



February 8, 2022

Delegate Christopher Head
Chair
House Commerce and Energy Subcommittee #4
Virginia General Assembly

Oppose HB 888: Hurts Small Online Sellers, Rejected by 15 States, Unnecessary Due to Federal Compromise

Dear Chair Head and members of the committee,

My name is Montana Williams and I am the Director of State and Local Public Policy for the Chamber of Progress, a tech industry coalition promoting technology's progressive future. Our organization works to ensure that all Americans benefit from technological leaps.

We urge this committee to **oppose HB 888**. This bill will hurt small online sellers, has already been rejected by 15 state legislatures, and is unnecessary now that big-box retailers and online marketplaces have endorsed a new compromise version of this bill at the federal level.

HB 888 would make small online sellers collateral damage in Walmart's battle against Amazon. The bill represents an effort by Walmart and other big-box retailers to hurt their biggest competitor, Amazon, under the false pretext of eliminating a small number of bad people from selling counterfeit and stolen goods online. In reality, the marketplace giants are trying to stifle healthy competition and will ultimately **hurt Etsy artisans, eBay sellers, and other online microbusinesses.**

According to a recent article in The Atlantic, bills like HB 888 will ultimately help Walmart by **"weaken[ing] the competitive advantage of large-scale online-shopping platforms, whose success is a much larger existential threat to their bottom line than thieves could ever be."**¹ The Atlantic also reported that experts say there's simply not enough empirical evidence that shows flipping stolen goods "is primarily the province of huge, violent criminal-conspiracy organizations." More data must be gathered before fingers are pointed at online marketplaces.

Fifteen states have rejected bills similar to HB 888, prioritizing the needs of online entrepreneurs and consumer choice. Legislators in Republican and Democratic led states agree this legislation would add additional obstacles that would ultimately hurt small sellers, decrease opportunity, increase red tape, and hinder consumers in search of a deal. The only state to pass this legislation is Walmart's home state, Arkansas.

¹Amanda Mull, *The Great Shoplifting Freak-Out*, The Atlantic, (Jan. 2022)
<https://www.theatlantic.com/health/archive/2021/12/shoplifting-holiday-theft-panic/621108/>

In several state legislative hearings over the past few months, legislators have expressed hesitation about the impacts of these bills on small online sellers. These include:

West Virginia [Senator Mike Romano](#) (D)

"Is there any evidence that this [online retail crime] is going on in West Virginia? There's a lot of shoplifting going on...but I don't think any drug addicts are running online businesses. I've not heard anybody say there was an active black market in stolen property in my area... certainly nobody's come to me and said that. If you're buying from someone who is not reputable, that will take care of itself."

Georgia [Rep. Bert Reeves](#) (R)

"We all can agree that there are bad players, that we need to be able to have better tools to be able to stop what they're doing...but perhaps this proposal...it's a net that brings in way too many fish that we don't mean to bring in. [...]"

Georgia [Rep. Zulma Lopez](#) (D)

"Not everyone that is selling [online] is going to be doing anything illegal. I'm thinking about the small business owner that is growing their business. As soon as they meet that [sales] threshold they have 24 hours to comply. That is pretty cumbersome."

West Virginia Senator [Amy Grady](#) (R)

"I'm just thinking about the sellers on Etsy that sell handmade things or one-of-a-kind items, I wouldn't think they'd fall under the same category of trying to resale things that were stolen from a department store."

Finally, a federal compromise version of this bill has already been endorsed by both retailers and leading online marketplaces, making this legislation unnecessary. In October, U.S. Reps. Jan Schakowsky (D) and Gus Bilirakis (R) introduced the federal Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers (INFORM) Act, aiming to combat the online sale of stolen, counterfeit, and dangerous consumer products.

Due to changes that the bill's sponsors made to address the concerns of small online sellers and marketplaces, the new legislation is now supported by both retail groups such as the Retail Industry Leaders Association and Buy Safe America Coalition, as well as a coalition including Etsy and eBay,² as well as Amazon.³ The consensus approach reflected in this new version of the legislation represents the best model for tackling this issue without harming small online sellers.

Online marketplaces are largely borderless and don't observe state by state boundaries. Passing this bill would exacerbate a patchwork of state laws on an issue that is more properly addressed at the federal level. The consensus approach reflected in the federal version of the legislation represents the best model for tackling this issue without harming small online sellers.

² PASS Coalition Endorses New Inform Consumers Act, Applauds Reps. Jan Schakowsky (D-IL) and Gus Bilirakis (R-FL), The Coalition of Protect America's Small Sellers, (Nov. 2021)
<http://www.protectsmall sellers.org/newsroom/pass-coalition-endorses-new-inform-consumers-act-applaud-reps-jan-schakowsky-d-il-and-gus-bilirakis-r-fl>.

³ Amazon supports the U.S. House version of the INFORM Act, Amazon, (Nov. 2021)
<https://www.aboutamazon.com/news/policy-news-views/amazon-supports-the-u-s-house-version-of-the-inform-act>

We hope you will heed the perspectives of the legislators who have assessed the consequences of passing state versions of the INFORM Consumers Act and **oppose HB 888**. This bill would take sides for Walmart against Amazon, while hurting small online business owners. This approach has been rejected in all but one state legislature -- by both Republicans and Democrats -- because of its negative impact on small online sellers.

Rather than pass this bill, we encourage the Virginia legislature to support the U.S. Congress as it considers an improved compromise version of this legislation that has broader support. We welcome the opportunity to work with this committee to ensure that both traditional retailers and online sellers are treated fairly.

Sincerely,

A handwritten signature in black ink, appearing to read 'M Williams', with a long horizontal flourish extending to the right.

Montana Williams
Director of State & Local Public Policy
Chamber of Progress