



AMERICANS FOR PROSPERITY

HOUSE WAYS & MEANS COMMITTEE Opponent Testimony – House Bill 571

Tuesday, June 19, 2018

Chairman Schaffer, Vice-Chair Scherer, Ranking Member Rogers and members of the House Ways and Means Committee, thank you for the opportunity to testify today on House Bill 571.

My name is Micah Derry, State Director of Americans for Prosperity – Ohio. On behalf of our tens of thousands of activists in the Buckeye State, I strongly urge the members of this committee to oppose the proposed legislation, HB 571, which would levy discriminatory taxes on online travel companies, thus resulting in increased costs for Ohioans and out-of-state travelers who contribute to Ohio's tourism industry.

If passed, HB 571 would impose new sales taxes on online travel companies (OTCs) and travel agents who utilize online portals. These are companies that provide the service of finding hotel rooms, sometimes at a lower cost negotiated with the hotel, and then brokering those rooms to prospective guests. Travelers recognize and regularly use popular OTCs such as Expedia, Kayak, and Orbitz.

Travelers use these OTCs to find hotel rooms, compare prices, and book their travel accommodations. When booking rooms, travelers pay one fee that includes the room cost, all applicable taxes the wholesale price of the room, and a service fee. The OTC pays the hotel the negotiated cost of the room and the applicable taxes, keeping the service fee as their profit on the transaction. Under current law, that service fee is not subject to Ohio's sales, excise or lodging taxes, as it is not related to the cost paid by the OTC to reserve the room. There is an important distinction in Ohio law, across the board, that *services* are treated differently than *goods*. A hotel room is a good, OTCs provide a service to hotels by helping them sell their goods – a service that hotels voluntarily entered into contracts with OTCs to receive, because it efficiently connects customers to their product.

Supporters of HB 571 claim that OTCs are pocketing tax revenue that should be due to the state under this practice. This is simply not true. OTCs, because of the value they create for both hotels and travelers, are able to negotiate favorable prices on hotel rooms. They collect and remit all applicable taxes on the price they pay the hotel for those rooms. Because of the successful and popular OTC model, travelers are able to book rooms at hotels they might have otherwise overlooked at a reasonable rate. OTCs charge a service fee in order to make these transactions possible. This fee is rightly not subject to Ohio's sales, excise and lodging taxes—though it is subject to income and other taxes like any other company's profits.

HB 571's supporters further claim that these tax increases will create "parity" between brick and mortar hotels and OTCs. This should be alarming to anyone who believes in free markets. When a government uses its power to tax and regulate in order to mitigate competition, free markets and consumers suffer. This is a dangerous practice, especially in an instance where hotels are willingly entering into mutually beneficial contracts to sell rooms to OTCs, and then turning around asking the government to raise taxes on their competitors.

And let us not forget that the burdens of business and sales taxes are ultimately borne by the consumers who pay more for the services and goods they purchase. This tax increase would boost government revenues by an estimated \$3 to \$7 million extra each year—those costs would necessarily be passed on to consumers looking to book travel online. Bear in mind that the new taxes can be passed on to consumers in ways other than the total cost. OTC's offer bundle packages, point programs, and member deals. All of these could be watered down or suspended as a means to absorb the new tax and indirectly pass costs on to the consumer. This would also have a ripple effect impacting Ohio's tourism industry, since OTCs are known to provide much of their service to so-called "whim travelers" who book last minute trips based on competitive pricing.

This is especially problematic because none of Ohio's neighbors have a similar tax, meaning tourists may choose to save money by traveling a short distance to stay somewhere else. Similar taxes have also failed to generate predicted revenue according to Steve Shur, president of the Travel Technology Association, "In every other state where this battle has played out, the amount of money projected has not been realized."¹

Other states that have implemented similar taxes have also seen a decrease in major online travel companies doing business in the state. For example, Columbus, Georgia, after a similar tax increase was passed, saw a number of major online travel companies delisting their hotels, losing months' worth of hotel profits and tax revenue.² That's because OTCs increase economic activity for the state and generate additional tax revenue. In fact, a study out of Cornell University found that hotels listed on an online travel website saw a boost in bookings, and that hotels listed online saw an up to 26% increase in direct bookings.³

Travel and tourism taxes are already charged at a much higher rate than other taxes and can ultimately reduce tourism. With Ohio in its eighth-year of tourism growth, placing a new tax on consumers would threaten the successful tourism industry. Ohio saw 219 million visits in 2017 alone, with tourists spending \$44 billion in the state's economy.⁴ Of those visits, 43 million of were overnight trips. Since overnight visitors spend about three times more than day visitors,

¹ Provance, Jim. "Ohio Sales Tax Would Include Online Hotel Retailers in Latest Budget Proposal." The Blade, 14 June 2015, www.toledoblade.com/State/2015/06/14/Sales-tax-would-include-online-hotel-retailers.html

² Sara Belsole, "Hotel Owners Speak About Expedia Lawsuit," WLTZ First News, September 13, 2011, <http://www.wltz.com/2011/09/13/hotel-owners-speak-about-expedia-lawsuit/>

³ Anderson, Chris. "The Billboard Effect: Online Travel Agent Impact on Non-OTA Reservation Volume," *Cornell Hospitality Report*, October 2, 2009, scholarship.sha.cornell.edu/chrpubs/2/

⁴ Bench, Emily. "The Numbers Are in: Ohio Tourism Now Is a \$44B Industry." Bizjournals.com, The Business Journals, May 9, 2018, www.bizjournals.com/columbus/news/2018/05/09/the-numbers-are-in-ohio-tourism-now-isa-44b.html.

Americans for Prosperity (AFP) exists to recruit, educate, and mobilize citizens in support of the policies and goals of a free society at the local, state, and federal level, helping every American live their dream – especially the least fortunate. AFP has more than 3.2 million activists across the nation, a local infrastructure that includes 36 state chapters, and has received financial support from more than 100,000 Americans in all 50 states. For more information, visit www.AmericansForProsperity.org.

Ohio has the potential to greatly increase its tourism revenue.⁵ The tourism industry in Ohio currently supports 428,000 jobs and with that amount of jobs dependent on a healthy tourism sector, the Ohio legislature should be working to encourage growth, not hinder it.⁶

At AFP-OH we believe that there are five central tenants to a free and open society and one of those is incentives. We believe that throughout history, the culture, rights, knowledge, and reward systems of free societies have worked better than any alternative. Part of the reason for this is they ensure that people gain by satisfying what others value. This tends to create a harmony of interests. Whether one's motives are altruistic, self-interested, or a mixture of both, free societies encourage positive sum (win-win) behavior. They minimize opportunities for individuals to gain at the expense of others through political means such as rent-seeking behaviors, as opposed to contributing to society through economic means.

House Bill 571 is a direct violation of this principle. Online travel companies were created as an innovation to meet a consumer need, the ability to quickly find, compare, and book travel. They created such a valuable service to the public that the market could support multiple large companies and there was still room for local travel agents right here in Ohio to create their own online portals - all while hotels controlled the inventory available, booked rooms that otherwise could have gone unfilled, and smaller independent hotels were discovered that were previously nothing more than an entry in the yellow pages. This is the positive sum, win-win, behavior we support.

The legislation before this committee seeks to punish innovation and whenever you punish innovation there are many losers. Passage of HB 571 punishes families on vacation who purchase bundle deals that may disappear, it punishes small hotels who appear in OTC searches but show up far down in Google searches, it punishes brick and mortar travel agents in Ohio who use 21st century technology to serve their clients, and it punishes the innovators who pioneered this service in the first place. All in the name of a \$7 million money-grab.

History has proven that taxing OTC services has stifled tourism and hurt the overall economy. With Ohio's tax climate currently ranked as 45th in the nation, the last thing Ohio needs is yet another tax.⁷ For these reasons, AFP-OH strongly opposes House Bill 571. Thank you, Mr. Chairman, I will gladly answer any questions at this time.

⁵ Ibid.

⁶ Ibid.

⁷ Buhl, John. "New Book: Ohio Illustrated - A Visual Guide to Taxes and the Economy." Tax Foundation, June 13, 2018, taxfoundation.org/press-release/new-book-ohio-illustrated-visual-guide-taxes-economy/.

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