

Public Safety and Security Committee JOINT FAVORABLE REPORT

Bill No.: SB-257

AN ACT CONCERNING HIGH VOLUME THIRD-PARTY SELLERS ON ONLINE

Title: MARKETPLACES.

Vote Date: 3/22/2022

Vote Action: Joint Favorable Substitute

PH Date: 3/17/2022

File No.:

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SPONSORS OF BILL:

Public Safety and Security Committee

REASONS FOR BILL:

This bill will require high volume third-party sellers on online marketplaces to disclose certain information. These sellers are currently costing Connecticut approximately thousands of jobs and millions in tax revenue. Across our state we have been seeing smash-and-grab thefts, large quantities of items are being shoplifted and there are more organized robberies of stores. There are crime organizations that have access to the items stolen and they are selling them through online marketplaces. This bill will help to address this problem, it will allow retailers who have stores in Connecticut bring civil actions. This would allow DCP, and the Connecticut Attorney General investigate violations and pursue legal action when warranted.

Proposed Substitute Language

Sections 1 and 2 will become effective January 1, 2023

Line 96 now reads as "provided in this section"

Line 186 changed to read "shall constitute an unfair trade practice"

Deleted (l) lines 189 to 192 from raised bill.

RESPONSE FROM ADMINISTRATION/AGENCY:

Michelle Seagull, Commissioner of Consumer Protection, State of Connecticut

This bill will would create regulatory structure for the sale of consumer items through online marketplace platforms by third-party sellers who complete two-hundred or more transactions and generates five thousand dollars or more of gross revenues in a twelve-month period. Failure to comply would be deemed a violation of the CT Unfair Trade Practices. DCP is the

only agency who can bring a case under CUPTA. As drafted DCP expects to receive a high number of complaints and requests for investigation. This would generate additional work for the DCP, and this would require additional resources for the Complaint Center, Investigations Division and Legal Division.

William Tong, Attorney General, State of Connecticut

This bill will combat the growing number of high-volume thefts currently happening in the state. The problem is estimated to cost Connecticut an estimated 8,000 jobs and more than \$169 million in lost tax revenue each year. These thefts are not your run of the mill shoplifters, they are organized retail crime. This bill has benefitted from the thoughtful input of various stakeholders to help combat these growing problems, allowing civil action to be brought by brick-and-mortar businesses and allow the Attorney General's office to investigate and pursue penalties and injunctive relief where circumstances warrant.

NATURE AND SOURCES OF SUPPORT:

Christopher Buchanan, Director, Public Affairs and State and Local Government Relations, Walmart Stores, Inc.

Walmart supports this bill. As a both brick-and-mortar retailer and an online marketplace operator, they believe the seller disclosure and verification requirements within this legislation are best practices for all marketplaces. The legislation empowers consumers and law enforcement officials to reduce fraudulent sales. It would not harm law-abiding citizens but would make it harder for bad actors to compete with lawful sellers.

NATURE AND SOURCES OF OPPOSITION:

National Federation of Independent Business (NFIB)

Understands the laudable intent of this bill, however the NFIB has concerns as currently drafted. The definition of High-volume third-party seller is too vague and broad. The requirement that the small business must disclose certain information, there is no specificity regarding reasonable security procedures and practices. No mention of the recourse or responsibility for liability in the event of a data breach or even an inadvertent disclosure of a seller's information to a consumer or other party by an online marketplace. State lawmakers need to keep in mind that CT's small businesses that choose to sell online are operating a national and even global marketplace. This compliance of this state-specific law and regulations are often felt throughout the economic supply chain. NFIB want to be sure small businesses that are law-abiding continue to have ample opportunity to sell, compete and thrive in online marketplaces without undue difficulty.

John D. Blair, Associate Counsel, Connecticut Business and Industry Association

CBIA opposes this bill. The proposal would require small businesses that reach an arbitrary threshold be labeled high-volume seller and would be subject to disclosure regulations. Up to a third of the states considered such legislation and all of them have struck the proposals down. SB257 seems benign but would create substantial cost for many small businesses.

Christopher Gilrein, Executive Director, NE Technet

SB 257 would contribute to a patchwork of state standards and create confusion and undue burdens for CT retailers and small businesses who depend on online marketplaces to reach a global audience. Technet has been working with proponents on a federal level that will help

identify rogue sellers without exposing innocent people's data to the world. We urge the committee to engage with Attorney General William Tong's office to encourage the federal delegation to swiftly pass the competitiveness bills and to not advance the SB257 which is unnecessary and duplicative.

Ruth Whittaker, Federal Public Policy Fellow, Chamber of Progress

Chamber of Progress opposes this bill. Fifteen other states have rejected this bill as it will hurt small businesses and online sellers. A compromise version of this bill on the federal level has been endorsed by big box retailers and online marketplaces. Online marketplaces are largely borderless and do not observe state by state boundaries. The issue would be better addressed at the federal level.

Reported by: Bonnie Gray, Asst. Clerk

Date: March 31, 2022