



**TECHNET**  
THE VOICE OF THE  
INNOVATION ECONOMY

December 6, 2021

The Honorable Steve Wilson  
Ohio State Senate  
First Floor  
Senate Building  
Columbus, OH 43215

**Re: Opposition Testimony to SB 184**

Dear Chairman Wilson and members of the Committee:

My name is Tyler Diers and I serve as the executive director for the Midwest for TechNet.

TechNet is a national, bipartisan technology trade association advocating for the innovation economy at the federal and state level. We represent 85 member companies in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

I am before you today in opposition to SB 184.

First off, I want to state that we are opposed to organized retail crime. This is a serious offense that our members take seriously. Which is why they are invested in technologies, clear policies, personnel, and processes that identify bad actors and remove them from their platforms.

We are opposed to SB 184 for 3 main reasons. One, this legislation would have a negative effect on small sellers; two, it would do little to actually curb organized retail crime (or ORC); and three, there are other alternatives to addressing ORC than SB 184.

**Impact on Small Sellers and Privacy Concerns**

This bill would have negative consequences on small marketplace sellers that sell on online marketplaces. The bill seeks to define these small sellers as “high volume sellers” even though you could be considered a high-volume seller for simply making 4 sales a week on an online marketplace.

Many of you may have heard from several of these small sellers. They do not want these burdensome and harmful verification requirements on their businesses. This

bill casts a wide net and treats all marketplace sellers as if they're criminals, when in reality an overwhelming majority of these sellers are good, honest actors.

The private right of action, which ironically is being lauded by the retail business groups, should also be a reason to oppose this bill. A violation of the bill's requirements is considered an unfair or deceptive act or practice in violation of the Consumer Sales Practices Act, for which two civil remedies would be available. First, the Attorney General's Office can investigate violations, seek a declaratory judgment, an injunction or other equitable relief, or organize and bring a class action. Second, a person who is injured by such a violation has a cause of action and is entitled to relief. Potentially, this could mean that any minor infraction or disagreement about any of the vague standards in the bill leads to more lawsuits.

At a time when many state governments are trying to find ways to reduce red tape on businesses, this bill seems to be adding additional requirements on those who need regulatory relief the most. This bill hurts small businesses and favors large retailers who do not need an online marketplace to connect with their customers.

This bill also raises some significant privacy concerns. It would force Ohioans to compromise privacy information in order to sell on online platforms and if they don't feel like supplying some of this sensitive information, then they'd have to forgo selling and lose essential revenue streams.

At a time when policymakers and companies are working to improve privacy protection for individuals, this amendment is swimming against the tide of that progress by requiring personal information to be plastered all over the internet.

### **Bill Does Little to Address ORC**

This bill would do little to actually curb organized retail crime. Efforts to stem the flow of counterfeit and other illegal goods cannot focus on online marketplaces alone. They must consider the cooperative role physical marketplaces continue to play.

The internet isn't stealing items off of in-store shelves. Thieves and often times, employees are. This is as much of a shrink issue as it is anything else. Just as brick-and-mortar retailers are able to institute voluntary business practices that help to remediate the proliferation of organized retail crime, marketplaces similarly should have the same flexibility to institute business practices without heavy-handed regulation.

And lastly, I would like to point out that some of the big-box retailers that are for the bill would be exempted from the bill because they have an ongoing contractual relationship with third party sellers selling onto their platforms (page 2, line 42).

### **An Alternative Approach**

While, we believe the issue of organized retail crime is much better addressed by implementing a federal standard, we do believe the state can be creative at effectively addressing organized retail crime.

As stated previously, we believe this does little to actually address ORC. In order to curtail such activity, we stand prepared to provide you all with a draft state organized retail crime task force similar to what is passed with support from online marketplaces, and retail in Arizona earlier this year. The task force brings together law enforcement, retail loss prevention experts, online marketplaces, and other key stakeholders to collaborate on investigations and prosecutions of organized retail crime.

And these efforts to date have been successful. Just last week in Illinois, Attorney General Raoul successfully announced a major bust just a few months into launching the Task Force in Illinois. The Task Force recovered thousands of stolen goods at several storage units in Chicago. While a complete inventory is ongoing, the stolen goods are estimated to be worth millions of dollars.

These sorts of public-private partnerships are much more effective in addressing organized retail crime because you bring the right people from the right organizations together in a comprehensive way to address what all of us agree on – which is addressing organized retail crime.

### **Closing**

In closing, this legislation risks the privacy and personal information of small businesses and online sellers, does little to address ORC, and would only add additional red tape on businesses that need regulatory relief the most. Opening up Ohio to frivolous lawsuits and finger pointing does not address ORC. Let's reject this legislation, allow cooler heads to prevail, establish an organized retail crime task force, and stop this activity in its tracks.

Thank you, Mr. Chair, for allowing me time today. I'd be happy to answer any questions you or the committee may have.