



October 12, 2021

The Honorable Dick Stein
Chair, House Commerce and Labor Committee
77 South High Street, 12th Floor
Columbus, OH 43215

Re: Opposition to HB 272 (Verification and Disclosure of Third Party Seller Information on Online Marketplaces)

Chair Stein, Ranking Member Lepore - Hagan, and members of the House Commerce and Labor 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 HB 272. 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 similar to HB 272 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 included language in both the House and Senate versions preempting state laws to prevent a patchwork of differing requirements. The PASS Coalition endorsed the recently introduced House INFORM Consumers Act which substantially differs from the bill

before you by providing necessary protections for consumers and small business sellers. We strongly urge Ohio to reject HB 272 as introduced and instead examine ways to holistically address bad actors engaged in ORC or other illicit activities through the continued collaboration between law enforcement agencies, retailers, brand owners, online marketplaces, and other relevant stakeholders.

Chief among our concerns are the disclosure requirements under HB 272 which run counter to most public sentiment and laws regarding consumer privacy and data security. Because of the artificially 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, 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 Ohioans from selling online.

The proposed thresholds and requirements for verification are impractical and overly prescriptive. The volume of sellers on our platforms who would be required to disclose personal information under the bill – those who engage in 200 or more sales totaling \$5,000 or more – is staggering and not at all reflective of a “high-volume” seller. We are unclear as to how this threshold was included. Additionally, HB 272 also takes a one-size-fits-all approach to vastly different business models for the broadly-defined “online marketplaces.”

The requirements of HB 272 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, brands, 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.

We appreciate the opportunity to share our opposition to HB 272. 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, HB 272 in its current form does not advance these important goals.

Sincerely,

PASS Coalition

eBay

Etsy

Mercari

OfferUp

Poshmark

cc: Members of the House Commerce and Labor Committee

The Honorable Phil Plummer

The Honorable Haraz N. Ghanbari

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 eCommerce 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.