



March 29, 2023

Assembly Committee on Revenue
Room 4100, Legislative Building
401 South Carson Street
Carson City, NV 89701

Re: AB 421 - Establishes provisions governing the collection of the consumer data of Nevada consumers. (Oppose)

Chair Backus and Members of the Assembly Committee on Revenue:

On behalf of the Computer & Communications Industry Association (CCIA), I write to respectfully oppose AB 421.

CCIA is an international, not-for-profit trade association representing a broad cross-section of communications and technology firms¹. While recognizing that policymakers are appropriately interested in the digital services that make a growing contribution to the U.S. economy, proposals such as AB 421 require study, as they may raise constitutional concerns and risk having broad economic impacts.

Taxing the collection of consumer data raises serious concerns regarding administrative feasibility.

Determining how to count the number of consumers applicable under the tax would pose significant technical difficulties and confusion. The bill specifies that the tax applies to collecting data from a resident of Nevada based on their home address, a Nevada mailing address or an internet protocol address located in Nevada. However, consumers traveling through or to Nevada to enjoy its several tourist attractions would generate an IP address in Nevada from their phone or other devices connected to the internet. Therefore, it would be very difficult for a business to discern between true Nevada residents and visitors.

Being able to accurately confirm whether data is collected from a Nevada resident would require additional data collection, which has data privacy implications, and may conflict with data minimization principles. Many businesses may collect data from consumers that does not include their home or mailing address. However, businesses would be required to start collecting this data to determine whether that consumer is in fact a Nevada resident.

CCIA recommends conducting a feasibility study before legislating on this complex topic, that would, at minimum, focus on the following:

- Does the tax only apply to data collected from state residents while they are within the state's borders? Or, does a tax apply to a Nevada resident whose data is collected while traveling through other states?

¹ For 50 years, CCIA has promoted open markets, open systems, and open networks. CCIA members employ more than 1.6 million workers, invest more than \$100 billion in research and development, and contribute trillions of dollars in productivity to the global economy. A list of CCIA members is available at <https://www.ccianet.org/members>.



- How can tax administrators and businesses differentiate between state residents and users located within the state border at a given time?
- Would companies be required to implement additional data collection measures to determine whether the data collected about a given consumer is applicable to the proposed tax?
- How would the state ensure businesses are in compliance with the tax?

The bill may unintentionally negatively impact consumers.

While AB 421 is framed to apply a tax to commercial data collectors that collect data from more than 150,000 Nevada consumers in a given month, the additional cost imposed on businesses could then be passed on to consumers themselves. For example, hotels collect information about their customers for billing purposes and to provide customers with communications about deals and promotions, and provide them with the benefits of their reward programs. Providing such a service to consumers requires the collection of certain data and therefore would subject the hotel to this tax. It is foreseeable that businesses would then pass on the costs associated with the implementation of this tax to consumers via higher rates or more-limited services.

* * * * *

We appreciate the Committee’s consideration of these comments and stand ready to provide additional information as the legislature considers proposals related to technology policy.

Sincerely,

Khara Boender
State Policy Director
Computer & Communications Industry Association