



November 15, 2021

The Honorable Steve Wilson  
Chair, Senate Financial Institutions and Technology Committee  
1 Capitol Square  
1st Floor  
Columbus, OH 43215

**Re: Opposition to SB 184 (Disclosure of Third-Party Seller Information on Online Marketplaces)**

Chair Wilson, Ranking Member Maharath, and members of the Joint Committee,

On behalf of the undersigned member companies of the Coalition to Protect America's Small Sellers (PASS), we write to respectfully express our opposition to SB 184. While we share the goal of protecting consumers and curtailing organized retail crime (ORC), this bill does little to achieve that goal and instead imposes regulations that will discourage Ohio small businesses and entrepreneurs from increasing their sales through online marketplaces. We are also concerned that the bill forces these sellers to choose between compromising private information or suspending sales on online platforms. We do not believe small businesses should be forced to make this choice – certainly not now as many are struggling to remain open.

Legislation like SB 184 introduced at the behest of Big Box retailers has been rejected in at least 14 other states. One state, Arkansas, home to Walmart, rushed onerous legislation through the process in three weeks with little debate despite substantial criticism of the law, including the harm it poses to legitimate small businesses selling online.

Congress is also looking at this issue and the current version of the federal INFORM Consumers Act includes language that substantially differs from SB 184. Further, the Congressional bills specifically contain a provision to preempt state laws to prevent a patchwork of conflicting

requirements. The PASS Coalition<sup>1</sup>, along with major retailers, manufacturers, and consumer groups, endorsed the federal INFORM Consumers Act in the US House<sup>2</sup> and the recent proposed amendment to the National Defense Authorization Act (NDAA) in the Senate because they provide necessary protections for consumers and small business sellers that are not included in the bill before you. We strongly urge the committee to reject SB 184 which is based on an older version of the INFORM Consumers Act. Instead, we are supportive of state efforts to examine ways to holistically address bad actors engaged in ORC or other illicit activities through the continued collaboration between law enforcement agencies, retailers, rights owners, online marketplaces, and other relevant stakeholders.

Chief among our concerns are the disclosure requirements under SB 184 which run counter to public sentiment and most laws regarding consumer privacy and data security. Because of the low threshold, even relatively small sellers would be required to disclose sensitive personal information like their full name, home address, telephone number, and email address on each of their product listings. While there are attempts to provide some protections to home-based sellers in the bill, these exceptions are insufficient and will risk exposing sellers to harassment, fraud or worse. This will ultimately have a chilling effect on eCommerce by deterring many Ohio small businesses and residents from selling online.

The bill's proposed thresholds and requirements are overly prescriptive and impractical. The volume of sellers on our platforms who would be required to disclose personal information on each of their listings under the bill – those who engage in 200 or more sales totaling \$5,000 or more – is staggering. Given the rigid timelines and verification processes mandated under SB 184, Ohio small businesses who sell on online marketplaces would be burdened. Additionally, SB 184 also takes a one-size-fits-all approach that fails to provide adequate flexibility to vastly different business models as not all online marketplaces are monolithic.

The requirements of SB 184 also disregard existing efforts to protect consumers deployed by online marketplaces. Our member companies heavily invest in technological tools, processes, and personnel to prevent prohibited, stolen, and counterfeit items from being listed on our platforms. We have proactively partnered with retailers, rights owners, and regulators; implemented clear policies; and worked collaboratively with law enforcement and other relevant stakeholders to enforce our policies to find and remove bad actors unlawfully using our marketplace.

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<sup>1</sup> <http://www.protectsmallsellers.org/newsroom/pass-coalition-endorses-new-inform-consumers-act-applaud-reps-jan-schakowsky-d-il-and-gus-bilirakis-r-fl>

<sup>2</sup> <https://schakowsky.house.gov/media/press-releases/schakowsky-introduces-bill-protect-consumers-making-online-purchases>

We appreciate the opportunity to share our opposition to SB 184. As a coalition of third-party eCommerce platforms powered by small sellers, including hundreds of thousands across Ohio, our companies are deeply committed to protecting consumers who use our platforms, including preserving the privacy of our sellers. We welcome the opportunity to work with the Legislature and other partners to combat illegal goods, protect consumers, and support small businesses, but unfortunately, SB 184 in its current form does not advance these important goals.

Sincerely,

PASS Coalition

eBay

Etsy

Mercari

OfferUp

Poshmark

cc: Members of the Senate Committee on Financial Institutions and Technology  
The Honorable George F. Lang  
The Honorable Michael A. Rulli

### **About the PASS Coalition**

The PASS Coalition is a policy-oriented coalition of third-party marketplaces and eCommerce platforms that have joined forces to educate policymakers on the benefits and variance of our business models while also working collaboratively to find thoughtful solutions to consumer protection, competition and economic development issues impacting eCommerce. Together, our member companies enable hundreds of thousands of small businesses and individual sellers throughout Ohio to reach customers down the street and around the world. These online small businesses and individual sellers are located across Ohio communities large and small, rural and urban, and provide access to consumers for a wide variety of products. These entrepreneurs have been especially instrumental during the COVID-19 crisis in helping consumers receive essential goods while sheltering in place or socially distancing.