



TECHNET
THE VOICE OF THE
INNOVATION ECONOMY

TechNet Midwest | Telephone 630.400.3439
P.O. Box 9497 Springfield, IL 62791
www.technet.org | @TechNetMidwest

March 18, 2021

The Honorable Sean Tarwater
Kansas House of Representatives
Kansas State Capitol
Room 151-S
Topeka, KS 66612

RE: Opposition to HB 2433

Dear Chairman Tarwater:

I write on behalf of TechNet respectfully **in opposition to HB 2433**. TechNet is the national, bipartisan network of technology CEOs and senior executives that promotes the growth of the innovation economy by advocating a targeted policy agenda at the federal and 50-state level. TechNet's diverse membership includes dynamic American businesses ranging from startups to the most iconic companies on the planet and represents more than three million employees and countless customers in the fields of information technology, e-commerce, the sharing and gig economies, advanced energy, cybersecurity, venture capital, and finance.

Although HB 2433 purports to protect consumers from illegal, stolen, or counterfeit goods, the legislation would in effect hurt small businesses and individual sellers who sell online, do little to slow organized retail crime, create privacy risks, conflict with federal law, and hamper marketplaces' technological ability to identify and remove illegal goods.

The internet has provided Kansas small businesses 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 an onerous, time-consuming process of verification that big-box retailers would not have to deal with. As small businesses struggle to maintain profits yet continue to provide essential products to consumers during the COVID-19 pandemic, now would be an especially awful time to place additional, unnecessary regulations on them. The bill would also force online marketplaces to choose between increased threats of liability or simply removing listings from Kansas small businesses – while again no similar requirements are placed on big-box retailers with in-person retail space.

There is no need for superfluous marketplace regulations like seller transparency requirements, especially when the regulations present such serious small business and privacy impacts. Law enforcement already has the authority and means to

enforce intellectual property laws and should continue to utilize technological systems and tools available to them that are proven to be effective in detecting fraudulent and fake products. Similarly, state attorneys general already have statutory solutions to target wrongdoers by pursuing charges for fraud and deceptive trade practices. Local prosecutors also have the investigative tools needed to pursue and arrest bad actors that are found to be dealing in illicit and illegal goods.

Given this, any additional solutions need to be targeted at the wrongdoer – not marketplaces that are already taking the lead in taking down such listings and working with law enforcement to put bad actors out of business. 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 heavy-handed regulation.

The bill would also force Kansans to compromise private information in order to continue selling on online platforms. Those unwilling to divulge highly personal information would be forced to stop listing their products and lose essential revenue streams. The public could easily learn, for example, the name and home address of a grandmother in Topeka who makes and sells hand-knitted face masks or of a father in Wichita who has gotten into woodworking and sells his creations online, thus compromising their privacy. The open display of such personal information – required of entrepreneurial Kansans with innovative products and residents monetizing their hobbies alike – could potentially lead to dangerous situations.

In a time when policymakers and companies are working to improve privacy protection for individuals, this legislation is swimming against the tide of that progress. Aside from these burdensome regulations and inherent privacy risks, the bill likely conflicts with federal law regarding online platforms and liability. Section 230 of the *Communications Decency Act* clearly limits the liability of online intermediary platforms for content posted by third parties.

It is in each online marketplace's interest to maintain trust with the consumers using their platforms. The selling of illegal and counterfeit products is a serious issue, and that is exactly why online marketplaces are heavily invested in technologies, personnel, and processes that identify bad actors and remove them from their platforms. These tools are constantly being improved to ensure that they target bad actors on their platforms. Unfortunately, passage of this law is too prescriptive and not future proof, hampering the ability for online marketplaces to innovate as technology and bad actors evolve.

We thank you in advance for your consideration. If you have any questions regarding TechNet's opposition to HB 2433, please do not hesitate to contact me at 630-400-3439 or tdiers@technet.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tyler Diers', with a stylized flourish at the end.

Tyler Diers
Executive Director, Midwest
TechNet

Cc: Members of the Kansas House Committee on Commerce, Labor, and Economic Development