



**TECHNET**  
THE VOICE OF THE  
INNOVATION ECONOMY

WRITTEN TESTIMONY OF TYLER DIERS  
TECHNET  
MICHIGAN HOUSE OF REPRESENTATIVES  
HOUSE JUDICIARY COMMITTEE  
REPRESENTATIVE FILLER, CHAIRMAN  
IN OPPOSITION TO HB's 5485, 5486 & 5487

March 22, 2022

Good morning, Mr. Chairman and members of the Committee:

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

TechNet is a national, bipartisan technology trade association advocating for the innovation economy at the federal and state level. We represent 90+ 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 the suite of bills before us today.

Let me begin by saying, organized retail crime is a significant issue facing all retailers today, and one that our members don't take lightly. Which is why they have invested in technologies, clear policies, personnel, and processes that identify suspected bad actors and bad listings, block them from being published and remove them from their platforms. When there is evidence that bad actors are misusing a marketplace to sell stolen or illicit goods, our members work directly with law enforcement, retailers, and brands to bring offenders to justice.

This is a complex issue. One that requires collaboration and information sharing. But the sharing of information shouldn't create additional opportunities for fraud and abuse. It shouldn't seek to benefit one type of retailer over another. It should seek to create a balanced system that both provides a way for buyers and sellers to interact, while protecting both from fraud and abuse.

Our members have been working with the proponents of this legislation for over a year to strike that balance, and prior to the bill before you being introduced, many of our members, along with a number of larger brick-and-mortar retailers, came out in support of U.S. House bill H.R.5502 at the federal level.

### **Impact on Small Sellers**

The way the bill is currently drafted, it is going to hurt small sellers that sell on internet marketplaces and puts a one-size fits all approach to the diverse ecosystem of online marketplaces. A common misconception is that all online marketplaces have the same business model. While similarities exist, Amazon, Etsy, eBay, OfferUp, Poshmark – the list goes on and on – all have different business models with different types of sellers and customer bases.

However, one constant that remains the same is the internet has provided Michigan small businesses and individuals with the opportunity to instantly and conveniently sell their products to consumers across the globe. This legislation would unfortunately hurt their ability to compete by creating a new, time-consuming process of verification that big-box retailers would not have to deal with.

### **Differences from the federal INFORM Act**

I want to highlight the major differences in the bill before us versus the bipartisan federal bill moving through Congress.

First, it's important to restate this – both our members and the proponents of this bill believe this issue is best dealt with at the federal level. The pending legislation in Congress would establish a federal standard that prevents an unworkable patchwork of state-level regulation.

Sellers are selling goods and products both in and outside of the state of Michigan. Uniformity is key to a thriving internet economy and a patchwork of internet regulations will only confuse sellers and stifle innovation.

The federal legislation includes stronger privacy protections for small businesses that sell online, especially those that operate from home. It still requires the disclosure of email and/or phone number, but allows that information to be disclosed after a purchase if finalized and keeps a marketplace's ability to utilize other means of direct electronic messaging such as buyer/seller communication tools to qualify as contact information vehicles. This is much different than the bill before you today which would require the information to be plastered over the internet for anyone to consume and abuse. Having their information posted on each listing exposes sellers to very valid concerns of fraud, threats, and harassment.

This is important because it helps ensure the marketplace is up to date with any buyer/seller communication. If buyers are encouraged to contact the seller off-platform or outside the buyer contact tools, there is no record or tracking of any issues that may arise. Not to mention, it could jeopardize the safety of sellers. The public could easily learn, for example, the name and home address of a high schooler in Saginaw who makes and sells hand-knitted face masks or of a father in Benton Harbor who has gotten into woodworking and sells his creations online, thus compromising their privacy. The open display of such personal information —

required of entrepreneurial Michiganders with innovative products and residents monetizing their hobbies alike — could potentially lead to dangerous situations.

The timelines for which a seller would be required to provide online marketplaces the required information for verification is also significantly different. The agreed-to federal bill allows the seller to submit the information within 10 days of becoming a high volume seller as opposed to 3 days in this bill. Many small businesses selling online are shops of 1 or a few individuals, so more flexibility in the timelines before their livelihoods are forcibly shut down is a critical change needed and acknowledged in the consensus federal bill.

And lastly, the agreed-to federal bill offers greater flexibility in the types of government issued records that are required to be submitted to a marketplace for verification. The federal bill strikes the requirement for an individual to provide a government issued IDs to include a physical address (e.g., Passports do not contain physical addresses, and would discriminate against those who don't have a government ID). Instead, the consensus federal bill allows the option of a seller providing the marketplace with a government issued tax document.

These are just some of the substantive concerns we have but taken together, are significant differences that persist in this bill that are not included in the federal, agreed-to bill. These modifications would safeguard consumers while protecting innovation, giving online marketplaces flexibility in how to stop bad actors. Equally important, the federal bill would not favor one business model over another.

### **Conclusion**

In closing, I want to thank you for the opportunity to come before you today. I want you to keep in mind the potential harm you may be causing small sellers by passing this legislation as is. Online marketplaces have provided small sellers back-end assistance to fulfill orders and operate their businesses that didn't exist 20 years ago. There is a solution to this, issue and it lies in the model bill at the federal level. Anything other than that, we would vehemently oppose.

Thank you for your time and I'd be happy to answer any questions.

