will debate back and forth, so you get to a point where,  
8 "Okay, something is better than nothing." I don't know  
9 that that's fair, but we've negotiated. And I think that  
10 there's a better trade, there's a better way to do this.

11 MINORITY CHAIRMAN LONGIETTI: Okay. So you  
12 see some real pitfalls to what ends up being the negotiated  
13 product.

14 MR. BOOZEL: Yes, because my county may  
15 negotiate very well and another county may not. And so now  
16 we're across -- the borders are different and that  
17 wouldn't be fair either.

18 MINORITY CHAIRMAN LONGIETTI: Thank you,  
19 Chairman.

20 MAJORITY CHAIRMAN MILLARD: You mentioned  
21 the, you know, the fact that there's a hotel tax involved  
22 in this and that you did agreements voluntarily. In any of  
23 those agreements, have you exceeded what the rest would  
24 pay, such as, you know, hotels, motels, or anybody else  
25 involved in heads in beds?

1                   MR. BOOZEL: Not exceeded, no. What I would  
2 say is that we're collecting a small portion from this  
3 agreement of what is actually out there. So, you know, I  
4 can't state because nobody really knows without doing an  
5 audit or having and paying a company, but again, it's a  
6 snapshot and it changes tomorrow.

7                   So what we're agreeing to with Airbnb is  
8 that they're coming forward with this information the best  
9 that they have agreed to and, you know, nothing gets  
10 Airbnb -- that's a business and no one has told them they  
11 had to do this yet. I think they've complied relatively  
12 quickly if they're already in negotiations, especially if  
13 they find themselves competing with other platforms that  
14 aren't, you know, doing the same thing they are. Good  
15 point.

16                   MAJORITY CHAIRMAN MILLARD: Thank you.

17                   I appreciate your testimony today.

18                   No other questions from the members, so our  
19 next testifier will be Steve Shur, the president --

20                   MR. BOOZEL: Thank you.

21                   MAJORITY CHAIRMAN MILLARD: -- and Matt  
22 Kiessling, the vice president, short-term rental.

23                   I beg your pardon. Amber Martin is our next  
24 testifier. Sorry about that. But you guys are ready.

25                   MS. MARTIN: So you saw the size of my

1 dissertation paper and decided just to skip me, that's  
2 okay.

3 My name is Amber Martin. I am the Lancaster  
4 County Treasurer. I also serve as the chair of our Hotel  
5 Tax Committee for the State Treasurers Association.  
6 Obviously all of you already have my dissertation paper  
7 relevant to this subject, so I'm going to try to condense  
8 and just hit the main points for the sake of time.

9 House Bill 1810 helps county treasurers to  
10 identify and register short-term lodging providers  
11 operating in their respective counties. From a tax and  
12 fairness standpoint, many short-term lodging providers,  
13 commonly referred to as hosts, escape county registration  
14 requirements and having to pay applicable county hotel  
15 taxes simply because the online hosting platform shields  
16 their specific locations.

17 During February alone, my office identified  
18 98 hosts as operating short-term lodging facilities without  
19 correctly registering with the county and remitting  
20 applicable taxes. The time and effort each of these  
21 taxpayer-funded departments put into identifying and  
22 locating illegally operating lodging facilities is quite  
23 perplexing. Tax clerks have turned into detectives just  
24 because we believe that there should be a level and fair  
25 playing field and to allow one subset of the same industry

1 to bypass registration, taxation, and zoning requirements  
2 is simply unacceptable.

3           House Bill 1810 helps county treasurers  
4 enhance our ability to information share with our township  
5 and borough officials. Lancaster County respects that our  
6 constituents elected local township and borough supervisors  
7 and commissioners to create ordinances and maintain laws  
8 which their political subdivision residents wish to see  
9 that we retain and also enforce. It is critical that  
10 legislation is adopted that allows county treasurers to  
11 information share with our township and borough colleagues.

12           Some counties throughout the Commonwealth  
13 may believe that legislation is not needed because those  
14 counties have chosen to enter into voluntary disclosure  
15 agreements with Airbnb. I respectfully disagree with some  
16 of my colleagues, and these are the provisions as to why.

17           First, I feel the agreements are perceived  
18 as creating multiple layers of secrecy. The agreements  
19 establish a shield by protecting lodging operators from  
20 having to properly register with the county treasurer's  
21 office and adhere to reporting and remitting laws  
22 traditional lodging operators are mandated to follow.

23           Second, the voluntary disclosure agreements  
24 provide amnesty for Airbnb and their lodging operators.  
25 Current contractual language asks taxing districts to

1 forgive any potential back-owed taxes.

2           It is difficult to comprehend why a taxing  
3 district would agree to provide amnesty to hosts merely  
4 because they use an online home sharing platform for their  
5 bookings. If taxing districts extend such tax forgiveness  
6 exceptions to one form of short-term lodging booking  
7 platforms, how is that fair to our traditional lodging  
8 providers who do not receive such tax forgivenesses?

9           Third, the auditing provisions essentially  
10 provide the county controller with a restricted timeframe  
11 to audit only allowing the county controller to audit  
12 documents Airbnb has already filed with the county  
13 treasurer, not necessarily Airbnb's books and records,  
14 effectively blocking the county controller from verifying  
15 the accuracy of actual terms and payments. Underreporting  
16 and underpaying may occur and the taxing district would be  
17 none the wiser.

18           Essentially, Airbnb is requesting that the  
19 documents that they provide to the treasurer that have  
20 really no identifiable information -- that we're just going  
21 to take their word for it. And how do you audit documents  
22 that are basically given to you by the same company? Tell  
23 me one company in Pennsylvania that enjoys that luxury.

24           Let's see.

25           Again, this is not a beat-up on Airbnb

1 testimonial. I commend Airbnb for reaching out and  
2 agreeing to a dialogue exchange. Unfortunately for me, I  
3 did not feel entering into a voluntary disclosure agreement  
4 as currently drafted and proposed by Airbnb was the right  
5 move for the county of Lancaster.

6           With that said, technology will continue to  
7 evolve and county governments need to look for creative  
8 ways to embrace technological advances and become  
9 friendlier to our new business segments. We recognize on  
10 the county level that we also have to do our job to stop  
11 making things difficult for people.

12           It's one thing to mandate that there's a  
13 level playing field and that everybody should pay their  
14 share. It's another thing to make sure that as a county  
15 government, we're trying to be as friendly to business, as  
16 open as possible. Paper and pencil processes, they're  
17 basically out the door. So the county also has to rise up  
18 to the same level and try to make it easier for people to  
19 pay their taxes and abide by the different laws that we  
20 have.

21           In counties, obviously, we have one set of  
22 ordinances, but down to the municipal level, they also have  
23 their own set. We have to get it on a clear-cut pace. And  
24 I believe Representative Heffley's legislation allows for  
25 us to do that.

1           In conclusion, House Bill 1810 provides the  
2 registration and information sharing provisions needed for  
3 county treasurers to fairly administer their short-term  
4 lodging ordinances, while being responsible partners and  
5 sources of information to our township and our municipal  
6 partners. The government's role is to embrace capitalism  
7 and free market competition.

8           The online home sharing platforms are  
9 successful because the free market has embraced the  
10 concept. In no way do I support terminating online hosting  
11 platforms. I'm just asking that online home sharing  
12 platforms be required to work with the state and county  
13 governments.

14           Something that is very interesting to me and  
15 goes along the lines of what Representative Heffley is  
16 actually proposing -- I did a little bit of research and  
17 Andrew Kalloch who oversees public policy for Airbnb, just  
18 recently on March 28th of 2018, he testified before the  
19 Vermont House of Representatives. And when I read over his  
20 testimony, we basically are looking for the same thing.

21           And the reason why I say that is if you look  
22 at his testimony, he was a part of the short-term rental  
23 working group for the state of Vermont to try to get on the  
24 same page about, you know, "how do we deal with this issue  
25 of home sharing?"

1                   The committee universally favored  
2 legislation which enabled municipalities to regulate  
3 short-term rentals in a manner consistent with their  
4 communities. The committee also noted that by requiring  
5 hosts to register with the state rather than authorizing  
6 local governments to enact their own rules, that was a  
7 concern that Airbnb had.

8                   The objection I would have for Airbnb's  
9 stating that is, when my county, the county of Lancaster,  
10 went to Airbnb to try to bypass the legislative route, we  
11 basically were told, "No, this is the voluntary agreements  
12 that we have, and if you are not in agreement with the  
13 language, unfortunately, there's just not much wiggle room,  
14 specifically with registration of those Airbnb properties  
15 and for us knowing who they are."

16                   However, Airbnb did note, during the  
17 short-term rental working group, that they did not oppose  
18 the approach of having a registration with the state. They  
19 just wanted to make sure that everything was fair and on an  
20 even and balanced keel. They note -- Airbnb noted the  
21 Internet Tax Freedom Act which prohibits state and local  
22 governments from imposing multiple or discriminatory taxes  
23 on electronic commerce that would conflict with the spirit  
24 of law, which is to prevent discrimination against  
25 e-commerce. My rebuttable to that is your voluntary



1 agreements create discrimination for our current more  
2 traditional lodging providers. So in the spirit of making  
3 sure that everyone is on an even playing ground, I believe  
4 that Representative Heffley's bill addresses all of these  
5 issues.

6           And Airbnb agreed that they thought that the  
7 Vermont bill with the registration with the state was  
8 justified in its focus on the tax and insurance  
9 responsibility of short-term rental hosts. Again, we agree  
10 with that. So I don't believe that we're too much off in  
11 negotiation.

12           I believe that there has to be one level,  
13 and that comes from the state, that allows Airbnb to  
14 basically turn over the information that they have for  
15 their host providers, that trickles down to county  
16 governments, and that way, the county treasurer's office  
17 can be a resource of information to our municipal and our  
18 borough partners.

19           Thank you.

20           MAJORITY CHAIRMAN MILLARD: Thank you for  
21 your testimony.

22           Amber, you mentioned the 98 that you  
23 identified. Have they come forward? Have they, you know,  
24 registered with the county ultimately?

25           MS. MARTIN: Each month we have a rolling

1 basis of how many letters we actually send out.  
2 Ninety-eight that we sent out was a part of one hundred  
3 fifty that were identified. Ninety-eight out of one  
4 hundred fifty were the ones that we did not have properly  
5 registered. And that was about three weeks ago. We've had  
6 about 25 come out to us. So the next step is to send  
7 another letter, a certified letter, to the folks that don't  
8 come forward, but you can imagine how time consuming this  
9 is.

10                   And for folks who have never been on Airbnb  
11 or similar platforms, this is not an easy endeavor. I  
12 don't just go on there, put "Lancaster, Pennsylvania" in  
13 and then, all of a sudden, I get all of these addresses,  
14 bed-and-breakfast information, where these folks are  
15 located. This is a lot of detective work. So when I say  
16 tax clerks are becoming detectives, I mean it.

17                   We have people that are in my office that  
18 will drive by a street that we remember a picture from and  
19 they'll jot down the address and say, "All right, this is  
20 one of the ones that we saw on there."

21                   It's time consuming, and quite frankly, it's  
22 a little bit ridiculous, because taxpayers are funding all  
23 of our research that we have to put into this.

24                   MAJORITY CHAIRMAN MILLARD: Thank you.

25                   Chairman Longietti? No questions.

1 Representative Heffley.

2 REPRESENTATIVE HEFFLEY: Thank you for your  
3 testimony.

4 I just -- are there any taxes that are  
5 voluntary? Because as we get ready for tax time, I would  
6 like to volunteer to not have to pay all of my taxes, as  
7 well. But I mean, it just -- I guess voluntary collection  
8 agreement -- like, taxes aren't voluntary. They're  
9 mandatory, right?

10 MS. MARTIN: And that's the question that I  
11 ask to a lot of my peers that -- when the County Treasurers  
12 Association started passing these voluntary agreements  
13 around, at first, the voluntary agreement was presented to  
14 me as it was supposed to be confidential. We don't work  
15 that way in Lancaster County. This is not a confidential  
16 agreement. It is something that directly affects our  
17 residents, so therefore, it's going to be something that  
18 has to have public disclosure and some communication with  
19 all of our stakeholders.

20 And that was what was so daunting to me is  
21 any time somebody comes to me and says, "I want to have an  
22 agreement with you because I want to pay you taxes," that  
23 should be your first red flag. There's a problem here.

24 And then when you read through the actual  
25 language, I'm thinking to myself, "If I sign this or I

1 recommend to the county commissioners to sign this, I'm  
2 basically slapping our hoteliers in the face, our  
3 bed-and-breakfast folks who have to comply every single  
4 month with the provisions of my office and follow our  
5 ordinances." To me, I just couldn't do that.

6           So, you know, for -- we just finished tax  
7 season on Sunday. My eight- and ten-year-olds had to pay  
8 taxes for the first time because they, in fact, made income  
9 this year. So, you know, there is no such thing as  
10 voluntary tax. Everybody has to play by the same rules.  
11 And your legislation helps us move towards that goal.

12           MAJORITY CHAIRMAN MILLARD: Thank you for  
13 your testimony.

14           MS. MARTIN: Thank you.

15           MAJORITY CHAIRMAN MILLARD: And now our next  
16 testifiers will be Steve Shur, the president, and Matt  
17 Kiessling, the vice-president, of the short-term rental  
18 policy for the Travel Technology Association.

19           Gentlemen, thank you for being here before  
20 this committee today, and you can decide which one of you  
21 would like to start your testimony.

22           MR. SHUR: All right. I think I'll go  
23 first.

24           Thank you, Mr. Chairman, and members of the  
25 committee, Representative Heffley, for bringing this

1 important issue to the floor. We appreciate it.

2 My name the Steve Shur. I'm the president  
3 of Travel Technology Association. We're the national trade  
4 association for online travel sites, like Expedia,  
5 Priceline, ORBITZ, Travelocity, Booking.com, and also  
6 Airbnb, HomeAway, VRBO, FlipKey, and many others.

7 I'm going to address some of the impacts of  
8 the proposed legislation on hotel bookings, which I think  
9 may be an unintended consequence here, because I know that  
10 the conversation is largely about short-term rentals. And  
11 I'm going to have Matt, my colleague, discuss some of the  
12 impacts on short-term rentals.

13 But first, just a little bit about our  
14 industry and how it works. We facilitate hundreds of  
15 thousands, if not millions, of bookings in Pennsylvania  
16 annually. We're very proud of the marketplace our members  
17 have created that gives consumers the ability to search,  
18 compare, and book rooms here the Commonwealth.

19 But if this bill is enacted, I think there's  
20 an unintended consequence with regard to hotel bookings.  
21 And if we could just for a moment separate the environment  
22 where someone is shopping for a hotel versus where someone  
23 is shopping for a short-term rental.

24 Under the definition of online hosting  
25 platform -- an online travel site that lists hotels for

1 rent on its site or for booking on its site would be the  
2 responsible party for remitting the hotel's tax obligation.  
3 The way it works today, if you're shopping for a hotel on  
4 an online travel site, the amount you pay the OTA, the  
5 online travel agent, includes the room rate set by the  
6 hotel, all of the taxes on that room rate, and then a  
7 service fee that the OTA charges you, which is a travel  
8 agent service fee.

9                   Currently, the environment works like this:  
10 So the OTA collects that money from the traveler, they pass  
11 the room rate and the taxes to the hotel because the hotel  
12 is the operator in the state. They have a footprint here.  
13 They're responsible for remitting taxes on that room rate  
14 that night to the state and local jurisdiction. That's the  
15 way it works now. Tax collection is not in dispute in the  
16 hotel environment whatsoever.

17                   Under this legislation, it would change that  
18 dynamic. It would require the online travel agent to be  
19 the remitter of those taxes. So same scenario, the  
20 traveler books a room via an online travel site. Under  
21 this legislation, the online travel agent would pass the  
22 room rate to the hotel, but the taxes would be -- it's  
23 still the obligation of the hotel, but the remittance would  
24 come from the online travel agent. Essentially, a third  
25 party would be remitting the tax obligation of the hotel.

1 And we just believe that's a recipe for confusion.

2           It's unnecessary because tax collection in  
3 the hotel environment is not in dispute here. The system  
4 is working fine where the proper taxes are being collected,  
5 remitted to the hotel, and then the hotel pays their tax  
6 obligation. That's the way it works today.

7           So I just wanted to call that to your  
8 attention with regard to how this bill would impact hotel  
9 bookings in the state, and look forward to having the  
10 opportunity to discuss that further if the legislation  
11 advances.

12           Secondly, I just wanted to talk a little bit  
13 about the obligation for online travel agents. In the same  
14 way that the bill would require short-term rental platforms  
15 to hand over all of the data of every home listed on its  
16 site, the bill would also require online travel agents to  
17 hand over a list of every hotel with whom it partners.  
18 Now, the state already has that information because they're  
19 getting tax revenue from every hotel in the state,  
20 presumably, assuming that the hotels are in compliance.

21           And so for OTAs, this is problematic.  
22 Hotels partner with online travel agents willingly, right?  
23 They do that for the added marketing and distribution and  
24 exposure that they get by being listed on these sites. And  
25 OTAs compete against one another on that basis, right?

1 Who's got -- and this is particularly true for independent  
2 hotels, which hotels are listed on which online travel  
3 sites.

4           So by handing over a list to the state, it  
5 impedes the competition between OTAs and it enables a  
6 competing OTA to essentially have a ready made list of  
7 every property, hotel property, that's listed on their  
8 competitor's site and vice versa. And again, we just  
9 believe that's an unnecessary step in the hotel environment  
10 because the state, again, has all of that information  
11 already. They have audit authority, of course, with every  
12 hotel that's a taxpayer in the state. And again, the taxes  
13 being collected in the hotel environment are not in  
14 dispute.

15           And then finally, I'll just close with this:  
16 A lot of what you're going to hear today is really  
17 problematic for the technology industry. In your packet is  
18 testimony from the Internet Association, which is the trade  
19 association for the world's leading e-commerce companies,  
20 like Amazon, Google, Ebay, and many others.

21           And I know from my experience with the  
22 Internet Association and how those companies operate, they  
23 are paying attention to how states are treating technology  
24 companies and e-commerce platforms. And just by way of  
25 example, everyone is familiar with Amazon's search for a



1 second headquarters. And they specifically say one of  
2 their main criteria for locating their new headquarters is  
3 a stable business-friendly environment. And so the  
4 technology community overall is paying attention.

5 We hope that we can find a solution for the  
6 technology community and the state that's mutually  
7 beneficial. We just believe that this provision is not the  
8 correct path forward.

9 So I'm happy to answer any questions after,  
10 but I'd like to save some time for my colleague, Matt, to  
11 talk about the short-term rental provisions.

12 Thank you.

13 MAJORITY CHAIRMAN MILLARD: Matt?

14 MR. KIESSLING: Thank you, Mr. Chairman.

15 I appreciate the opportunity to speak before  
16 you today. I'm going to address three core components of  
17 this legislation that I think are important to realize.

18 I have some issues here. The first is the  
19 mandated tax collection and remittance portion of this  
20 legislation. I think it's important to acknowledge that --  
21 and we've heard a number of different platforms discussed,  
22 some who are members of ours, some who are not members of  
23 ours. But not every platform functions in the same way.

24 We've heard a lot of discussion about Airbnb  
25 and the fact that they have VCAs in place with a number of

1 places around the state. That is because Airbnb is a  
2 transactional platform. You go on to Airbnb's platform,  
3 the entire transaction takes place there, on that website.  
4 You put in your credit card number, it gets processed there  
5 and then your reservation is made. And when you arrive at  
6 an Airbnb, that money is turned over to the host and it's  
7 confirmed by the host that the guest has arrived and it's  
8 confirmed by the guest that they've arrived at their  
9 destination.

10 Not all of our members function in that way.  
11 Some of them are purely advertising platforms, no different  
12 than maybe a Craigslist. Some of them purely take payment  
13 information. What I mean by that is they take the credit  
14 card number and they pass the credit card number on to the  
15 owner or the host or the property manager. And then they  
16 are responsible for processing that transaction on the back  
17 end.

18 We're talking about occupancy tax here.  
19 Occupancy tax gets collected on stays; it doesn't get  
20 collected on bookings. So when that occupancy tax is  
21 collected, it needs to be collected on the stay, when  
22 somebody shows up and takes part in that stay. The  
23 platform may not have access to information telling them  
24 whether or not that stay has even occurred. A reservation  
25 can be canceled. It doesn't work the same way as it does

1 with a hotel website. I think that's important to  
2 understand.

3           You know, I couldn't agree more that we need  
4 a level playing field here. And a level playing field is  
5 making the owner, the host, the property manager  
6 responsible for collecting and paying the taxes. They  
7 should be the ultimate backstop.

8           You know, we heard testimony from Ms. Fegan  
9 earlier on the B&B example. If she advertises her  
10 bed-and-breakfast on Facebook or Craigslist, Facebook or  
11 Craigslist is not responsible for collecting and remitting  
12 her taxes. She is still responsible for collecting and  
13 remitting her taxes. So there is certainly a problem with  
14 this idea that we're leveling the playing field by making  
15 internet platforms responsible for the collection and  
16 remittance of taxes.

17           The second aspect of this legislation that's  
18 concerning is the data sharing component of this. Most of  
19 our member platforms have some sort of terms of service  
20 agreement that you agree to when you sign up. It protects  
21 the user, it also protects the platform. Turning over data  
22 would violate some of those terms of service. And so there  
23 would certainly be a concern from the platform perspective  
24 when it comes to this legislation and the data that's  
25 mandated to be turned over.

1           You also heard earlier about the Stored  
2     Communications Act and the Communications Decency Act, and  
3     the fact that there have been cases of those things maybe  
4     being chipped away at a little bit. I would urge you to  
5     ask for any copy of a piece of legislation at the state  
6     level that mandates tax collection or remittance or  
7     mandates data sharing requirements. They simply don't  
8     exist because the Stored Communications Act does protect  
9     both users and these platforms.

10           When communications are passed  
11    electronically and stored by platforms, you must go through  
12    an administrative subpoena process in order to get just  
13    basic information -- name, address, telephone number. If  
14    you want transactional level data, you would more than  
15    likely need a warrant. And so there is federal law that is  
16    at stake here and there is federal law that this bill is in  
17    direct violation of, or would put the companies in direct  
18    violation of.

19           And then, finally, with respect to the data,  
20    you know, we've got a bill that asks that this data be  
21    turned over to the state, and then that the state pass on  
22    this data to the county level. There is no sort of  
23    protocol or compliance details in this legislation at all.  
24    There's nothing that governs who has access to the data.  
25    There's nothing that governs the transmission process, the

1 storage process, or any of the security surrounding that  
2 that would protect users at the end of the day.

3 And then, finally, with respect to sort of  
4 that privacy and safety aspect, this would be a publically  
5 searchable database, based on the way that I've read the  
6 legislation, where you would at least be able to find the  
7 information that's being turned over at the county level.

8 You know, I can tell you we're talking about  
9 short-term rentals, right, we're talking about places where  
10 families come and stay. The last thing I think we want to  
11 do is make a public database of where criminals or folks  
12 who want to engage in nefarious activity can find travelers  
13 and tourists, or where they can find empty homes by simply  
14 bumping that list of -- publicly available list of  
15 short-term rentals up against the booking calendars of  
16 properties on maybe HomeAway or Airbnb and seeing who  
17 doesn't have somebody there because the property is  
18 available during that time period and can certainly be, you  
19 know, burglarized or vandalized.

20 And so, with all of that in mind, I stand in  
21 opposition to HB 1810.

22 MAJORITY CHAIRMAN MILLARD: Thank you.  
23 Thank both of you for your testimony.

24 I'm going to ask that you both remain there.  
25 We're going to call up Joe Montano, who's the government

1 affairs manager in the northeast for Expedia. And I think  
2 our questions at the end then will be appropriate for each  
3 of you.

4 MR. MONTANO: Good afternoon, Chairman  
5 Millard, distinguished members of the Tourism and  
6 Recreational Development Committee.

7 My name is Joseph Montano, and I'm the  
8 Pennsylvania government affairs manager for the Expedia  
9 Group. I want to thank you all for the opportunity to  
10 testify before you today in our opposition to House Bill  
11 1810.

12 Across North America, Expedia Group is  
13 supporting legislative efforts toward fair, common sense,  
14 and evidence-based legislation and regulation of the  
15 vacation rental industry. However, for the reasons  
16 discussed below, certain aspects of this bill will not  
17 advance these goals and will, in fact, create harmful  
18 unintended consequences.

19 As written, the bill would not only mandate  
20 that short-term rental and hosting platforms disclose  
21 sensitive, personally identifiable information, but it  
22 would also mandate that online travel agencies do so, as  
23 well.

24 Now, I know we've heard a little bit about  
25 the Stored Communications Act, and I just want to quickly

1 touch on that.

2           The Stored Communications Act bars state,  
3 local, and the federal government from compelling companies  
4 to disclose certain information. In your packets, you'll  
5 have my testimony. I raise the example of what happened in  
6 Portland, Oregon.

7           In Portland, the ordinance that they set  
8 forth did just what this would do, force platforms to  
9 disclose personally identifiable information. As a result,  
10 we sought a preliminary injunction in federal court citing  
11 the Stored Communications Act. The court ruled in our  
12 favor, specifically stating that the Stored Communications  
13 Act precluded the city from obtaining that information upon  
14 request without the legal process. In other words, the  
15 court ruled that forcing hosting platforms to disclose  
16 personally identifiable information without a subpoena, a  
17 court order, or warrant would be in violation of the Stored  
18 Communications Act.

19           And I would just quickly like to touch on as  
20 it relates to the tax collecting and remitting portion of  
21 this bill.

22           Expedia and its family of brands that  
23 include Vacation Rental Leaders, HomeAway, and Vacation  
24 Rental By Owner, VRBO, have always maintained that  
25 short-term rentals are a taxable commodity. We've never

1 stood in opposition to that. And it's important to note  
2 that in the past, we've not been opposed to a bill which  
3 would essentially place the responsibility of collecting  
4 and remitting the taxes on the homeowner with the voluntary  
5 provision for the hosting platform to do so on their behalf  
6 as an added bonus, as an added service to the homeowner.  
7 And the reason for this is because there's a variety of  
8 different short-term rental platforms out there that don't  
9 operate in the same manner. So not all platforms are  
10 created equal here. And as a result, it would be  
11 impractical to try to fit a one-size-fits-all policy for  
12 all of these various different platforms.

13 By allowing hosting platforms to choose the  
14 option more appropriate for their business, this committee  
15 would be accounting for the various payment models, various  
16 business models that are out there in the marketplace.  
17 Accordingly, through the use of voluntary collecting and  
18 remittance agreements, the Commonwealth of Pennsylvania  
19 will not inadvertently be preferring one business model  
20 over another, nor would it increase its own administrative  
21 burden.

22 So we welcome the opportunity to work with  
23 you and your staff, Representative, to craft fair,  
24 successful policy to tax short-term rentals. We're always  
25 open for any suggestions. And on that note, I do oppose



1 House Bill 1810.

2 Thank you for your time.

3 MAJORITY CHAIRMAN MILLARD: Thank you.

4 Before we entertain questions, I make  
5 mention that Representative Karen Boback has joined us.

6 Chairman Longietti.

7 MINORITY CHAIRMAN LONGIETTI: Thank you.

8 And I appreciate those comments at the end  
9 because, you know, I think as we look at this issue, this  
10 is one that if the industry is saying it doesn't work for  
11 some reason, then we need a proposal that does work.  
12 Because our challenge here in government in part is that,  
13 as I mentioned at the beginning, technology is great, but  
14 we still need to collect tax revenues. And we can't just  
15 punt and say, "Well, technology changed the world, and  
16 therefore, we no longer are going to be able to collect all  
17 of the tax revenues that are due."

18 But I'm interested to delve a little bit  
19 deeper into, you know -- and I know none of you  
20 specifically are with Airbnb -- but why is it that this  
21 proposal somehow impairs the effective and efficient  
22 collection of the tax revenues? Because that was part of  
23 their written testimony, that somehow this would impair  
24 that effective efficient collection. And I'm not sure I  
25 understand why.

1                   MR. KIESSLING: Yeah, I mean, without --  
2 Airbnb is obviously a member. I mean, I can guess at what  
3 that would be, but I would certainly pose that question  
4 directly to them.

5                   I think at this point what they've tried to  
6 do is enter into voluntary collection agreements in areas  
7 where they believe they can accurately and adequately  
8 collect the tax. And so any time that, you know, you've  
9 got that voluntary collection agreement in place and then  
10 we start codifying a different mechanism into state law,  
11 there's a question about which takes precedence.

12                   And I think that's what the concern is. Is  
13 does that VCA become nullified if we then go down the road  
14 of codifying something slightly different into law?

15                   MINORITY CHAIRMAN LONGIETTI: Well, yeah, I  
16 understand. But if it's codified, I mean, I'm still not  
17 sure I understand how that somehow impairs the effective  
18 efficient collection. It would be slightly different than  
19 what the VCA says, but --

20                   MR. KIESSLING: And honestly, as the only --  
21 I mean, they are the only platform that at this point, to  
22 my knowledge, has a VCA in place with a state. So it would  
23 be a question directly for them.

24                   MINORITY CHAIRMAN LONGIETTI: All right.  
25 Thank you.

1 MAJORITY CHAIRMAN MILLARD: Okay. Thank  
2 you, Mr. Chairman.

3 Representative Diamond.

4 REPRESENTATIVE DIAMOND: Thank you, Mr.  
5 Chairman.

6 Thank you, gentlemen, for your testimony.

7 I'm glad someone from Expedia is here  
8 because you're the only company that I've ever dealt with  
9 for booking a hotel, because I don't do it often and it was  
10 probably like 15 years ago.

11 So you don't collect -- Expedia does not  
12 collect and remit taxes for any hotel entity to any  
13 jurisdiction; is that the gist of what I'm hearing here?

14 MR. MONTANO: So what I'm aware of is that  
15 we collect and remit the hotel and the tax room rate. So  
16 the hotel room rate, the taxes, give that to the hotel.  
17 The hotel, since they are the longstanding body in the  
18 Commonwealth of Pennsylvania, has the responsibility of  
19 remitting those taxes to the state.

20 REPRESENTATIVE DIAMOND: Okay. So it's  
21 always the hotel that actually pays the tax?

22 MR. MONTANO: Yes, sir.

23 REPRESENTATIVE DIAMOND: And the objection  
24 that I heard from the other two gentlemen is that since the  
25 hotels are responsible for remitting that tax, your

1 argument, then, is that the individual homeowners that are  
2 letting out their rooms, or what have you, should be the  
3 ones remitting that tax. Is that your objection to the  
4 language of this bill?

5 MR. KIESSLING: Well, I think there's a  
6 couple of things.

7 You know, we talked a little bit about the  
8 idea that not all platforms function in the same way. I  
9 mean, this legislation would apply to basically any  
10 internet platform that lists a short-term rental. So it  
11 would apply to Craigslist, it would apply to -- if you had  
12 a condo in the Poconos and you threw it up on Facebook and  
13 said, "Does anybody want to rent this for a week," you  
14 know, for 500 bucks or 600 bucks, Facebook is now  
15 responsible for collecting and remitting the taxes to the  
16 state of Pennsylvania under this piece of legislation.

17 REPRESENTATIVE DIAMOND: Okay. And maybe  
18 then this is a question better answered by Representative  
19 Heffley because -- and I want to clarify it by saying, I  
20 absolutely support a level playing field for everybody.  
21 But I am getting a little bit hung up on why we're  
22 essentially putting travel agents or their online  
23 equivalent in charge of collecting and remitting taxes  
24 rather than the folks who are actually doing the business  
25 themselves. So maybe --

1                   MR. KIESSLING: That's absolutely sort of  
2 our contention, is that it should be the property owner.

3                   REPRESENTATIVE DIAMOND: Maybe -- I don't  
4 know if Representative Heffley would be willing to speak to  
5 that at all.

6                   MAJORITY CHAIRMAN MILLARD: Representative  
7 Heffley, did you hear that question? Do you want to offer  
8 comments?

9                   REPRESENTATIVE DIAMOND: Why does your bill  
10 assess the duties for remittance and collection on  
11 effectively the travel agent, the online actor, rather than  
12 the entity itself? It doesn't? Because it just seems that  
13 that's what the witnesses are claiming and --

14                   REPRESENTATIVE HEFFLEY: Yeah, I'm not  
15 exactly sure exactly what the argument is.

16                   I think you're looking at -- there's two  
17 points. If you say you don't want to collect and remit the  
18 tax and you don't want to turn over the information, while  
19 I understand there's a lot of different platforms, however,  
20 the taxes are the same. So that's a constant, right? Tax  
21 is the same for everybody, whether you -- whatever platform  
22 you want to use. But the taxes are the same. So everybody  
23 should be paying.

24                   If you rent a room for 40 bucks and it's a  
25 three percent tax, then you pay that. You rent it for 60

1 bucks and a three percent tax to the county, you pay it,  
2 right? You don't want to remit it, you don't want to  
3 collect it, you don't want to pay it.

4 Now, you already do that for the hotels,  
5 right? So Expedia -- and I use them, Priceline, I use  
6 these things, and they're great. I like the little gnome.  
7 I love it, great advertising tool. But you're still paying  
8 the taxes, right?

9 So if I stay at a Holiday Inn, I book it on  
10 Priceline, you collect that, you're collecting that tax,  
11 both the -- so you know what the local tax is, right, and  
12 you know what the state tax is. You collect it and then  
13 they send it in, right? You're not -- we're not looking at  
14 taxing your services that you provide. That has nothing to  
15 do with this bill. This is just --

16 So but now if you go to Airbnb -- and I'm  
17 not knocking Airbnb because a lot of our bed-and-breakfasts  
18 use them, as well. And it's a great tool. Anything we can  
19 do to get more people to stay in the Pocono area or  
20 anywhere in the state is great. All right? So Airbnb  
21 could use that same technology. I mean, it's an algorithm,  
22 it's a key stroke. You guys can figure this out. It's not  
23 that hard.

24 If you don't want to do that, fine. You  
25 don't have to. But then if you're going to -- you have to

1 remit the information because at some point, we need to  
2 make sure that we're collecting the taxes. And that's  
3 pretty much what we're looking at.

4           So if you can come up, and say, "Okay, hey,  
5 we can do this, we can do that," that's great. Hey, charge  
6 a fee to collect the tax and remit it, whatever you want to  
7 negotiate with the people that you're renting for. But  
8 what we're saying is you can't just have --

9           Because I had a person who came to my office  
10 who was losing their house because somebody was, an  
11 ex-spouse was using, was renting it on Airbnb, never had  
12 paid the taxes on it. So the person passed away, the other  
13 person gets the property and is now losing it because she  
14 had all these back taxes they never knew. He claims he  
15 didn't know, they didn't know, but it doesn't matter if you  
16 don't know. Taxes are taxes, you have to pay them.

17           So that's what we're looking for. This  
18 legislation is a step in that direction. We could have  
19 ongoing conversations, that's great, but I don't think it's  
20 not fair. I mean, I understand you guys don't want to be  
21 hassled with it. Well, you know what, there's a lot of  
22 businesses out there that don't want to have to collect  
23 taxes, but it is what it is.

24           MR. SHUR: If I could respond to that  
25 briefly.

1           So our policy position in both the hotel  
2 environment and short-term rental environment is consistent  
3 in that tax obligation should be the responsibility of the  
4 accommodations provider, whether it's a hotel or a home.  
5 In the same way that when someone books a room on an online  
6 travel site for a hotel, those taxes are remitted through  
7 to the hotel. The online travel agents are not remitting  
8 those taxes directly to Pennsylvania. It goes to the hotel  
9 because they're the responsible party. And what we're  
10 suggesting or we're advocating is that in the short-term  
11 rental environment, the taxation is the responsibility of  
12 the homeowner because they're the operator of  
13 the accommodation in that environment.

14           REPRESENTATIVE HEFFLEY: And does -- do you  
15 offer the same service to your host that you offer to the  
16 hotel, that you would collect this tax and give it to them  
17 so they can remit it?

18           MR. SHUR: For platforms that are  
19 transactional, like Airbnb, where they're not in a  
20 voluntary collection agreement, it's exactly what happens.  
21 They pass through the rate that the homeowner requires to  
22 allow somebody to stay in that house that night and the  
23 applicable taxes. And then it's the homeowner's  
24 responsibility for remitting to the state.

25           REPRESENTATIVE HEFFLEY: So if they're not



1 remitting it -- so all we are asking for is making it  
2 public. Because these aren't -- I mean --

3 MR. SHUR: Right.

4 REPRESENTATIVE HEFFLEY: -- I don't really  
5 get the privacy issue, quite honestly. If you're going to  
6 put your house on Airbnb, the privacy issue -- come on. I  
7 mean, you're a business now, right? You're not just, this  
8 isn't just your home, right? It's a business. So then  
9 just put that information out there.

10 MR. SHUR: On the enforcement aspect of  
11 this, I would just pose the same question. What happens to  
12 anybody that doesn't pay their taxes, right? There's an  
13 obligation. There's certainly an education process that  
14 needs to take place where homeowners need to know what  
15 their obligations are and how to pay it and when to pay it.  
16 But ultimately, if there's a law or a local ordinance in  
17 place that says taxes are due on short-term rental income,  
18 it's the homeowner's responsibility, if they're engaging in  
19 this activity, to know the law and to comply.

20 REPRESENTATIVE HEFFLEY: Okay. So if I go  
21 to Walmart and I buy something that's taxed, I pay the  
22 six -- what if Walmart said tomorrow, "We're not going to  
23 collect this. You go home, take your receipt, figure it  
24 out, and then send it in."

25 MR. KIESSLING: But Walmart owns the good or

1 service, all right? These platforms don't own any  
2 inventory.

3 REPRESENTATIVE HEFFLEY: But you're  
4 providing the service, you're providing the service. And  
5 it's e-commerce and this is --

6 MR. KIESSLING: Well, it's just connecting.

7 REPRESENTATIVE HEFFLEY: -- but you -- and I  
8 don't want to get into a whole long debate, because I would  
9 love to sit with you and figure out how we can make this  
10 work. However, this is a new -- this is all new, right?  
11 This is a new platform and it's great.

12 So, yeah, it's not exactly the same as a  
13 Walmart or anywhere else. However, I think there needs to  
14 be -- we need to make sure that there's got to be some  
15 fairness in this taxing, that the taxes are collected. And  
16 I think it would be upon your industry to want to work with  
17 local governments and state governments to want to make  
18 sure that this isn't falling through the cracks.

19 And I don't want to get in a long debate  
20 because I know we have session here shortly.

21 MAJORITY CHAIRMAN MILLARD: I bet there's a  
22 question in there somewhere, so feel free to ask if you'd  
23 like to.

24 Representative Diamond, did that conclude  
25 your question?

1                   REPRESENTATIVE DIAMOND: Sort of. I just  
2 want to shoot back at the testifiers, then.

3                   If you object to collecting and remitting  
4 the tax, then what is the purpose of anybody entering into  
5 a voluntary agreement?

6                   MR. KIESSLING: Well, I would say we're  
7 talking about one company that's entered into a voluntary  
8 collection agreement.

9                   REPRESENTATIVE DIAMOND: Okay.

10                  MR. KIESSLING: There are a variety of  
11 platforms, some that are transactional, some that are not  
12 transactional. That's sort of the purpose of the voluntary  
13 collection agreement, is we have the ability to do this.  
14 We think it's an added service to our customers. I mean, I  
15 think that's why Airbnb does it, right? It is less hassle  
16 for their customers, so they're willing to enter into that  
17 voluntary collection agreement.

18                  Other platforms don't transact in the same  
19 way, and so they haven't put forth or raised their hand and  
20 said, "We'd like to do that," because they don't feel it's  
21 something that is added into their business.

22                  Mandating collection and remittance is  
23 essentially mandating business practice.

24                  REPRESENTATIVE DIAMOND: Okay. Thank you,  
25 sir.

1 Thank you, Mr. Chairman.

2 MAJORITY CHAIRMAN MILLARD: Thank you,  
3 Representative Diamond.

4 Representative Quinn.

5 And before we call on Representative Quinn,  
6 we'll make mention that Representative Moul has joined us.

7 Representative Quinn.

8 REPRESENTATIVE QUINN: So as I'm listening  
9 to the testimony today, essentially what I hear is that  
10 you're acting as a property manager. Would you agree?

11 MR. MONTANO: No, sir.

12 REPRESENTATIVE QUINN: Well, how about as a  
13 realtor?

14 MR. MONTANO: No, sir.

15 MR. SHUR: Closer to a travel agent.

16 REPRESENTATIVE QUINN: Right, closer to a  
17 travel agent. Okay.

18 Well, just bear with me for a second. I  
19 guess this is the logic of how my mind sort of tracks  
20 through this.

21 Realtors who essentially provide a very  
22 similar service -- typically in the local market -- they,  
23 at the end of the year, will issue a 1099 back to the local  
24 property manager that the state and other government  
25 agencies can use in order to track the actual taxes

1 themselves.

2           So I guess somewhere in between what we're  
3 currently expressing via this bill -- what is it -- HB  
4 1810, there has to be a spot where we can track this data  
5 and information, much like a 1099.

6           Anyway that's my thought and I'd like to...

7           MR. KIESSLING: So to my knowledge, Airbnb  
8 actually does issue a 1099 to all of its hosts at the end  
9 of the year. At least that's -- I believe that happens.

10           Again, they're a transactional model, so  
11 they know when the transaction occurred. So issuing that  
12 1099 is not difficult for them. More difficult for Expedia  
13 because they're not --

14           You guys have, I don't know, eight or ten  
15 different models of how short-term rentals work at this  
16 point depending on when you opted into the system and what  
17 company you're under. So they may not be party to the  
18 transaction, which makes it virtually impossible to tell  
19 you if that transaction occurred.

20           REPRESENTATIVE QUINN: Thank you. That  
21 makes sense.

22           MAJORITY CHAIRMAN MILLARD: Any other  
23 questions from the members?

24           (No response.)

25           MAJORITY CHAIRMAN MILLARD: Any new or old

1 business to come before this committee?

2 (No response.)

3 MAJORITY CHAIRMAN MILLARD: Gentlemen, I  
4 want to thank you for your testimony today, and all of our  
5 testifiers.

6 MR. MONTANO: Thank you.

7 MAJORITY CHAIRMAN MILLARD: This meeting is  
8 over.

9 (The hearing concluded at 12:38 p.m.)

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## C E R T I F I C A T I O N

I hereby certify that the proceedings are contained fully and accurately in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

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Summer A. Miller, Court Reporter  
Notary Public