



ALEX A. DALLMAN

STATE REPRESENTATIVE • 41ST ASSEMBLY DISTRICT

Testimony in favor of Assembly Bill 743

Committee on Criminal Justice and Public Safety

January 5, 2022

Thank you, Chairman Spiros and committee members, for allowing me to testify before you today concerning Assembly Bill 743, which would establish different requirements related to third-party sellers and online marketplaces through which they sell consumer products. This legislation would require online marketplaces, such as Amazon, verify that their high-volume third party sellers are legitimate businesses. I would also like to thank Senator Roth for his leadership in working with me on this legislation.

Since 2015, theft losses have increased up to 60%, according to the National Retail Federation (NRF). In fact, the issue has become so large, that some retailers are electing to close certain stores rather than continue to suffer losses from ongoing rise in retail theft. According to the NRF, the monetary losses from shoplifting, fraud, and employee theft are exceeding about \$62 billion annually.

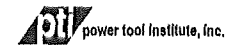
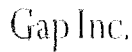
Stolen merchandise is an obvious problem that many businesses are facing throughout the State of Wisconsin and this legislation would ensure protection to Wisconsin consumers by giving them comfort when they buy goods online, that these online purchases are from reputable businesses and sellers, not criminals.

Online marketplaces are currently making massive profits off of organized retail criminals selling stolen and counterfeit goods on their platforms. This is an issue that our business community and law enforcement must work together to resolve, but this bill would play a big role in that partnership.

To the members of the committee, thank you again for the opportunity to testify before you today and I would be happy to answer any questions you may have.

Buy-Safe America Coalition

COALITION PARTNERS





Kimberly Walz
Walgreen Co.
108 Wimot Rd., MS #1844
Deerfield, IL 60015
P 224-567-3292

January 5, 2021

Chairman Spiros and Members of the Committee:

My name is Kimberly Walz, Regional Director of State and Local Government Relations for Walgreens. We are proud to operate 226 stores in Wisconsin. Thank you for the opportunity to provide testimony today in support of Assembly Bill 743.

Online retail has reached unprecedented numbers in recent years, but especially during COVID. While we all appreciate the convenience of on-line shopping, there are bad actors that have emerged to the detriment of trusting consumers...your constituents.

From fraudulent PPE to items stolen from a small business down the street, online digital marketplaces have inadvertently created an international platform to sell counterfeit and stolen merchandise. The lack of transparency and accountability in today's digital marketplaces has contributed to the rapid rise of organized retail crime, which has become one of the top challenges facing the retail industry today. Organized retail crime continues to increase because they can quickly and discreetly sell mass quantities of goods online.

Organized retail crime has increased by 60% since 2015.¹ In 2019 alone, over \$68 billion worth of products were stolen from retailers. Retail crime also results in lost economic activity, fewer jobs and costs the federal and state governments nearly \$15 billion in personal and business tax revenues – not including lost sales taxes.²

This bill will make it harder for organized retail crime rings to quickly move stolen and counterfeit goods. It requires online marketplaces to verify high-volume sellers, removing an incentive for retail theft and helping make our communities safer. Now, more than ever, consumers deserve to know who they are buying products from online, in order to make safe and informed purchasing decisions for themselves and their families. Walgreens believes online marketplaces should be accountable for the activity on their platforms and ensure only legitimate goods are sold by verified sellers.

Assembly Bill 743 requires online marketplaces to know who is selling on their platforms by collecting verifying basic information of high-volume sellers – name, contact information, bank account and tax ID number. To be clear – bank account and tax ID information is shared ONLY with the marketplace platform.

The bill also requires marketplaces to disclose the true name and contact information of a high-volume third-party seller to the consumer in a conspicuous manner, while also protecting the seller's privacy. This bill does not require sellers to post their home address, personal email or personal phone number.

¹[National Retail Federation 2020 Organized retail crime study](#)

²[The Impact of Organized Retail Crime and Product Theft in the United States](#)



In addition to leveling the playing field for legitimate businesses, this bill also protects consumers. Online marketplaces have been instrumental during the COVID-19 crisis in helping customers receive essential goods while sheltering in place or social distancing. As more and more Wisconsin residents are shopping online they deserve to be protected from counterfeit PPE³, expired baby formula⁴, buying exploding Batteries⁵ and goods stolen from local businesses.

A 2019 Wall Street Journal⁶ investigation found 4,152 items for sale on Amazon Inc.'s website that federal agencies declared unsafe, were labeled deceptively or were banned by federal regulators. Among those items, at least 2,000 listings for toys and medications lacked warnings about health risks to children.

Assembly Bill 743 will ensure consumers have all of the facts when making purchases for their families and make it harder for organized retail crime syndicates to discreetly sell stolen and counterfeit products. The bill simply requires verification of sellers...a standard that all consumers deserve the right to have.

Thank you for your time today and I urge your support of Assembly Bill 743.

³ <https://www.wsj.com/articles/u-s-agents-seize-10-million-counterfeit-n95-face-masks-11613603061>

⁴ <https://www.cnn.com/2019/10/20/amazon-is-shipping-expired-baby-formula-and-other-out-of-date-foods.html>

⁵ <https://www.today.com/news/loose-lithium-ion-batteries-cause-fire-hazard-being-sold-major-t208884>

⁶ <https://www.businessinsider.com/apnewsbreak-fbi-amazon-drivers-part-of-major-theft-ring-2019-8>

⁷ <https://www.wsj.com/articles/amazons-heavy-recruitment-of-chinese-sellers-puts-consumers-at-risk->



January 3, 2022

**Oppose AB 743: Hurts Small Online Sellers, Rejected by 15 States,
Unnecessary Due to Federal Compromise**

Representative John Spiros
Chair
Assembly Committee on Criminal Justice and Public Safety
Wisconsin State Assembly

Dear Chair Spiros and members of the committee,

The Chamber of Progress urges your committee to **oppose AB 743**, 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.

AB 743 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.**

AB 743 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 have rejected bills similar to AB 743, prioritizing the needs of online entrepreneurs and consumer choice. Over the past few months, the retailer backers of this bill have also worked to pass similar legislation in 18 states. But after careful consideration, 15 state legislatures have decided to reject this legislation because of its negative impact on small sellers. The only state to pass this legislation is 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 over the past few months, both Republican and Democratic 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."

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* reporter Amanda Mull 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 AB 743 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, 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.

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.protectsmallsellers.org/newsroom/pass-coalition-endorses-new-inform-consumers-act-applaud-reps-ian-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 INFORM Consumers Act and **oppose AB 743**. 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 this bill, the Ohio legislature should voice 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

Fighting Respirator Fraud Globally. Every day.

At 3M, we are committed to helping combat fraud, price gouging, and counterfeiting of 3M products in connection with COVID-19.

3M Fraud Hotlines

3M has dedicated teams to investigate fraud globally



Global Reports to Date:
16,300+

Legal Actions

We are taking legal action to help protect customers.

All damages recovered by 3M will be donated to COVID-19-related non-profits.

41

lawsuits filed

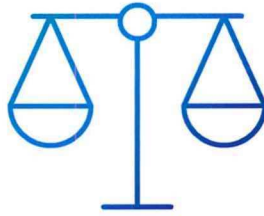


30+

law firms in 3M's Preferred Counsel Network that have offered to help bring cases forward

16

preliminary injunctions granted



25

settlements reached where the actor immediately and permanently ceased misconduct

220+

cease-and-desist letters sent by 3M or legal partners

21 temporary restraining orders granted

22 cases with damages awarded or agreed

We have also terminated multiple authorized distributors for acting unethically or otherwise violating 3M policy.

Trademark Takedowns

26,600+

false or deceptive social media posts removed

29,100+

fraudulent e-commerce offerings removed

400+

deceptive internet addresses or content removed

Expanded Partnerships

We are strengthening public and private partnerships to identify and fight fraudulent offers, price gouging, and counterfeit products.

Law Enforcement

1,290+

raids by law enforcement

55,500,000+

counterfeit respirators seized

375+

seizures by customs agencies

E-commerce and Technology Companies



- Partnerships with:**
- U.S. Department of Justice and Federal Agencies
 - International Law Enforcement Authorities
 - U.S. State Attorneys General
 - International Customs Agencies



January 5, 2022

Dear Chairman Spiros & Members of the Criminal Justice and Public Safety Committee,

We write today to express Meijer's support for Assembly Bill 743, which would increase transparency and accountability for online marketplaces and protect Wisconsin consumers and businesses by addressing the growing number of counterfeit and stolen goods sold online.

Wisconsin is home to 16 Meijer supercenters, our Meijer distribution facility in Pleasant Prairie, and over 3,500 Meijer team members. Prior to the emergence of COVID-19, Meijer was already experiencing an increase in customers utilizing our e-commerce platforms for services such as grocery home delivery and curbside pickup. Over the course of the pandemic, e-commerce has grown exponentially for Meijer and many other retailers, making it safer and more convenient for our customers to shop.

Unfortunately, there is a dark side to e-commerce that is becoming all too common across the country. Stolen goods – often taken from job creating, tax paying brick-and-mortar retailers – and counterfeit items are more widely available than ever to customers through online marketplaces that are not held accountable for verifying the identity or authenticity of their sellers and goods. Counterfeit items are a safety risk to consumers, and stolen items victimize businesses big and small, as goods are stolen and then often sold through online marketplaces for a fraction of retail prices.

We support Assembly Bill 743 because we believe that the seller disclosure and verification requirements within the legislation inform and protect Wisconsin consumers and businesses and give law enforcement officials the tools that they need to put an end to these fraudulent sales. At the same time, this legislation allows law-abiding sellers to continue running their legitimate businesses through online marketplaces, while giving consumers the peace of mind that comes with knowing that the seller and product are authentic.

Early last month, our President & CEO, Rick Keyes, joined members of the Retail Industry Leaders Association in co-signing a letter to Congressional leadership calling for swift action on the federal Integrity, Notification, and Fairness in Online Retail Marketplaces for Consumers Act. I have included that letter here for your reference. While we would welcome a national policy, we are encouraged by states such as Wisconsin that are taking the lead on this important issue. Wisconsinites should be able to shop online with confidence that the products they purchase are safe and legally acquired. There should be no safe harbors for bad actors, and online marketplaces should be held accountable for the products they sell – just as brick-and-mortar retailers stand behind the products that they sell in their stores.

We ask for your support for Assembly Bill 743 and thank you for your consideration. Please do not hesitate to contact us with any questions.

Sincerely,

Andrew Martin
Government Affairs, Meijer

cc: Paul Jaeckle
Vice President – Asset Protection, Meijer

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RETAIL INDUSTRY LEADERS ASSOCIATION

99 M Street, SE
Suite 700
Washington, DC 20003

www.rila.org

December 9, 2021

The Honorable Nancy Pelosi
Speaker
United States House of Representatives
Washington, DC 20515

The Honorable Chuck Schumer
Majority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Minority Leader
United States House of Representatives
Washington, DC 20515

The Honorable Mitch McConnell
Minority Leader
United States Senate
Washington, DC 20510

Dear Speaker Pelosi, Leader Schumer, Leader McConnell and Leader McCarthy:

Leading retailers are concerned about the growing impact organized retail crime is having on the communities we proudly serve, which is why we strongly support the bipartisan and bicameral Integrity, Notification and Fairness in Online Retail Marketplaces (INFORM) for Consumers Act. This important legislation will modernize our consumer protection laws to safeguard families and communities from the sale of illicit products and we urge its quick passage.

As millions of Americans have undoubtedly seen on the news in recent weeks and months, retail establishments of all kinds have seen a significant uptick in organized crime in communities across the nation. While we constantly invest in people, policies, and innovative technology to deter theft, criminals are capitalizing on the anonymity of the Internet and the failure of certain marketplaces to verify their sellers. This trend has made retail businesses a target for increasing theft, hurt legitimate businesses who are forced to compete against unscrupulous sellers, and has greatly increased consumer exposure to unsafe and dangerous counterfeit products.

There is no simple answer to stopping organized retail crime or the sale of counterfeits—but key to stemming the tide of these growing problems is transparency. If a customer buys a product from a local retail storefront or ecommerce site and it is broken or otherwise defective, the consumer knows exactly who to contact. There is accountability. In the current environment, criminal networks and unscrupulous businesses have exploited a system that protects their anonymity to sell unsafe, stolen, or counterfeit products with little legal recourse. This lack of transparency on particular third-party marketplaces has allowed criminal activity to fester.

The INFORM Consumers Act is a simple, bipartisan measure that will increase transparency online for all marketplaces, making it easier for consumers to identify exactly who they are buying from, and make it harder for criminal elements to hide behind fake screennames and false business information to fence illicit products while evading law enforcement. The legislation has unified retailers, consumer groups, manufacturers, law enforcement, and all those serious about stopping the sale of counterfeit and stolen goods sold online.

It is time for Congress to modernize our consumer safety laws so consumers, retail employees, and businesses are not targets of organized retail crime and dangerous counterfeit products. Implementing basic transparency and verification protocols is essential and will finally expose criminals who are selling consumers stolen, fake, and dangerous products. We appreciate your support and timely action on this needed legislation. We look forward to working with you and your staff to help protect communities, families, and consumer



To: Chairman Spiros
Members of the Assembly Committee on Criminal Justice and Public Safety

From: Scott Stenger, Alliance of Wisconsin Retailers

Date: January 5, 2022

RE: Testimony in Support of Assembly Bill 743

Chairman Spiros and Committee Members, on behalf of the nearly 50,000 Wisconsinites that are employed by AWR retailers, we urge you to support AB 743. The Alliance of Wisconsin Retailers L.L.C. is comprised of leading national and Wisconsin-based retailers whose goals are to inform, educate, and communicate with state-elected officials on issues of importance and impact to the retail community

To combat the rise of stolen and counterfeit goods being sold online, Representative Alex Dallman and Senator Roger Roth have introduced AB 743, which requires online marketplaces to verify that their high-volume 3rd party sellers are legitimate businesses. The INFORM Act will require online marketplaces to collect and verify basic seller information, including a business tax ID, bank information, physical address, and contact information. The bill exempts occasional sellers from these requirements to avoid placing a burden on small businesses and individuals who occasionally sell used merchandise online. High volume sellers are defined as anyone who makes more than 200 sales in excess of \$20,000 of new or unused consumer products. The bill requires the online marketplace to conspicuously disclose the name, address and contact information of high-volume third-party sellers, however allows sellers to prevent the disclosure of residential addresses and personal phone numbers.

The sale of counterfeit and stolen merchandise is a growing problem and organized retail crime syndicates are using online marketplaces to sell their merchandise. The Coalition of Law Enforcement and Retail estimates that retailers across the country lose approximately \$45 billion annually due to organized retail theft. In addition, the sale of counterfeit merchandise, such as counterfeit respiratory protection, like N95 respirators and OTC medications, delivers sub-standard, and sometimes harmful products to an unsuspecting public's front door.

With little, if any, scrutiny from online marketplaces, criminals are able to hide behind anonymous selling accounts on these marketplaces, selling stolen or counterfeit merchandise, with little recourse available for the consumers who are defrauded. Even if their account is closed by the platform, without identity verification, criminals can open up a new account immediately and continue to sell their illicit wares.

In addition, organized retail crime syndicates are preying upon the vulnerable to commit these crimes. The lack of identity verification from online marketplaces only encourages this behavior to grow exponentially. They get away with it – so why should they stop. Meanwhile, Wisconsin retailers are losing business, unable to compete with the low cost of stolen goods online while consumers are facing potential health risks from counterfeit products like face mask and OTC medications that are not what they claim to be.

This is a significant issue facing Wisconsin's retailers and manufacturers. The INFORM Act protects Wisconsin consumers by giving them the peace of mind that when they buy goods online, they are dealing with reputable businesses and sellers and they are not purchasing stolen or counterfeit items. In addition, the bill also protects Wisconsin's employers and Wisconsin jobs by eliminating an avenue in which stolen and counterfeit goods are sold in the state and putting their businesses and products at a disadvantage.

Thank you in advance for your consideration of this legislation.



Inspiring Generations of Play

January 5, 2022

Assembly Committee on Criminal Justice and Public Safety

Wisconsin State Capitol

RE: Written Testimony in Support of Assembly Bill 743 – relating to the INFORM ACT

Chairman Spiros and Members of the Committee,

On behalf of the Toy Association, we would like to urge you to support Assembly Bill 743 – relating to the INFORM ACT.

The Toy Association, founded in 1916, represents more than 1,000 businesses--our members account for approximately 90% of the US toy market and over 95% of our industry in the United States is considered small businesses. While here in Wisconsin our industry the toy industry supports over 13,000 jobs with an economic impact of approximately \$2 billion dollars.

Curbing the flow of counterfeit goods in ecommerce is an issue of critical importance to the U.S. toy industry due to the safety concerns of counterfeit toys.

By law, all toys sold in the U.S. must be compliant with mandatory product safety requirements, must be tested by an accredited, independent testing facility and must have a children's product certification.

Legitimate toy companies, large and small, spend significant resources to bring new, fun, educational and safe toys to the U.S. market. Suffice to say, counterfeit toys may not submit to any of these safety and testing regulations and there is no assurance that they comply with these safety requirements.

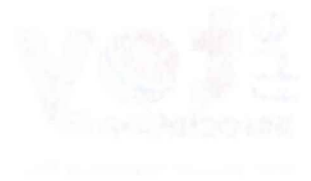
However, under the current third-party marketplace system, illicit sellers with little or no accountability take advantage of consumer faith in these marketplaces by offering inferior and unsafe counterfeit toys that put our children at risk.

In fact, according to a survey of 1,000 U.S. parents conducted by Wakefield Research for The Toy Association: **1 in 3 toy purchasing parents falsely believe that counterfeit toys are not sold on major line marketplaces and 34% toy buy parents did not know that counterfeit toys are not always safety tested.**

For these bad actors, bypassing US safety and testing regulations is a competitive advantage to provide toys cheaper and quicker than any small retailer or small manufacturer who provides safe legitimate product. (A top reason a toy-buying parent would consider buying from an unverified seller is it was "simply cheaper".)

This legislation protects small businesses and does nothing more that require that sellers provide the bare minimum of information to sell online.

-over-



In addition, consumer awareness is a critical component to reducing the prevalence of counterfeits as consumers are largely unaware of the scope of the problem and they are often unable to distinguish between known sellers and illicit sellers on marketplaces. We feel that this information is critical to help them make safe buying choices. This legislation simply gives consumers those tools they need to make smart informed choices.

As it stands today, legitimate toy brands selling through local toy stores are playing by one set of rules and foreign sellers that exploit marketplaces are playing by another set of rules or are not playing by the rules at all. And without significant changes to level the playing field, we will continue to be fighting a losing battle.

We respectfully ask the committee to issue AB743 a favorable report. Please feel free to contact me with any questions. Thank you for your consideration.

Mindy Baker
Director
State Government Affairs











The Economic Impact of the Toy Industry

Summary

Wisconsin

The toy industry is a powerful economic engine helping to fuel the U.S. economy and supporting quality U.S. jobs. The industry is committed to providing safe, educational, fun and affordable toys to inspire children to learn and play.

 <p>\$2.0B in annual economic impact¹</p>	 <p>13,251 American jobs supported²</p>	 <p>90.7% toy manufacturers, wholesalers, and distributors are small businesses.</p>
 <p>3 billion toys sold annually in the U.S.</p>	 <p>\$32.6B* generated annually in direct U.S. retail toy sales</p>	 <p>85¢ of every retail dollar remains in the U.S. as the result of domestic operations</p>
 <p>62% of the more than \$14.5B that toy companies invest annually in production (<i>e.g. salaries, benefits, and material costs</i>) remain in the U.S.</p>		 <p>\$ 79,400 average annual salary of toy industry employee in U.S.</p>
NATIONAL IMPACT		
in annual economic impact	-----▶	\$98.6B
American jobs supported	-----▶	626,936
percent small businesses	-----▶	95.5%

BREAKDOWN BY CATEGORY	JOBS (FTE)	WAGES ³	ECONOMIC IMPACT
Direct <i>Manufacturers, wholesalers, distributors and retailers of toys and similar children's products.</i>	6,439	\$218.2M	\$721.7M
Indirect <i>Suppliers of raw materials, components and services to "Direct" manufacturers, wholesalers, distributors and retailers.</i>	2,966	\$186.0M	\$689.6M
Induced <i>Local businesses that are supported by the re-spending of "Direct" and "Indirect" businesses (calculated using an input/output model of the United States)</i>	3,846	\$176.0M	\$623.7M
TOTAL	13,251	\$580.2M	\$2.0B

ADDITIONAL INFORMATION

Mindy Baker
 Senior Director, State Government Affairs
 The Toy Association

E: mbaker@toyassociation.org
 T: (773) 441-1930

*Source: The NPD Group

- 1 "Economic Impact" is the value of production by industry in a given geographic area.
- 2 Estimated Full Time Equivalent (FTE) jobs. In addition to direct employees of toy manufacturers, wholesalers and distributors, this figure also includes all retailers that sell toys as some component of its total product assortment. Toy-related retailer employment is calculated by multiplying total employees by the retailer's share of toy sales.
- 3 Wage data includes all income paid to workers by employers (e.g., cash wages along with health and life insurance payments, retirement payments and other non-cash compensation).



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

WRITTEN TESTIMONY OF TYLER DIERS
TECHNET
WISCONSIN STATE ASSEMBLY
ASSEMBLY COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY
REPRESENTATIVE SPIROS, CHAIRMAN
IN OPPOSITION TO AB 743

January 5, 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 87 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 AB 743.

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.

H.R.5502 reflects months of negotiations to find compromise on this issue. Now months after that compromise being reached, the proponents of the bill before you have cherry-picked sections of that bill to include here, but reverted much of the language back to legislation introduced in nearly 20 states over the last year. Legislation that has only passed in the state of Arkansas.

We find it very disingenuous that we are here today to discuss language that flies in the face of those negotiations, and as drafted this bill would have a detrimental impact on thousands of Wisconsin small businesses and individuals who use online marketplaces to legitimately make a living.

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, 1st Dibs, The RealReal – 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 Wisconsin 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.

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 must continue to play. 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 discriminatory government regulation.

An Alternative Approach

We believe the issue before you is much better addressed by implementing a federal standard – a belief that is shared by the proponents of this bill as well. The agreed upon language in H.R.5502 includes federal preemption – which would effectively make legislation on the subject here in Wisconsin void.

However, we do believe the state can be creative at effectively addressing organized retail crime.

In order to curtail such activity, we stand prepared to provide you all with a draft state organized retail crime task force similar to what is passed with support from online marketplaces and retail in Arizona last year. The task force brings together law enforcement, retail loss prevention experts, online marketplaces, and other key

stakeholders to collaborate on investigations and prosecutions of organized retail crime.

And these efforts to date have been successful. Just a few weeks ago in Illinois, Attorney General Raoul successfully announced a major bust just a few months into launching the Task Force in Illinois. The Task Force recovered thousands of stolen goods at several storage units in Chicago. While a complete inventory is ongoing, the stolen goods are estimated to be worth millions of dollars.

Utah AG Sean Reyes (R) has operated a program out of his office coordinating with all stakeholders (retailers, different law enforcement agencies and online marketplaces) that has yielded very positive results and had several major busts over the past few years. Florida AG Ashley Moody (R) and Connecticut AG William Tong (D) are also moving forward with similar task forces to coordinate investigations into alleged organized retail crime activities and prosecute criminals perpetrating these crimes.

These sorts of public-private partnerships are much more effective in addressing organized retail crime because you bring the right people from the right organizations together in a comprehensive way to address what all of us agree on – which is addressing organized retail crime. It's hard to imagine how this legislation would have uncovered such a bust like the one mentioned in Illinois.

Differences from the federal INFORM Act

Should this committee not be interested in a task force and want to move forward with this bill, I want to conclude by highlighting the major differences in the bill before 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 Wisconsin. 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 Eau Claire who makes and sells hand-knitted face masks or of a father in Appleton who has gotten into woodworking and sells his creations online, thus compromising their privacy. The open display of such personal information — required of entrepreneurial Wisconsinites 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 the unreasonable 24 hours in the bill today. 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 are innovative solutions to addressing organized retail crime without hurting these small sellers -- such as implementing an organized retail crime task force I mentioned. However, we understand the role you all play in crafting public policy in

the State of Wisconsin and want to be a continued partner in these legislative efforts should this committee to advance this legislation.

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