



January 17, 2022

**Oppose SB 944:
Hurts Small Online Sellers, Rejected by 15 States,
Unnecessary Due to Federal Compromise**

Senator Ed Hooper
Chair
Committee on Commerce and Tourism
Florida Senate

Dear Chair Hooper and members of the Committee:

The Chamber of Progress urges your committee to **oppose SB 944**, a bill that would hurt small online sellers, has been rejected by 15 state legislatures, has little empirical evidence to support it, and is unnecessary – given that both big-box retailers and online marketplaces have endorsed a new compromise version of this bill at the federal level.

SB 944 would make small online sellers collateral damage in Walmart's battle against Amazon.

The bill represents an effort by Walmart, Home Depot, 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 entrepreneurs.**

SB 944 would hurt small sellers, decrease opportunity, increase red tape, and hinder consumers in search of a deal. It won't stop sophisticated counterfeiters, who will surely adapt to the new rules. It's an overreaction to an exaggerated problem, with considerable collateral damage.

Fifteen states – including Florida last year – have rejected bills similar to SB 944, prioritizing the needs of online entrepreneurs and consumer choice. In 2021, the retailer backers of this bill worked to pass similar legislation in 18 states. But after careful consideration last year, 15 state legislatures – including Florida – decided to reject this legislation because of its negative impact on small sellers. The only state to pass this legislation was Walmart's home state, Arkansas.

State Legislatures Considering State Versions of INFORM Consumers Act (2021)			
	Approved	Rejected	Still Under Consideration
Democratic Controlled	None	California (SB 301) Nevada (SB 314) Washington (HB 1543)	Massachusetts (H 138)
Republican Controlled	Arkansas (SB 470)	Arizona (HB 2383)* Florida (SB 1072, HB 1223) Georgia (SB 151, HB 327)* Iowa (SB 1233) Kansas (HB 2433) Missouri (HB 290) Nebraska (LB 603) North Carolina (HB 869)* Oklahoma (HB 1627) Tennessee (HB 709, SB 528) Texas (HB 3852)* West Virginia (HB 2908)	Ohio (HB 272 / SB 184)

In several state legislative hearings last year, both Republican and Democratic state legislators 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.”

Walmart and its allies consistently claim retail thefts are “caused” by thieves being able to stock online platforms with stolen goods in order to resell them on online marketplaces. However, when *The Atlantic* recently “asked retailers how they squared falling property-crime rates with their own assertions that theft has skyrocketed, [retailers] weren’t exactly forthcoming.”¹ In their rush to persuade policymakers to pass laws hurting their biggest competitors, **retailers haven’t clearly established that retail theft has increased – or that online marketplaces are to blame if it is.**

University of Southampton criminologist Anita Lavorgna told *The Atlantic* that **“there’s just not much empirical evidence that flipping stolen makeup or baby formula or designer handbags online is primarily the province of huge, violent criminal-conspiracy organizations.”**

According to Mull, bills like SB 944 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.”**

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 2021, 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. Since SB 944 greatly differs from the federal version, 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.

We hope you will heed the perspectives of the legislators who have assessed the consequences of passing state versions of this legislation and **oppose SB 944**. 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 because of its negative impact on small online sellers. Rather than pass

¹ Amanda Mull, *The Great Shoplifting Freak-Out*, *The Atlantic*, (Jan. 2022)

<https://www.theatlantic.com/health/archive/2021/12/shoplifting-holiday-theft-panic/621108/>

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>

this bill, the Florida legislature can best address this issue by voicing its support for the U.S. House of Representatives' compromise version of this legislation, which has won broad support.

Sincerely,

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

Montana Williams
Director of State & Local Public Policy