



January 29, 2020

The Honorable Howard L. Marklein
Chairman, Committee on Agriculture, Revenue and Financial Institutions
Wisconsin Senate
P.O. Box 7882
Madison, WI 53707

RE: Opposition to SB 646

Dear Chairman Marklein, Vice-Chairman Petrowski and Members of the Committee,

My name is Matthew Kiessling, and I am the Vice President of State & Local Affairs for the Travel Technology Association ([Travel Tech](http://TravelTech.org)). My organization represents companies like Airbnb, Expedia's Vrbo and HomeAway platforms, Booking.com, TripAdvisor, and many others. I write to you today in opposition to Senate Bill 646.

Our industry is responsible for booking hundreds of thousands of room nights, both hotels and short-term rentals, in Wisconsin annually and our members are proud to facilitate a marketplace that allows travelers to easily search for, compare and book accommodations across the state. That activity generates enormous economic benefits for communities throughout Wisconsin, and our industry is always seeking ways to innovate, provide better service, and inspire people to travel.

SB 646, if enacted, would jeopardize Wisconsin's travel and tourism economy. In a gross overreach, this proposed legislation would require short-term rental (STR) platforms to turn over the personally identifiable information (PII) of owners and hosts to municipalities, flying directly in the face of federal law, harming STR platforms, and potentially putting homeowners at great risk.

Due to their existing role in tax collection and remittance, tax-collecting jurisdictions already retain the ability to audit the collection being performed by STR platforms when the probable cause to do so is present. This bill would drastically alter that dynamic by instead allowing fishing expeditions by those municipalities, empowering them to demand the names of owners and hosts, as well as the physical addresses of the homes offered for rent through our members' platforms. Protection under the 4th Amendment of the Constitution from unlawful search and seizure is a core privacy protection, and as written, we believe SB 646 poses a direct threat to that protection.

Additionally, requiring platforms to turn over the data specified in the bill also undermines existing federal privacy protections. Such a requirement would certainly run afoul of federal laws that protect such data under the Stored Communications Act (“SCA”), which governs “access to stored communications and records.” In order to comply with the SCA, online platforms, like our member companies, that provide users the ability to “send or receive wire or electronic communications” and that store those communications, may not disclose user data without the appropriate process. In this case, the SCA would require that governmental entities use an administrative subpoena to obtain basic user information and would require a court order to obtain more detailed or transactional data, such as rental activity.

The PII of short-term rental owners, operators, and hosts should also be considered sensitive from a practical perspective. Setting aside the aforementioned privacy concerns, empowering municipalities to demand PII is concerning due to the lack of data security requirements or protocols for the transmission or storage of that information in this bill. Similarly, the legislation contains no specifics related to what entities would have access to the data, or protections that ensure it would only be used for tax collection purposes.

Instead, the legislation actually gives Wisconsin’s nearly 2000 municipalities the broad discretion to develop their own reporting forms and timelines. In addition to the data security concerns, this would likely result in a myriad of compliance challenges by requiring global internet platforms to deal with a patchwork of local reporting forms, requirements, and deadlines, which is both unworkable and impractical. Especially when we recognize that we are applying this burden to short-term rental platforms that are already collecting and remitting taxes under existing law.

Finally, the punitive penalties set forth in the bill are both excessive and unnecessary. This bill would grant municipalities the ability to impose fines for a platform’s failure to disclose PII without legal process or to complete and file any reporting forms in the manner prescribed. Under the legislation, each municipality would have the power to impose fines of up to \$45,000. This structure is completely disproportionate to the revenue associated with short-term renting, and could even incentivize taxing jurisdictions to implement overly burdensome and complicated reporting requirements, given that the proposed fine structure would inevitably generate significantly more revenue than the associated taxes.

SB 646 is both a fundamentally flawed piece of legislation and a threat to the privacy of Wisconsin residents. Travel Tech strenuously urges the committee to reject this legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Matthew Kiessling", with a large, sweeping flourish underneath.

Matthew Kiessling
Vice President, State & Local Affairs
The Travel Technology Association
www.traveltech.org