

Michigan HB 5485-5487

## Opposition to House Bill 5485-5487 and its negative impact on Michigan Small Businesses and Consumers

March 22, 2022

Chair Filler, Vice-Chair Mueller, Vice-Chair LaGrand, and Members of the Judiciary Committee:

We ask you **not to advance HB 5485-5487** because it:

- hurts Michigan's entrepreneurs, independent sellers, and small businesses;
- requires increased collection of personal information, putting constituents' privacy at risk;
- Unfairly burdens online marketplaces and their sellers to make up
- to make up for others failures and does not address the true problematic behavior;
- discriminates against businesses—large and small—that sell online.

HB 5485-5487 harms online marketplaces with unfair burdens that treat online sellers like criminals rather than addressing the true issues at play in retail crime. The bill fails to address the actual theft itself or those criminal enterprises that steal hundreds of products from the stores themselves.

Instead, HB 5485-5487 just makes it harder for Michigan's entrepreneurs, independent sellers, and small businesses to benefit from the online marketplaces that enable them to compete with the big-box stores. This proposal would lessen Michigan's competitiveness compared to other states and conflict with federal law.

### 1. The bill imposes burdensome requirements on digital marketplaces, small business entrepreneurs, and even Michigan residents.

Whether as formal businesses or a modern "yard sale," many Michiganders are engaged in selling goods through online marketplaces such as Etsy, Ebay, Craigslist, or even the online version of the Lansing State Journal's classified sections. These platforms have made such transactions easier and more trustworthy than ever before and lowered the cost for entrepreneurs to start their own small businesses. Unfortunately, this proposal could change this, online platforms would now have to collect significant personal information including addresses, contact information, and even bank accounts.

The result would be additional burdens for Michigan entrepreneurs and consumers that will likely force them off digital marketplaces. This is particularly concerning as many small businesses and entrepreneurs have grown to increasingly rely on these online resources during the pandemic and changes in consumer preferences towards online shopping. Larger retailers may have the existing infrastructure to comply with these requirements or alternatives to online marketplaces, but smaller businesses will be forced to make difficult choices or worse yet, forced out-of-business.

### 2. The bill will require additional collection of Michiganders' sensitive personal information.

HB 5485-5487 requires the additional collection of often sensitive personal information for selling online. Sales listings under the proposals include the seller's name and address in the listing itself. It doesn't require too much imagination to see how requiring such sensitive information be made public could lead to very dangerous—even deadly—situations. The result would be either increased data privacy concerns or discouraging a productive entrepreneurial activity.

While the package has an exception for those who do not have a business address, it requires platforms to disclose this information as a result. This distinguishes home-based businesses from their large counterparts and could make it more difficult to gain consumer trust.

[While HB 5485-5487 seeks to address the problems of criminal retail theft activity, the reality is it would punish everyday Michiganders by placing burdens on their ability to access online marketplaces.](#)

Organized retail crime is a real concern, but the response should be to address the underlying activity at its source and not to punish everyday Michiganders and online marketplaces.

The criminal behavior at issue is not occurring in online marketplaces, but rather it is happening in one of two locations: while the goods are in transit to the store or once the goods have arrived. That means the actual issue is better addressed at the big box retail and law enforcement level rather than raising the suspicion of the everyday Michiganders benefitting from the entrepreneurial opportunities of online marketplaces. Theft occurs at the points connected to the store's logistics or by the store's own workers and the burden should be apportioned appropriately.

Online marketplaces already engage significant resources in responding to alerts around suspected violations related to fraudulent, counterfeit, or stolen items. This proposal places the burden for addressing these concerns on online marketplaces and penalizes honest Michiganders for these criminal enterprises by limiting their opportunities to sell their goods online. To maintain their trustworthiness, online marketplaces have a vested interest in making sure their services are used for legitimate sales and not criminal activity.

Already, law enforcement can pursue action against bad actors whether individual sellers or broader criminal enterprises. Stores can provide them with the referrals regarding these concerns.

This is a misguided approach that punishes beneficial aspects of the economy along with bad actors. We ask that you not advance HB 5485-5487.

Thank you again for the opportunity to testify.

Sincerely,

Amy Bos  
Director of Federal and State Affairs

**NetChoice**

*NetChoice is a trade association that works to make the internet safe for free enterprise and free expression.*