



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

October 12, 2021

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

Re: Opposition Testimony to HB 272

Dear Chairman Stein 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 HB 272.

First off, I want to state that we are opposed to organized retail crime. This is a serious offense that our members do not take lightly. 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 HB 272 for 3 main reasons. One, this legislation would have a negative effect on small sellers; two, there are some significant privacy concerns with the bill; and three, it would do little to actually curb organized retail crime (or ORC).

Impact on Small Sellers

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.

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.

Privacy Implications

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.

How does posting someone's personal information stop organized retail crime? It doesn't mean the person selling is the one who stole the products. They may not even know they are selling stolen goods. These criminals are sophisticated and will work around this regulatory regime.

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.

The seller verification requirements in the bill won't stop bad actors. In fact, it could help criminals and bad actors by creating a stagnant framework that criminals will quickly learn how to evade. This bill is not responsive to a rapidly evolving landscape and is too rigid to adapt to the dynamic nature of criminal operations across all types of retail, whether brick and mortar or online.

This bill also sends a chilling effect on Ohio businesses by allowing a private right of action to enforce the bill. Given the strict nature of these requirements, frivolous lawsuits will certainly follow if this bill becomes law.

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).

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. TechNet respectfully ask you do not advance this bill.

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