



March 31, 2017

An Open Letter to the Georgia Senate: Reject H.B. 225

Dear Georgia Senator,

On behalf of the millions of members of the undersigned organizations, including thousands of Georgia residents and taxpayers, we write in strong opposition H.B. 225, which makes out-of-state marketplace providers liable for remitting sales taxes on behalf of individual sellers for items sold into the state of Georgia.

This bill was originally intended as a tax on the services provided by transportation network companies, and yet has turned into an unconstitutional tax grab that has nothing to do with the section of the Georgia code in which it resides. Transforming the transportation network company bill into a vehicle for broadly expanding Georgia's taxing powers outside its borders is an underhanded approach, and should be rejected.

As many of us wrote to you in response to H.B. 61 earlier this year, this bill also incorporates provisions drafted to overturn legal precedent. This approach is costly and proven to be unsuccessful in court. This bill will draw Georgia into a long cycle of litigation on an issue where Supreme Court precedent is already clear – state tax authority stops at the border's edge.

Beyond being unconstitutional, this bill sets dangerous precedent that could harm Georgia's own citizens and businesses. If states are allowed to tax businesses located outside their borders, Georgia residents and businesses could come under fire from aggressive high-tax states like California, New York, and Illinois, without a means to effectively represent themselves.

This bill imposes an undue burden on online marketplaces like eBay and Etsy, which are merely virtual storefronts that allow millions of small businesses to reach customers across the globe. But H.B. 225 ignores this reality and creates a new tax burden on every marketplace selling into Georgia, despite the fact that the legislature would never make a physical marketplace responsible for the tax liability from their tenants' transactions. That would be absurd: sales tax requirements should be on the seller, not the marketplace.

Additionally, passing this bill makes web-enabled marketplaces responsible for significant compliance burdens – if enacted in all fifty states, web-based businesses, including those based in Georgia, would be responsible for keeping track of all 10,000 taxing jurisdictions across the country, each with its own rates, rules and regulations, while sales in similar brick-and-mortar businesses only require collection of tax for the single jurisdiction in which they're located.

The Georgia Legislature's authority to impose sales taxes on businesses within its borders and use taxes on its citizens for purchases made online is undisputed. By reaching across state lines for tax collection, this bill sets a dangerous precedent that stands to harm Georgia's own citizens, if not for its obvious unconstitutionality inevitably leading to it being overturned in court. These facts, combined with the provision being cleverly hidden in bill ostensibly focused on transportation network companies, make its passage decidedly unwise, and we urge you to vote against it.

Sincerely,

Andrew Moylan, R Street Institute

Norm Singleton, Campaign for Liberty

Jeffrey Mazzella, Center for Individual Freedom

Jessica Melugin, Competitive Enterprise Institute

Wayne Brough, FreedomWorks

Pete Sepp, National Taxpayers Union

David Williams, Taxpayers Protection Alliance

Judson Phillips, Tea Party Nation