



HOUSE TECHNOLOGY AND INNOVATION COMMITTEE – OPPONENT TESTIMONY,
HB 357, 6.12.24

Chair Miller, Vice Chair Claggett, Ranking Member Abdullahi, and members of the House Technology and Innovation Committee, thank you for holding this hearing on HB 357.

My name is Hannah Kubbins, and I am the Legislative Director of Americans for Prosperity, Ohio, and on behalf of our thousands of activists across the Buckeye state, we strongly urge you to oppose HB 357, the Safe and Reliable Texting Act. Despite its name, the legislation will neither make texting any safer nor reliable. This legislation represents a classic example of a solution in search of a problem.

Make no mistake. Americans for Prosperity supports encryption technologies, and strongly encourages people to integrate it into various aspects of their life. We have repeatedly and firmly opposed legislative proposals both at the state and federal level that would undermine encryption technology, standing up for the privacy of Ohioans and Americans around the country.

Firstly, as I stated at the outset, this is a solution in search of the problem. If Ohioans want to have encrypted text messages, we have good news for them! There are a ton of options out there. For example, let's look at the two major operating software options on the market right now, Apple's iOS on the iPhone, and the Android OS used on other phones offered by a variety of manufacturers. Apple's standard iMessage service features end-to-end encryption by default and has for over a decade. On Android, the other major phone software provider, so long as both parties have RCS chats turned on, those conversations are automatically upgraded to include end-to-end encryption. In both scenarios, no 3rd party can read the content sent between individuals.

Furthermore, none of this includes the vibrant ecosystem of alternative messaging platforms that exist on the market to service consumer needs in this space. Signal, Telegram, Viber, Line, WhatsApp, and more already exist in the marketplace. Signal has over 40 million monthly active users, and WhatsApp has over 2 billion monthly active users. In 2023, Facebook Messenger rolled out default end-to-end encryption for all personal chats and calls on Messenger and Facebook. All this reinforces the point that consumers are both aware and more than capable of handling this issue on their own, with no clear or compelling justification for government action.

HB 357 is a classic case of Ohio trying to regulate something that isn't an exclusive to the state. iPhones are built overseas, shipped to Seattle where the OS is then put on, which means Ohio

would be trying to regulate beyond its borders. It would be unsurprising if this bill, should it become law, were subject to challenge under the Dormant Commerce Clause since its requirements impact interstate commerce through the application to all United States telephone numbers with a texting capability.

The legislation also needlessly seems to make design choices, with one provision requiring that messages show when someone actively is typing. There is a litany of issues facing Ohio today that require the legislature's attention, the provision of text message services are not one of them. It is for these reasons that we ask you to oppose HB 357.