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HOUSE OF REPRESENTATIVES

CONSUMER AFFAIRS COMMITTEE  
PUBLIC HEARING

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WEDNESDAY, OCTOBER 6, 2021  
9:30 A.M.

PRESENTATION ON  
HOUSE BILL 1594 (TOMLINSON)

COMMITTEE MEMBERS PRESENT:

HONORABLE JIM MARSHALL, MAJORITY CHAIRMAN  
HONORABLE SHERYL M. DELOZIER  
HONORABLE JOE EMRICK  
HONORABLE FRANK A. FARRY  
HONORABLE RYAN MACKENZIE  
HONORABLE THOMAS MEHAFFIE  
HONORABLE CARL WALKER METZGAR  
HONORABLE BRETT R. MILLER  
HONORABLE ERIC NELSON  
HONORABLE TINA PICKETT  
HONORABLE CHRIS QUINN  
HONORABLE THOMAS R. SANKEY  
HONORABLE TODD STEPHENS  
HONORABLE RYAN WARNER

HONORABLE ROBERT F. MATZIE, MINORITY CHAIRMAN  
HONORABLE DONNA BULLOCK  
HONORABLE FRANK BURNS  
HONORABLE AUSTIN DAVIS  
HONORABLE STEVEN MALAGARI  
HONORABLE KYLE MULLINS

COMMITTEE MEMBERS PRESENT (CONTINUED):

HONORABLE DARISHA PARKER  
HONORABLE PETER SCHWEYER  
HONORABLE PAM SNYDER

ALSO ATTENDING:

HONORABLE K.C. TOMLINSON

\* \* \* \* \*

*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

I N D E X

TESTIFIERS

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SUBMITTED WRITTEN TESTIMONY

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P R O C E E D I N G S

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MAJORITY CHAIRMAN MARSHALL: Of the Consumer Affairs Committee, welcome all of the members that are here. Thank you for your participation, and thank you to those that are here to testify on this important issue. Representative Matzie, do you have any opening remarks?

MINORITY CHAIRMAN MATZIE: I do not. Just, thank you for the opportunity to listen to this testimony; look forward to learning some stuff today.

MAJORITY CHAIRMAN MARSHALL: Thank you. At this time I would like to introduce Representative K.C. Tomlinson to begin her points on this bill. Thank you.

REPRESENTATIVE TOMLINSON: Good morning, and thank you, Mr. Chairman, for giving me the opportunity to say a few words.

Online shopping has transformed how many of us shop today. Many of you may have seen the videos and news stories of people going into retail stores and taking whatever they please. What everyone may not know is the online marketplaces many of us shop at regularly, for example Amazon, eBay or Etsy are absolutely flooded with stolen and counterfeit products.

Because e-commerce is still a relatively new

1 industry, the laws and regulations surrounding online  
2 marketplaces are quite underdeveloped. And, while many of  
3 us may be hesitant to impose any new regulations on  
4 businesses, it has become very apparent that there is  
5 little to no accountability and, even more importantly,  
6 little to no consumer protection when it comes to online  
7 marketplaces and third parties who sell on them.

8           The sale of fraudulent goods is a \$509 billion  
9 criminal enterprise according to a report done by the  
10 Department of Homeland Security. The problem continues to  
11 get bigger every day and, sadly, Pennsylvania has become  
12 one of the biggest hotspots for this type of criminal  
13 activity.

14           My legislative district with its proximity to  
15 Philadelphia has been hit especially hard. Local retail  
16 stores and their employees in all of our legislative  
17 districts are being put in harm's way as well as the  
18 consumer, all while these criminals escape and resell these  
19 products with zero consequences as they hide behind their  
20 computer screens and smartphones.

21           This legislation is quite simple. It will  
22 require the online marketplace to collect and verify the  
23 most basic of information from high volume third-party  
24 sellers. This basic information -- that every legitimate  
25 business can easily provide, and I would like to stress

1 high volume. This legislation will in no way impact the  
2 casual seller. This legislation will also require high  
3 volume sellers to disclose contact information to  
4 consumers. However, this legislation does provide  
5 disclosures -- disclosure exemptions to protect the  
6 personal information of sellers in the event that they do  
7 not possess a business address, email or phone number. No  
8 business operating out of their home would be required to  
9 provide their home address. This is crafted to protect the  
10 sellers privacy and the consumer.

11 The simple legislation before you today will  
12 shine a bright light on some of the dark corners of the  
13 internet, and make it much more difficult for frauds and  
14 criminals to anonymously sell counterfeit and stolen goods.  
15 Thank you, Mr. Chairman.

16 MAJORITY CHAIRMAN MARSHALL: Thank you,  
17 Representative Tomlinson. Our first panel may come up to  
18 the table at this time, with Ben Dugan, Director of  
19 Organized Retail Crime and Corporate Investigations at CVS,  
20 Jason Brewer, Executive Vice President of Communications  
21 and State Affairs of the Retail Industry Leaders  
22 Association, and John Holub, Executive Director of the PA  
23 Retailers' Association.

24 Thank you, gentlemen. First ready can begin.

25 MR. BREWER: Thank you, Chairman Marshall and

1 Chairman Matzie. Thank you for this opportunity to testify  
2 on behalf of leading retailers, manufacturers and consumer  
3 groups across the country who have grave concerns about the  
4 surge in counterfeit and stolen goods sold on leading  
5 online market platforms.

6 Just by way of background, I also represent the  
7 Buy Safe America Coalition, which is a diverse group of  
8 retailers and consumer groups, manufacturers, intellectual  
9 property advocates and law enforcement officials who  
10 support efforts at all levels of government to protect  
11 consumers and communities from the sale of counterfeit and  
12 stolen goods. Included in that coalition are a handful of  
13 companies that I think you should know about: Dick's  
14 Sporting Goods, Lutron Electronics, Philips who is a large  
15 manufacturing presence here in Pennsylvania, as well as  
16 national brands that employ over a million Pennsylvanians.

17 I think at the outset it's important to make  
18 clear that retailers believe fundamentally in a free market  
19 and competition. We don't ever seek to tilt the playing  
20 field in one direction or another in favor of a big  
21 retailer, a small retailer, an online retailer, a Main  
22 Street retailer. In most instances we actually prefer the  
23 government sort of stay out of the way and let competition  
24 and the free market dictate where folks shop, and that  
25 those that innovate and attract good employees and provide

1 value to their customers are the ones that are ultimately  
2 going to be successful. We don't view it as our role to  
3 pick winners and losers, and we don't ask government to do  
4 that, either. Every so often though we see a problem in  
5 the market, something that's broken, and something that we  
6 need fixed, and that's really what brings us here today.

7           As the representative mentioned on large  
8 marketplace platforms, they have become, really, a haven  
9 for counterfeit and stolen products. And it has become  
10 very easy for folks to really build a business selling  
11 counterfeit and stolen goods, and they're today moving  
12 millions of dollars in counterfeit and stolen goods.

13           You don't have to take my word for this. A very  
14 quick Google search will show you how bad the problem has  
15 gotten in recent years, especially during the pandemic, as  
16 more people have shopped online.

17           Retail -- some of the folks that are doing this  
18 are a lot smarter than we give them credit for. A lot of  
19 these networks know where the felony thresholds are. They  
20 know that they can go from one county to the next, one  
21 store to the next and stay under a specific threshold and  
22 in an entire -- and in one afternoon, you know, clean out  
23 an area of tens of thousands of dollars in product all  
24 while staying under felony thresholds. So they're a lot  
25 smarter sometimes than we give the credit for.

1           A generation ago a haul of this magnitude would  
2 be pretty hard to unload quickly. You know, the physical  
3 nature of a pawnshop or selling things out of your trunk  
4 meant that you were taking some risk by having that stolen  
5 product on you. Today there is really no such risk. You  
6 can create an account. You can create a screen name, and  
7 you can hide behind that screen name and literally peddle  
8 millions of dollars' worth of counterfeit or stolen  
9 products. You know, pawnshop laws and cooperation between  
10 retailers and law enforcement, you know, made it difficult,  
11 you know, several decades ago to operate this kind of  
12 business, but today it's just a different story.

13           The common denominator here, whether you're more  
14 concerned about counterfeit goods or stolen goods is that  
15 online marketplace. Law enforcement is very aware of this  
16 problem. They're working with retailers to solve it.  
17 Retailers spend billions collectively, both in physical  
18 human asset protection professionals and technology based  
19 solutions. You may have seen a story recently at The Home  
20 Depot where certain kinds of drills that were becoming a  
21 magnet for thieves now won't operate unless they are  
22 checked out in the store, and they use a Bluetooth  
23 technology to actually activate the drill.

24           So, retailers are doing a lot and investing a lot  
25 to try to stop this, and consumer groups regularly warn

1 folks about being careful when shopping online, that -- the  
2 old adage of, if it's too good to be true, it probably it  
3 is. And, you'll probably see a lot of that during the  
4 holiday season as folks turn online to do a lot of  
5 Christmas shopping.

6 But, it is just very easy to sell things that are  
7 fake, tampered, expired and sometimes dangerous online, and  
8 there are a ton of examples. Like I said, you don't have  
9 to take my word for it. You can Google this, but there are  
10 examples of used medical equipment that has been stolen  
11 from hospitals and sold on eBay and Amazon. Someone who  
12 built a business selling \$300,000 -- one couple -- in  
13 stolen baby formula on eBay. Probably have seen stories in  
14 the media about fake vaccine cards and N95 masks during the  
15 pandemic. Counterfeit batteries that actually explode in  
16 people's homes, counterfeit car seats that don't meet  
17 safety standards. So, there are a whole host of reasons  
18 why counterfeit and stolen goods are a problem.

19 In addition to that there's one thing that's not  
20 talked about a lot, and that's the physical harm that often  
21 comes to retail employees who find themselves in between  
22 product and a fairly brazen thief. As it's been easier to  
23 build this business of selling illegal goods, the folks  
24 doing it have gotten a lot more brazen and in many cases  
25 more violent.

1 I'm going to turn it over to Ben in just a minute  
2 to talk about that, but I think it's worth -- I'm showing a  
3 quick video that I had teed up that sort of illustrates  
4 some of what retailers go through when they attempt to  
5 confront some of the folks in the stores.

6 This is an employee who confronted a shoplifter  
7 at a local pharmacy. This is obviously a home improvement  
8 store. What you'll see in this video unfortunately are  
9 folks who oftentimes brandish a knife, a mace, a gun.  
10 People have been pistol whipped, pushed over, assaulted.  
11 You know, it's -- every store has asset protection folks,  
12 but these guy -- again, these guys are pretty smart. They  
13 often operate in packs, and they have people that will  
14 create distractions. They'll have someone that put -- has  
15 the getaway car. You know, that -- you saw that guy who  
16 gets pistol whipped.

17 This may look like a retail warehouse. It's  
18 actually a warehouse of someone selling millions of dollars  
19 in stolen goods. So, this is not some petty fencing  
20 operation. This is people who literally have their own  
21 warehouses filled with stolen product that they unload  
22 online. And again, I think Ben can talk in more detail  
23 about that.

24 And before I close I just want to say, look, I  
25 know that the counterparts in the tech community are going

1 to talk about their AI systems and their algorithms, and  
2 project zeros and all the things they're doing to stop  
3 this, and I would just submit, it ain't working. The  
4 problem is getting worse. More and more counterfeit goods  
5 are flooding American consumers' homes, and our stores are  
6 being ransacked more and more often, and we're finding that  
7 product increasingly online, and the cooperation just isn't  
8 there between retailers and online marketplaces.

9           There was a story just out a couple days ago from  
10 a platform called The Verge that showed how easy it was for  
11 some banned Chinese sellers who were selling illicit  
12 products to hop right back on Amazon's platform. So, when  
13 they talk about all of the money and all of the things  
14 they're doing to cut down on this stuff, these folks -- and  
15 feel free to look up this story. I think I linked it in my  
16 testimony. These folks took one letter off of their name  
17 and were right back on the platform, or, you know, took one  
18 word off their name and were right back on the platform.  
19 And it wasn't until this -- you know, this outlet contacted  
20 them and said, hey, these people are right back on your  
21 website. They didn't have a clue. So, for everything that  
22 they say they're investing and doing, it's just not  
23 working.

24           Retailers in the Buy Safe America Coalition  
25 support House Bill 1594. We think it's a common-sense

1 solution. It's not about picking winners and losers in the  
2 marketplace. It's about providing more transparency  
3 online. It's about giving retailers and law enforcement  
4 better tools to track stolen goods, and it's about giving  
5 consumers more information in the event that they feel like  
6 they have been cheated by purchasing something that's  
7 counterfeit or expired or dangerous.

8 So, thank you very much for the opportunity.  
9 I'll turn it over to Ben who works at CVS and has been very  
10 active investigating a lot of these cases.

11 MR. DUGAN: Thank you. Thanks, Mr. Chairman and  
12 distinguished members of the --

13 MAJORITY CHAIRMAN MARSHALL: Ben, your  
14 microphone --

15 MR. DUGAN: Do I have to push something?

16 MINORITY CHAIRMAN MATZIE: Is there a green  
17 light --

18 MR. DUGAN: How is that?

19 MAJORITY CHAIRMAN MARSHALL: Maybe move it --

20 MR. DUGAN: I liked it better the --

21 MAJORITY CHAIRMAN MARSHALL: -- closer.

22 MR. DUGAN: -- other way. Maybe -- okay. How is  
23 that? Is that better? Thank you. Anyway, my name is  
24 Ben Dugan. I am the Director of Organized Retail Crime and  
25 Corporate Investigations for CVS Health. I'm also the

1 President of the National Coalition of Law Enforcement and  
2 Retail. CVS obviously has a very big presence in  
3 Pennsylvania, and we proudly serve the healthcare needs of  
4 most Pennsylvania communities. But, if you were to ask CVS  
5 or any of the retailers that are here what our number one  
6 concern is, what our number one priority is, that's to keep  
7 our employees and the community safe, and our customers  
8 safe. And if we ask the follow-up question, what's the  
9 biggest threat to keeping your customers safe and employees  
10 safe, it's most definitely organized retail crime, right?  
11 So, it has risen now to the number one priority for  
12 retailers across the country. It really has evolved over  
13 the last few years strongly, basically because of the  
14 massive expansion of the internet and then, of course,  
15 COVID.

16 So, what I would like to do real quick before I  
17 get into my other testimony is run through a couple  
18 of -- share some facts with you that I put in my testimony  
19 that I'm -- you may be aware of, maybe not, and maybe some  
20 insight to -- that I can bring to -- from my 30 years of  
21 investigating these type of crimes.

22 The first one is the financial impact of ORC  
23 retailers has increase from 30 to 45 billion in the last  
24 four years, directly as a result of the rapid escalation of  
25 e-commerce, right? Ten or 15 years ago, when the FBI put

1 that number on there, \$30 billion, we didn't have the  
2 market share that -- the marketplaces that we have today.  
3 We didn't have the understanding of organized crime that we  
4 have today, so that 45 billion is much more accurate. And,  
5 a billion of it is stolen right here in Pennsylvania and  
6 resold through e-com marketplaces and e-com sellers here in  
7 Pennsylvania, costing taxpayers of Pennsylvania  
8 approximately \$120 million in lost tax revenue. The  
9 average Pennsylvania family will spend an additional \$600 a  
10 year in higher prices to offset organized retail crime on  
11 everyday household goods.

12 At CVS there is an ORC reported every three  
13 minutes to us. CVS loses \$200 million a year to organized  
14 retail crime. This past year our events with -- and as  
15 you saw on the video involving violence or weapons have  
16 doubled in the last year, and 66% of our cases that are  
17 reported to us involve either a threat of violence or  
18 actual violence. So, obviously it's becoming increasingly  
19 more difficult for us to combat.

20 And I know Jason mentioned we invest billions of  
21 dollars in physical security, manpower and some automated  
22 technology to try to combat the problem. But, you know,  
23 Amazon as an example, puts on 3,500 new sellers a month.  
24 You know, 146 sellers an hour, approximately. So, by the  
25 time this committee hearing is done there will be 300 new

1 sellers on Amazon, and at the end of the month there will  
2 be 3,500. Who is supplying all that product to all these  
3 new sellers? Where is that product coming from? It's not  
4 coming legitimately.

5           You know, and I have regular meetings with the  
6 product manufacturers. I talked to a councilwoman from Ben  
7 Salem about a person selling in that area who's selling --  
8 has three to 5,000 razor blades for sale that we discovered  
9 last night at a price far below what the manufacturers can  
10 even make it for, right? So, clearly there is a -- clearly  
11 someone obtained that product illegally. There's no other  
12 way to obtain that much product and have it available for  
13 sale online. It represents a serious threat to legitimate  
14 businesses, as I said.

15           As the President of CLEAR, I will tell you that  
16 it's not exclusive to pharmacy. No retailer is immune. No  
17 Pennsylvania retailer is immune to it. It all -- ORC is  
18 really based on the type of product that you carry and the  
19 geography of where you are. Unfortunately, Pennsylvania is  
20 right in that main tunnel from all the thefts occurring in  
21 the Southeast, and the product moving to New York and to  
22 Pennsylvania. You guys are right here, in the hub.

23           Unfortunately, Pennsylvania gets all the levels  
24 that we consider in organized retail crime. They get the  
25 local guys that you see that are actually more unorganized

1 and more violent. Then you have that midlevel regional  
2 person that sells online, gets the product from  
3 Pennsylvania and maybe some neighboring states like New  
4 Jersey. And then, unfortunately Pennsylvania is all victim  
5 to the major national product diversion that goes on, and  
6 the major sellers, the top sellers on all the e-commerce  
7 sites are these major diverters, and unfortunately they're  
8 all based in Pennsylvania, New Jersey and New York.

9 So, unfortunately Pennsylvania kind of gets hit  
10 from all the different levels and all the different  
11 retailers offline. Home improvement, electronics, and then  
12 of course pharmacy and big box are all victims to this  
13 crime.

14 So if that's not enough of the things that I  
15 mentioned earlier, we're finding -- in my years, 20 out of  
16 my 30 years in retail have been investigating this crime.  
17 And most of these crews on all three levels have an  
18 e-commerce presence, by the way. I should have mentioned  
19 that. Whether a local guy is dealing locally, you have an  
20 e-com presence. Most pawnshops today have an e-com  
21 presence. The only -- none of them really just operate  
22 with the product that they get in from the door. All of  
23 that stuff is sold eventually online.

24 So anyway, so most of the organizations that I  
25 have investigated through the years are connected to these

1 large transnational organized criminal organizations. They  
2 employ, unfortunately -- I'll give you one example. I  
3 worked a case recently that started in Miami and ended here  
4 in Pennsylvania. We arrested three dozen of these  
5 professional thieves, all of which were recruited in  
6 Central America, in their words, to come to the United  
7 States to steal medicine from CVS, right? Not quite the  
8 name recognition that we're looking for, but the -- each  
9 one of them outlined how they were recruited in Honduras,  
10 brought to the country for this specific purpose, and that  
11 ultimately they knew the product was going to be sold  
12 online. They didn't mention anything more than that, but  
13 their -- these criminal organizations recruit all over  
14 these world, and they're transnational, and they bring  
15 these people to the United States to do this.

16           And when I talk about how much they steal --  
17 Jason mentioned a little bit. They steal three to \$5,000  
18 per store. Per -- I mean, you saw the volume of product  
19 that they're stealing. And they go to 15, 16 stores a day,  
20 seven days a week. They don't stop. They don't -- you  
21 know, this isn't a local shoplifter, or some unfortunate  
22 person that has a habit to feed. That's not what we're  
23 talking about. These are professional thieves, right?  
24 They go undetected as much as they can.

25           And, it's been my job for the last 20 years. I

1 follow them every day, from Las Vegas to Philadelphia, you  
2 know, and all around the country, because we have to follow  
3 the path of stolen goods which, unfortunately, always winds  
4 up at the same place, and that's an online marketplace.

5 So, that's why I came today before you in support of 1594.

6 Jason also mentioned some product integrity  
7 issues which is of the gravest concern to us at CVS. There  
8 is no product integrity with online marketplaces. Physical  
9 brick-and-mortar retailers, you know, we go through  
10 painstaking things to make sure -- regulations to make sure  
11 that we're handling the product correctly. We're getting  
12 it directly from the manufacturer. We're following all the  
13 safety protocols, and we answer for it if something  
14 happens. If a customer buys something that's defective,  
15 damaged or harming them, we have to answer for that. That  
16 doesn't occur online. And the kind of products we're  
17 talking about are baby formula specifically, diabetic test  
18 strips that when they're exposed to the wrong temperatures  
19 can give miss-readings. And we've had a lot of national  
20 security -- of public safety concerns around baby formula,  
21 baby food, diabetic test strips, those sort of things, and  
22 even over-the-counter medicines. If you're not feeling  
23 well, and these guys steal the product, but in order to  
24 sell it in a timely fashion for the most money, they will  
25 manipulate the expiration dates in order to extend the time

1 they have to sell that product.

2           So most of the time when you're buying it, you're  
3 buying something that looks legitimate but really has  
4 expired months ago, and its effectiveness is certainly  
5 compromised. And that's the biggest challenge to us. They  
6 obtain the product illegally. They use threats, violence  
7 and intimidation to obtain the product. Once they have the  
8 product they manipulate it -- right -- to make the most  
9 possible money. And then, when they finally reintroduce  
10 it, they reintroduce it to an online marketplace at half of  
11 its retail value, disrupting the entire commerce of those  
12 types of products in retail commerce. So, it affects us on  
13 all of those levels.

14           And quite frankly, Mr. Chairman, the bill itself  
15 protects online sellers. It doesn't compromise -- or  
16 doesn't affect anybody's ability to sell a product online.  
17 It doesn't do that, right? If anything it protects them,  
18 because how is an online seller of -- I know we're talking  
19 to people from Philips. Their electric toothbrush; that  
20 wants to sell their electric toothbrushes and obtains that  
21 product legitimately from the manufacturer. How are they  
22 going to compete with a criminal enterprise that buys it  
23 for pennies on the dollar on the street and can price it  
24 far below what any legitimate seller could sell it for?

25           So, if anything we're helping the small

1 legitimate seller. We're not hurting anyone, so that's a  
2 misrepresentation. And it's really as simple as that.  
3 We're just looking to regulate and verify what information  
4 they are providing so we know who we're dealing with,  
5 right? Right now, half of our investigative time is spent  
6 figuring out who that person is, do they own a business,  
7 where they are. You know, because I said, as we follow  
8 these guys around the country stealing, they ship the  
9 product, right? For instance here in Pennsylvania, we're  
10 working a dozen cases here in Pennsylvania. We -- you  
11 know, those sellers that we're following now in  
12 Pennsylvania sell \$3 million a month. You know, and they  
13 get product from all across the country, but when they're  
14 shipping those products they're in different names, to  
15 different addresses. Same person, but they can operate in  
16 the shadows, kind of, the internet and with anonymity,  
17 because they don't have to expose their real name.

18           So half the time we're saying, well, we know the  
19 package went there, but that's not really a residence, or  
20 that's not really a name. This would certainly help bring  
21 some much needed transparency to those sellers, and help us  
22 and law enforcement identify the bad actors, not the  
23 legitimate sellers. No one's interested in a legitimate  
24 seller, right? There are definitely points of interest  
25 that identify sellers, and a lot of it is based on pricing.

1           We don't -- at CVS, we don't investigate one  
2 single individual for anything. We always investigate the  
3 criminal organization, right? At the lower levels it's  
4 very, very difficult, right? There is the violence aspect.  
5 We don't want our employees getting hurt, so we try to  
6 refrain from engaging them directly. And also, at the  
7 local level there is decriminalization, debt reform and  
8 some other things that make it very, very difficult to  
9 enforce this or take enforcement action at that level. But  
10 when we investigate at CVS an organization, then we can tie  
11 the thieves in with the actual people selling it and with  
12 the online seller as one criminal enterprise and one  
13 conspiracy, we get much better charges, and they stay in  
14 jail longer. Because unfortunately, folks, if they're not  
15 in jail, they're stealing, which we have proven.

16           There are some excellent online marketplaces that  
17 work with us on the investigative side. And there are some  
18 that don't work with us at all. None regulate their  
19 sellers, which is what we're talking about today, which I  
20 want every -- I want them all to do, but our attempts at  
21 trying to work directly with companies like Amazon have not  
22 been successful, right? They're just not -- are  
23 responsive, and they're not really partnering with us at  
24 any real level. They cooperate with subpoenas, but that's  
25 because a judge tells them they have to. It's not because

1 they are interested in solving the problem.

2 So, whatever investments they're making, I would  
3 say that I know that there are some -- they've invested 700  
4 million as advertised. I would say, you know, with a 30%  
5 increase since COVID, I don't necessarily know if that's  
6 working or not.

7 So, I hope the Pennsylvania legislator will set  
8 the example for other states and for the congress about  
9 this serious threat, and that's all I have, and I look  
10 forward to any questions.

11 MAJORITY CHAIRMAN MARSHALL: Thanks, Ben. If you  
12 could, move the microphone to John, and John can begin when  
13 ready.

14 MR. HOLUB: Morning, Chairmen.  
15 Chairman Marshall, Chairman Matzie, thank you so much. I  
16 really appreciate the opportunity -- members of the  
17 committee -- to testify. I'm John Holub. I'm with the  
18 Pennsylvania Retailers Association. By way of quick  
19 background, we're the only statewide retail issue advocacy  
20 organization in the state. Our membership is comprised of  
21 the small mom-and-pop brick-and-mortar stores all the way  
22 up to the large national chains. I like to say we  
23 represent everybody from Main Street to the malls. And  
24 just about every type of retail category is represented in  
25 our association, so we have a really good cross section of

1 the retail industry as a whole as our membership.

2 And as it's, I think, hopefully clear at this  
3 moment, this is probably the -- it is. Not probably, it is  
4 the number one issue that our members are concerned about.  
5 This very bill is our number one priority issue at the  
6 moment. And as you heard, it's an issue that's not going  
7 away, and it's an issue that is compounding by the day.  
8 And I don't want to be repetitive of what Jason and Ben  
9 have said, so just a couple broad comments just to  
10 reemphasize some of the better points that they have made.

11 This issue -- this bill will protect small  
12 businesses, small brick-and-mortar retailers in the  
13 Commonwealth. This is -- right now they unfairly have to  
14 compete against products being stolen and sold online for a  
15 fraction of the cost that they can offer it to their  
16 customers. So, this has a major, major impact on the  
17 bottom line of brick-and-mortar retailers.

18 This obviously is an issue about the health and  
19 safety of our employees and our customers. Sadly, as Ben  
20 has outlined, this is an issue where people have become  
21 increasingly more violent, and these interactions that  
22 we're having with these criminals could result in serious  
23 injury and, God forbid, a death. And quite honestly, we  
24 don't want any associate or customer to be harmed in any  
25 way over a stolen power drill or stolen toothbrush. I

1 mean, that's just -- it's just crazy to think that that  
2 could happen.

3           And then this is -- and I think -- I really want  
4 to put -- emphasize, this is a consumer protection issue.  
5 People right now unwillingly, unwittingly are buying stolen  
6 and counterfeit goods. They are potentially jeopardizing  
7 their health and safety, because a product could be  
8 stolen -- could be expired. There could be, you know,  
9 serious manufacturing defects. You know, children's toys  
10 could be harmful to a child. You know, and, I mean, if  
11 anything we learned, you know, in the last year and a half  
12 the importance of masks, and people are buying counterfeit  
13 masks that clearly won't be as effective as what the N95  
14 masks are. So, this has a significant health and safety  
15 consumer protection issues that can't be stressed enough.

16           Now, I typically don't like to argue point for  
17 point with the folks that oppose this bill, but I've become  
18 aware of some of their very misleading and false statements  
19 that they're claiming out there in opposition to this  
20 legislation. So, I just wanted to kind of go through a  
21 couple of their mistruths or misleading statements. And I  
22 have to put my glasses on, because I want to quote them  
23 exactly, because it's very troublesome. I'm very concerned  
24 of what they're trying to tell you what this bill is about.

25           And first and foremost, and the one that -- and

1 the reason I'm doing this is the one that really struck me  
2 was they are claiming this bill is discriminatory, and  
3 that's an exact quote. And I have thought long and hard  
4 about this bill, and I can't for the life of me figure out  
5 what is even remotely discriminatory about this issue. The  
6 other one you're going to hear a lot is that this is  
7 burdensome, and it's unfair, and it's, quote, significant  
8 -- "will create significant obstacles for small businesses  
9 to participate in online marketplaces," and nothing could  
10 be further from the truth.

11 This -- the beauty of this legislation is its  
12 simplicity. All is -- will be required of high volume  
13 sellers is to provide and get verified six basic pieces of  
14 information, and four of those pieces of information are  
15 your name, your address, a phone number and an email. If  
16 anybody can't provide -- I just don't understand how that's  
17 any kind of burden. And the other pieces of information  
18 are your Tax ID number and your banking information. These  
19 are all pieces of information that any legitimate business  
20 owner will have at their fingertips and could provide at a  
21 moment's notice. How that is burdensome I have no idea.  
22 It just boggles my mind.

23 They also say that this is going to, quote, "harm  
24 legitimate Pennsylvania business and entrepreneurs." As I  
25 mentioned, right now small businesses are being harmed by

1 the fact that they have to compete with stolen products  
2 online, that they can't compete on prices. I talk to my  
3 members all the time. They are willing to compete any day  
4 of the week against online, with online marketplaces, but  
5 it has to be a level playing field. We've had this issue.  
6 I think you all recall a few years ago when it came to a  
7 sales tax. Online marketplaces didn't collect sales tax,  
8 and it was a significant competitive advantage over  
9 bricks-and-mortar retailers. We have leveled that playing  
10 field now. This is the same situation. They are now  
11 competing with online marketplaces that are selling stolen  
12 and counterfeit goods at a fraction of the cost of a  
13 bricks-and-mortar store can sell. So this is a fairness  
14 issue. This is about level the playing field, so how it  
15 harms businesses -- this legislation harms I just don't  
16 understand. It actually does the exact opposite.

17           Also, the bill -- they'll quote and say -- the  
18 bill, quote, "mandates the public disclosure of  
19 Pennsylvanians' personal information on every product they  
20 list." That is not true. As Representative Tomlinson,  
21 when she was outlining the bill -- there are specific  
22 exemptions in there. If you are running a business out of  
23 your home, your home address is not disclosed in any way.  
24 At the very basic level of disclosure, you're running a  
25 home business, you have to -- I think it's your state. You

1 just have to identify the state you're from and an email or  
2 a phone number, one or the other. That's it, and that's  
3 just -- excuse me. That's only so a customer, if there's a  
4 problem, a customer can get in touch with this business.  
5 And again, if you're a legitimate business, I think you  
6 would want to have that interaction with your customers.

7 Another one that's quite troubling is they say  
8 this favors large retailers. The e-commerce sites of all  
9 my larger members, none of them sell stolen or counterfeit  
10 goods. The only person -- the only businesses that are  
11 profiting off of this right now are the online  
12 marketplaces, and they make a percentage, and they're  
13 profiting off of every stolen and counterfeit goods sold on  
14 their sites. So, if there's anybody that this -- you know,  
15 the current situation favors, it's obviously the e-commerce  
16 sites.

17 The other issue was, this leaves consumers with  
18 fewer choices when they shop online. Again, this gets to  
19 greater transparency, and making sure that consumers are  
20 actually buying products that aren't stolen or counterfeit,  
21 or have -- again, it gets back to the consumer  
22 product -- the consumer protection issues.

23 Also, they're going to complain about the  
24 artificially low seller threshold. Right now the trigger  
25 for someone to have to provide their information and get it

1 verified is 200 transactions in a calendar year. I don't  
2 know -- you know, it doesn't capture the casual seller. If  
3 you want to sell, you know, some things that you have lying  
4 around your house, unless you're selling your entire --  
5 everything you have in your house, you will not be captured  
6 in this. So the hobbyist, the casual seller would not be  
7 captured. Obviously I feel confident that if somebody is  
8 selling 200 products or more in a calendar year, you're  
9 running a business, and therefore you should have to comply  
10 with this.

11           And lastly, the one -- and this is one that kind  
12 of amused me -- is that they said, quote, "This will  
13 have --", "If this legislation was to pass, this would have  
14 a chilling effect on e-commerce." Well, first -- and I  
15 don't know if it had been mentioned or not, but this bill  
16 has actually already passed in one state. Arkansas has  
17 passed it, and the last time I checked earlier this  
18 morning, e-commerce I think was still alive and well. So,  
19 I really don't feel how this will have a chilling effect.  
20 If anything, this will legitimize e-commerce, because you  
21 will know. You will have the trust and confidence that  
22 when you go online you're not buying stolen or counterfeit  
23 goods, or at least a higher percentage or higher chance  
24 that you won't be selling -- buying stolen or counterfeit  
25 goods.

1           So, I thank you very much for the opportunity to  
2 speak today. I want to thank Representative Tomlinson for  
3 her leadership on this issue and would be happy to answer  
4 any questions. Thank you very much, Chairmen.

5           MAJORITY CHAIRMAN MARSHALL: Thank you,  
6 gentlemen. We will hold questions until the second panel  
7 is finished. So if you gentlemen would stay in the room --

8           MR. HOLUB: Absolutely.

9           MAJORITY CHAIRMAN MARSHALL: -- and may come up  
10 for questions afterwards. At this time we would like to  
11 welcome Caroline Joiner, Senior Manager of Public Policy  
12 for Amazon, and John Olsen, Director of State Government  
13 Affairs Northeast Region Internet Association. And you can  
14 begin when you're ready.

15           MR. OLSEN: Good morning, Chair Marshall,  
16 Chair Matzie and members of the committee. My name is John  
17 Olsen. I'm actually the Interim SVP of Government Affairs  
18 now. I've recently taken over for the 50 State Program.  
19 But, I represent Internet Association -- I? We represent  
20 40 the world's leading internet companies including several  
21 e-commerce platforms. IA is here today to oppose HB 1594.  
22 I have submitted a letter which should be in your packets,  
23 but I appreciate the opportunity to provide testimony.

24           I would just like to comment on some of the  
25 things that were, you know, mentioned in the previous

1 panel, one of which is most of the points that John made I  
2 will not be making in my testimony. I think the main issue  
3 that -- from IA's perspective is the privacy issue. You  
4 know, we are compelling many small sellers who do hit that  
5 threshold. It is not artificially low. 200 transactions  
6 is not that hard. I personally know someone out in  
7 Colorado who operates on Etsy. She makes jewelry. She  
8 does several transactions a day and reaches 200  
9 transactions quite well. So, it's not just the high volume  
10 sellers as the bill purports. It's a lot of small  
11 businesses, microbusinesses, sole proprietors. There are  
12 over 100,000 people like that in Pennsylvania, and they  
13 rely on e-commerce and online platforms to make a living or  
14 to supplement their incomes. This is especially important  
15 right now, as many people seek to recover economically from  
16 the pandemic. But more importantly, the information being,  
17 you know, imposed to provide through the online  
18 marketplaces is personal information, and a lot of people  
19 are uncomfortable providing that information. I understand  
20 the argument from the other side; however, the intent of  
21 this bill is really to impose liability on online  
22 marketplaces and force either the sellers to provide that  
23 information or be suspended from the platform.

24           Also, if you are going to incentivize online  
25 platforms to collect and verify information, then there

1 better be better protections in the bill for having that  
2 information and trying to verify, especially financial  
3 information. So, we have significant concerns with the  
4 information being asked and the method of which they are  
5 supposed to provide it.

6           One of the more important things I think is,  
7 this is an anti-competitive measure. You know, what we're  
8 seeing -- and I thank John for pointing out that this bill  
9 has only passed in one state, and that state is the home of  
10 Walmart. Two dozen other states have rejected this and  
11 therefore have rejected many of the arguments you just  
12 heard.

13           There is a significant compliance risk with this  
14 bill. There is a significant privacy risk with this bill.  
15 But more importantly, it doesn't do anything to actually  
16 address organize retail crime. As you've seen from the  
17 compelling video, as you've seen from the compelling  
18 testimony of Mr. Dugan, this is a serious issue, but there  
19 are methods to which we can address organized retail crime  
20 that does not involve violating the privacy of small  
21 sellers, and does not involve creating increased liability  
22 for online marketplaces.

23           Online marketplaces are not just some monolith.  
24 This bill seems very targeted at certain Amazon and eBays  
25 of the world, but there is a huge multitude of online

1 marketplaces out there. Some of my members, including  
2 Facebook and Etsy, don't even operate on the same level  
3 that Amazon and eBay do, but do have many sellers who would  
4 reach those thresholds. Or if they don't, they are now  
5 having to face liability and make certain choices that  
6 increase cost or change the business model. So, the bill  
7 paints with a very broad brush and assumes the guilt of  
8 anyone who is selling online, as opposed to looking at  
9 suspicious activity or targeting, you know, high volume  
10 suspicious activity. And I think, you know, most  
11 importantly, there are other alternatives out there.

12           As we're seeing in other states, organized retail  
13 crime task forces -- and I want to emphasize, task force  
14 does not just mean a legislative commission. This is a law  
15 enforcement task force, something with teeth, and something  
16 that gives, you know, both law enforcement, retailers and  
17 online platforms a means to collaborate, share information  
18 and really target the bad actors out there.

19           So, we would strongly encourage the legislature  
20 to consider that alternative. You know, there are states  
21 like Arizona and Utah who have already implemented task  
22 forces. California has a task force that should be  
23 re-upped, so to speak. And there are other alternatives to  
24 implementing task forces such as in Illinois where you  
25 have -- the Attorney General just started his own task

1 force, has already, you know, committed to one major bust.

2           So ultimately, we find the bill is transparently  
3 about anti-competition measures in an effort to slow down  
4 e-commerce. Both big-box retailers and e-commerce did very  
5 well over the last few years, but the main point is that  
6 big-box retailers are not as successful and are looking to  
7 catch up. And we -- HB 1594 and other bills such as the,  
8 you know, Federal Inform Act as a means to create  
9 anti-competitive measures that, you know, inhibit  
10 e-commerce from operating successfully.

11           I'd also -- and I want to specifically mention  
12 this, because of the law enforcement angle and the  
13 cooperation between retailers and e-commerce platforms.  
14 eBay has a partner -- Partnering with Retailers Offensively  
15 Against Crime and Theft, or PROACT program. This program  
16 has been in effect for over ten years and effectively  
17 responds to retailer suspicions that a criminal is selling  
18 stolen goods on the platform. So, the argument that, you  
19 know, our platforms are not, you know, cooperating with law  
20 enforcement is not a good argument. This program has been  
21 in effect for quite some time.

22           Law enforcement already has the authority and  
23 means to detect suspicious activity, and therefore we feel  
24 an organized retail crime task force, something with  
25 funding and dedicated resources, would be a much more

1 effective means of combating organized retail crime.

2 IA agrees on the basic premise of this  
3 legislation in that ORC is a growing threat to businesses  
4 of all sizes and proliferation of stolen or fraudulent  
5 goods must be aggressively investigated and prosecuted.  
6 However, the legislation before you today does nothing to  
7 address the issue of ORC at its source, namely the  
8 targeting of brick-and-mortar retailers and the theft of  
9 merchandise from store shelves. For these reasons we  
10 respectfully request that the committee not advance HB  
11 1594, but rather to focus on solutions supported by law  
12 enforcement, the internet industry and retailers that  
13 combat ORC as a whole through a more collaborative and  
14 equitable approach. Thank you for your time today, and I  
15 will take any questions.

16 MAJORITY CHAIRMAN MARSHALL: Thanks, John. And,  
17 Caroline, if you could --

18 MS. JOINER: Yes, thank you --

19 MAJORITY CHAIRMAN MARSHALL: -- begin?

20 MS. JOINER: -- for the opportunity to be here  
21 today. And I am not a natural public speaker, so I will do  
22 my best to speak slowly and clearly. I'm Caroline Joiner.  
23 I'm a senior manager with Amazon. We are proud to have  
24 invested over \$17 billion in the State of Pennsylvania  
25 since 2010, 25,000 jobs -- direct jobs here in the State of

1 Pennsylvania. And in addition to that, we have over 50,000  
2 Pennsylvania small and medium sized businesses that are  
3 growing their business on our platform. So, you know,  
4 supporting small and medium sized businesses are -- is  
5 fundamental to Amazon, and it's part of our core --  
6 customer-centric philosophy.

7 And so, 60% of what's sold on our site actually  
8 comes from small and medium sized businesses. And so their  
9 success really drives our success, so we invest a lot to  
10 make sure that every time you shop on Amazon from one of  
11 these small businesses, you are doing so with -- you can do  
12 so with confidence.

13 So, Amazon shares your goal of holding bad actors  
14 accountable, while also protecting consumers and honest  
15 entrepreneurs, but unfortunately we do not think that 1594  
16 is the right approach to actually fight organized retail  
17 theft. We know that criminals and fraudsters will go to  
18 extreme lengths to hurt honest entrepreneurs and consumers.  
19 That's why we have the -- we invested significant resources  
20 in processes, technology and in people to make sure that  
21 every time you shop on our site you're doing so with  
22 confidence. We have invested \$500 million and have 8,000  
23 employees whose sole job it is to prevent fraud on our site  
24 before it happens.

25 We mentioned, we leverage advanced technology and

1 expert investigators to verify our potential sellers'  
2 identity. No one is going onto our site anonymously. We  
3 verify potential sellers' identity before they come on our  
4 site. We work very hard to ensure that only authentic and  
5 legal products are sold on our site. I want to walk you  
6 through a little bit of our seller verification process,  
7 because it is robust.

8           We use these -- we use proprietary machine  
9 learning tools to analyze hundreds of data points for any  
10 perspective seller before they're able to list on our site.  
11 We analyze and review hundreds of data points, including  
12 biographical information, their name, their address,  
13 financial information, bank account information, credit  
14 card information, payment processor information. We review  
15 a government-issued ID. We look at their seller -- their  
16 IP address and see whether it's hidden. We look at whether  
17 it's associated with an account we've ever kicked off our  
18 site before. We connect one on one in -- via live video.  
19 We look at the ID and make sure it matches the face that  
20 we're looking at on the video. We -- to verify an address  
21 we mail them a postcard to that address. They have to mail  
22 it back to us. It's an extensive process to verify that  
23 the seller is who that they say -- who they say they are,  
24 and all of this information is reviewed not only by a  
25 machine, but by a trained investigator before they are able

1 to list on our site.

2 And once they are verified, we are consistently  
3 monitoring those accounts, and there is additional  
4 documentation required for certain products. And we block  
5 bad accounts before they're able to list, before they're  
6 even able to publish. In 2020 we stopped over 6 million  
7 seller accounts before they were able to list on our site.  
8 They didn't make it through the process. We also blocked  
9 10 billion suspected bad listings. So, our system is  
10 robust, and it is catching the bad actors.

11 And in addition to all of that, we have 60  
12 million pieces of customer feedback that we get on a weekly  
13 basis, that we are constantly reviewing and scrubbing to  
14 make sure that what you're seeing on Amazon is safe and  
15 legitimate.

16 And we are also committed to stopping organized  
17 retail crime. We have zero tolerance for stolen goods on  
18 our site. We work closely with law enforcement, retailers  
19 and brands to stop bad actors and hold them accountable,  
20 including withholding funds, terminating accounts and  
21 making law enforcement referrals.

22 We proactively provide information -- seller  
23 information to law enforcement when it is legally  
24 requested. We are working with hundreds of local and state  
25 law enforcement agencies every year. We work closely with

1 retailers, including CVS, and we review every allegation of  
2 stolen merchandise that comes to us, and especially when  
3 evidence is provided to us. When we have information like  
4 serial numbers, we can go do that research internally. We  
5 ask the sellers to provide us receipts of where their  
6 inventory came from. If we can get a serial number that  
7 doesn't match, we can actually kick it out of our  
8 fulfillment centers. So, we are actively supporting and  
9 working with law enforcement to make sure that legitimate  
10 goods are on our site.

11 But, instead of targeting bad actors, HB 1594  
12 will hurt honest, small businesses. It sets up new  
13 roadblocks for them. We have a scenario where if they  
14 adapt a report -- they miss a notification from us, or they  
15 -- their annual reverification would come up. If they miss  
16 that notification and they don't provide us the information  
17 within 24 hours, we would have to kick them off our site.  
18 For some of these businesses, being down for even a day  
19 could be devastating. So, these are additional roadblocks  
20 for honest entrepreneurs, and we don't want them to  
21 have -- you know, would rather have this target the bad  
22 actors rather than create new roadblocks for honest  
23 entrepreneurs. So, we really see this as creating more  
24 bureaucracy, but not more transparency.

25 We are supportive of seller transparency. If you

1 go onto Amazon, you'll see a business name and business  
2 address on every listing. You'll also see robust product  
3 listings and information about the seller. You  
4 have -- there's a ton of information to make a decision  
5 about to shop with confidence on our site; honestly, a lot  
6 more than you would see if you were buying that same  
7 product in a big-box retail. There's a lot of information  
8 about our sellers' business name, business address and the  
9 very robust product listings, and you can see how those  
10 products have fared with others -- other people have bought  
11 them. I think that's my phone.

12           So -- but, you know, the -- but requiring a  
13 business to put their email or a phone number doesn't  
14 provide any additional information for a customer to make  
15 an informed decision. Instead, what we are concerned about  
16 is that would entice those -- any sort of communication to  
17 happen off of our site which we don't want. We encourage  
18 buyers and sellers to communicate. We have an A-to-Z  
19 guarantee that says if you are not satisfied with what you  
20 bought on Amazon, you are guaranteed a refund or return, no  
21 hassle. We can make sure that happens, because we have a  
22 buyer/seller messaging tool on our site that facilitates  
23 those communications. We monitor those communications to  
24 make sure that buyer and seller are communicating, and that  
25 our sellers are being responsive, and that we -- something

1 doesn't go right, we can make them whole.

2           If you -- if they are now having to post an email  
3 or a phone number, those communications can happen off of  
4 our site. We can't monitor them. We can't make sure that  
5 the person is made whole, and if something goes wrong, we  
6 no longer have a record of that communication for law  
7 enforcement. So it doesn't create more -- you know,  
8 actually creates more potential for fraud, not less.

9           So, you know, we do think -- like what John said,  
10 we think we really need to focus on the source of organized  
11 retail crime, and we have seen other states tackle this  
12 with a more comprehensive strategy. We want to see more  
13 resources for law enforcement and coordinated strategies to  
14 make sure that law enforcement has the resources and the  
15 tools that they need.

16           We have seen states like Utah, Arizona,  
17 California and now Illinois create a organized retail crime  
18 task force that makes sure that law enforcement has the  
19 tools and resources they need, and we'd love to see  
20 Pennsylvania consider that as well, so we can actually have  
21 a more comprehensive strategy on organized retail crime.  
22 Happy to take any questions.

23           MAJORITY CHAIRMAN MARSHALL: Thank you, both.  
24 And if you could remain at the table, I'd like to ask the  
25 gentlemen from the first group to join at the table, if you

1 could make some room. And, we will begin with member  
2 questions as soon as you're ready.

3 I'd again like to thank the panel for -- both  
4 panels for joining together for this question period. And  
5 I would direct that members ask questions to the panel  
6 members. Maybe a specific panel member, but the questions  
7 will be for panel members. We'll start with Representative  
8 Metzgar.

9 REPRESENTATIVE METZGAR: So just -- I guess I'm  
10 trying to understand the issue, and how this plays out, and  
11 what we're trying to change with the bill. So, my  
12 understanding is -- so the circumstances are that -- the  
13 allegation is that big-box stores are having their  
14 materials stolen, and then that's placed online in a form  
15 that -- at a large scale, and you're concerned about  
16 the -- you know, that that undermines not only your stores'  
17 profit margins, but also funds illegal activity. Is that  
18 sort of the correct statement?

19 So, in the event that that happens and an  
20 investigation would occur, what happens now? So, they  
21 approach the online marketplace, and what do you do then?

22 MS. JOINER: We're obviously going to investigate  
23 any allegation of stolen merchandise, and we will cooperate  
24 with law enforcement if they bring a legal request for  
25 information. We have the information on the seller, and we

1 are happy to share it with them.

2 REPRESENTATIVE METZGAR: Okay. And so, your  
3 problem with that is that that's not working? Is that the  
4 issue? Or that -- and why isn't that working? And what --  
5 where are you at with this bill? I'm --

6 MR. DUGAN: How this works, Representative, is  
7 law enforcement does have task forces, and they do subpoena  
8 records for companies like Amazon. Excuse me. However,  
9 the dynamic is -- the first phase of this is, the retailers  
10 employ their own organized retail crime teams that actually  
11 have to build these cases and present them to law  
12 enforcement. Law enforcement doesn't proactively go out  
13 and investigate this crime, right?

14 REPRESENTATIVE METZGAR: But they could.

15 MR. DUGAN: They most certainly could, but that's  
16 not the reality. Their manpower is stretched. So we  
17 normally -- we put the cases together and then present  
18 them. And quite frankly, eBay has been a terrific partner  
19 throughout the years and help us mitigate a lot of risk  
20 through the years.

21 Do I think they should regulate their sellers?  
22 Yes, I think they should, because I think it will prevent  
23 people from even setting up these illegal businesses in the  
24 first place. I think that's the biggest benefit from the  
25 bill.

1           REPRESENTATIVE METZGAR:  So I guess --

2           MR. DUGAN:  The investigator's side is different,  
3 but Amazon doesn't cooperate with retail at all.  They  
4 won't provide us with any information about any seller or  
5 anything.  Now, when they get a subpoena they answer law  
6 enforcement, but that's usually very far down the road.

7           REPRESENTATIVE METZGAR:  So, I guess my question  
8 to you is -- so, Carl Metzgar buys a pallet of brake pads.  
9 I am now selling those brake pads in competition with  
10 Walmart.  Walmart sees that I am selling those brake pads  
11 on dimes on the dollar, and they say this is suspicious,  
12 and Carl is an Amazon seller, @cmetzgar.  You don't know  
13 who I really am.  You take that to law enforcement, and  
14 they say, selling something cheap is not a crime.  
15 I -- you --

16           MR. DUGAN:  That's not how --

17           REPRESENTATIVE METZGAR:  You now -- like -- this  
18 bill, the way I'm reading it, you now have my email address  
19 and phone number.  Walmart and their attorneys can now send  
20 me a letter saying, you know, Carl, you need to cease and  
21 desist selling that because, you know, the -- we  
22 don't -- we think you're committing a crime.  Prove you're  
23 not.

24           MR. DUGAN:  Right.

25           REPRESENTATIVE METZGAR:  Do you see how maybe

1 that could get --

2 MR. DUGAN: I understand --

3 REPRESENTATIVE METZGAR: -- out of hand?

4 MR. DUGAN: -- Representative, but that's not how  
5 it works. First thing is, there is no way to get brake  
6 pads at ten cents on the dollar. Doesn't --

7 REPRESENTATIVE METZGAR: That's --

8 MR. DUGAN: Doesn't exist.

9 REPRESENTATIVE METZGAR: That's untrue. I mean,  
10 I --

11 MR. DUGAN: Sir, when it comes to --

12 REPRESENTATIVE METZGAR: You can buy them in an  
13 auction.

14 MR. DUGAN: -- the product --

15 REPRESENTATIVE METZGAR: That --

16 MR. DUGAN: -- that we sell.

17 REPRESENTATIVE METZGAR: -- is totally untrue. I  
18 mean, like, there is no way that --

19 MR. DUGAN: That's --

20 REPRESENTATIVE METZGAR: -- I can buy a pack -- I  
21 can buy a pallet of brake pads at a huge discount and sell  
22 them for dimes on the dollar, that happens all the time.

23 MR. DUGAN: Not to the levels -- the levels of  
24 volumes that -- of -- they're selling, and those prices  
25 don't exist. Now, brake pads may be the exception. It

1 doesn't exist in the world that I live in.

2 Over-the-counter medications, I deal with the product  
3 manufacturers. Consistently, you can't buy allergy  
4 medicine or Tylenol at anywhere near the prices that they  
5 are selling it for online. It just doesn't exist. That  
6 market -- that's simply not true.

7 REPRESENTATIVE METZGAR: But --

8 MR. DUGAN: Now -- but --

9 REPRESENTATIVE METZGAR: I got to --

10 MR. DUGAN: -- but that's --

11 REPRESENTATIVE METZGAR: I have to object.

12 You -- I mean, you --

13 MR. DUGAN: Well, I'm --

14 REPRESENTATIVE METZGAR: You have --

15 MR. DUGAN: That's the reality.

16 REPRESENTATIVE METZGAR: You have stores, box  
17 stores, Gabe's, Ross, that that's what they do for a  
18 living, is they buy things at --

19 MR. DUGAN: Not for less than a manufacturer can  
20 even make it for. That doesn't exist, Representative. I'm  
21 sorry.

22 REPRESENTATIVE METZGAR: Okay.

23 MR. DUGAN: That's not true.

24 REPRESENTATIVE METZGAR: Well, we're going to  
25 disagree on that.

1 MR. DUGAN: Okay.

2 REPRESENTATIVE METZGAR: Yeah.

3 MR. DUGAN: That's fine.

4 REPRESENTATIVE METZGAR: Yeah.

5 MR. DUGAN: That's fine, but the other face to  
6 this is, we don't take information offline and open an  
7 investigation. It doesn't work that way. We conduct  
8 investigations on the street. We follow the thieves, watch  
9 them steal the product and deliver it to their seller. Now  
10 we don't know who that seller is. We know for a fact that  
11 that product was just stolen from my store, because I  
12 watched them steal it and drive it there. And that could  
13 be ten states away. We do that work, then we approach an  
14 online marketplace like eBay and ask them, hey, listen, we  
15 know our product is being purchased by this guy. We know  
16 it's stolen. Can you give us a little scope around who he  
17 is and what kind of volume he's doing? Because it  
18 validates -- and sometimes we apprehend those thieves, and  
19 we interview those thieves. And they say, yes, I steal  
20 product every day, and I sell it to this person. He sells  
21 it on Amazon. Well, then we would contact Amazon, knowing  
22 that we have somebody in custody who had just admitted that  
23 all the product that they're stealing they're selling on  
24 Amazon. Then we would approach. No one would just  
25 blanketly [phonetic] or generically look at information and

1 open -- we don't have the kind of -- that kind of amount --

2 REPRESENTATIVE METZGAR: Well, that being said --

3 MR. DUGAN: -- of time.

4 REPRESENTATIVE METZGAR: -- why are you going to

5 Amazon? Why aren't you going to the police?

6 MR. DUGAN: Because we have to put the case

7 together first. The police don't do that. That --

8 REPRESENTATIVE METZGAR: So you have a police

9 problem, then?

10 MR. DUGAN: I don't think it's a law enforcement

11 problem.

12 REPRESENTATIVE METZGAR: I mean --

13 MR. DUGAN: Listen, if you want to fund a task

14 force, I'm all in.

15 REPRESENTATIVE METZGAR: I mean --

16 MR. DUGAN: I'm --

17 REPRESENTATIVE METZGAR: What this looks like is

18 you're getting -- you want to be deputized.

19 MR. DUGAN: No. I think it's consistent with

20 what the credit card industry does. They put their own

21 cases together and present them to law enforcement. The

22 insurance industry does the same thing. They put insurance

23 fraud -- they investigate it first, put the case together

24 and present it to law enforcement. It's a common business

25 practice. I did my time as a police officer. I'm not

1 looking to get deputized again. I'm a businessman, and  
2 this creates a threat to our employees.

3 But the reality -- I understand the question. I  
4 think it's a great question, but the reality is -- the  
5 dynamic is the burden falls to the retailers. And full  
6 transparency, he's right. eBay does a great job with us  
7 and partners with us on those types of things. They will  
8 absolutely share information with us on sellers that we can  
9 prove our product was stolen, right? We don't get the same  
10 cooperation from other online marketplaces. But as I said,  
11 I still support the bill, because I think it goes a long  
12 way to preventing people from setting up these businesses  
13 in the first place. If they have to give their real name,  
14 I don't know if a lot of people are willing to put their  
15 real name out there when they're selling millions of  
16 dollars in stolen merchandise.

17 MAJORITY CHAIRMAN MARSHALL: Thank you.  
18 Representative Sankey?

19 REPRESENTATIVE SANKEY: Thank you, Chairman. My  
20 question is probably more for Mrs. Joiner. And I have two  
21 of them, and I'll be quick. Do you have -- for Amazon's  
22 sake, do you have any idea how many of your online sellers  
23 are overseas, percentage-wise? Or how many of them have no  
24 US bank account and no US Tax ID?

25 MS. JOINER: I don't have that number, but I

1 can --

2 REPRESENTATIVE SANKEY: Can you possibly find it?  
3 Doesn't have to be perfect, but just roundabout numbers, if  
4 you can find it. I'd appreciate it. And I don't want to  
5 go back to the whole heated argument there with  
6 Representative Metzgar, but I have a question.

7 Okay. So, it's determined -- Amazon determines  
8 that one of your sellers is selling a stolen product, okay?  
9 We don't have to go through that whole process again. And  
10 Amazon helped fill that order, so we're playing catch-up  
11 afterwards. What happens to the proceeds of that money?  
12 And what's really the process moving forward once you have  
13 identified something is stolen?

14 MS. JOINER: We would cooperate with law  
15 enforcement to build a case. So that would look different  
16 depending on what the process is, but we would, you know,  
17 cooperate with the investigation. We would go back to the  
18 seller and figure out where they sourced the goods, and we  
19 would do the investigation internally; whether or not they  
20 were linked to other accounts. So, we -- full cooperation  
21 with law enforcement. We -- obviously we would --

22 REPRESENTATIVE SANKEY: And --

23 MS. JOINER: -- terminate the account.

24 REPRESENTATIVE SANKEY: -- what about the  
25 money --

1 MS. JOINER: Withhold funds --

2 REPRESENTATIVE SANKEY: -- the funds? Are they  
3 held?

4 MS. JOINER: We would withhold the funds.

5 Obviously it depends on what's happening --

6 MAJORITY CHAIRMAN MARSHALL: Excuse me, Caroline?

7 MS. JOINER: Yes?

8 MAJORITY CHAIRMAN MARSHALL: I know it's  
9 difficult --

10 MS. JOINER: Sorry. It's hard to talk to him and  
11 talk to the microphone --

12 MAJORITY CHAIRMAN MARSHALL: Yeah, but we can  
13 hear you --

14 MS. JOINER: -- at the same time.

15 MAJORITY CHAIRMAN MARSHALL: -- better this way.

16 MS. JOINER: Yes.

17 MAJORITY CHAIRMAN MARSHALL: Thank you.

18 MS. JOINER: Okay. Well, it feels weird to not  
19 talk to you. So yeah, we would obviously withhold the  
20 funds if that's required for the -- by the investigation.  
21 But we -- yeah, the -- his assertion that we never  
22 cooperate with law enforcement is just, you know, boldly  
23 untrue. We cooperate with law enforcement on a regular  
24 basis. And we also cooperate with retailers.

25 MR. BREWER: Okay. I -- we'll agree to disagree

1 there.

2 MAJORITY CHAIRMAN MARSHALL: We'll work that out  
3 after.

4 MR. OLSEN: May I just point out that, you know,  
5 we're talking about one marketplace when there is a massive  
6 ecosystem. So, if this bill is meant to address Amazon and  
7 their potential flaws, then I think we have an issue here,  
8 because we're talking about online marketplaces. It's  
9 defined in the bill, and it's very clearly defined to not  
10 just target Amazon.

11 So, we have to be very careful when we legislate  
12 that we don't just have one company in mind. And I think  
13 that is a real issue when you talk about the sellers on  
14 multitudes of marketplaces. I --

15 MR. BREWER: Just -- I want to respond to that.  
16 This isn't just about one marketplace. Amazon is here, and  
17 they made the comment that they work with retailers. I'll  
18 just say under -- you know, want to confirm to you all that  
19 they don't. Others do, but the point here is not to pick  
20 out one company versus another. It's to say, look,  
21 everybody should have a level of transparency. Today,  
22 Facebook is one of the fastest growing marketplaces. They  
23 provide no support. They also do not work with the retail  
24 industry when things are sold on their marketplace. So,  
25 this bill does not target a individual marketplace. It is

1 meant to address all online marketplace sales. And I will  
2 say, several of my members also have marketplaces. Walmart  
3 has one of the fastest growing marketplaces in the country.  
4 Target has a marketplace, Best Buy has a marketplace. They  
5 all understand this will require them to verify who is  
6 selling through their marketplace as well. So this isn't  
7 targeting Amazon. It is trying to address the problem with  
8 the ecosystem and the lack of transparency among the  
9 businesses.

10 MR. OLSEN: I believe those marketplaces are  
11 exempt by virtue of connection to the seller, though.

12 MR. BREWER: Wrong. No, they're not exempt from  
13 this.

14 MAJORITY CHAIRMAN MARSHALL: Okay. Thank you,  
15 gentleman. We're -- we'd like to move along to questions  
16 from the members so that we can get as many member  
17 questions answered in the time that we have. And we will  
18 go to Representative Snyder.

19 MS. SNYDER: Thank you, Mr. Chairman. I'm having  
20 a real disconnect here, so I just want to try to clarify  
21 what my mind is thinking. Mr. Dugan, I heard you refer to  
22 the thieves as professional thieves. So, am I to believe  
23 that if this bill passes and the online seller information  
24 becomes tightened up, the professional thieves are not  
25 going to continue to rob stores?

1 MR. BREWER: [inaudible].

2 MR. DUGAN: Sure.

3 MR. BREWER: I just want to say, look, there's no  
4 silver bullet to stopping -- there's no silver bullet to  
5 stopping crime. Do not steal I think was in the top  
6 original ten things not to do. People still do it. So,  
7 I'm -- no one here is going to claim that one piece of  
8 legislation is going to stop all crime or all retail theft.  
9 What we're trying to say is, look, right now, because of  
10 the anonymity online, it is very easy to build a business  
11 selling stolen product, because the risk is minimal.

12 If there is more transparency, and you've got to  
13 provide your -- as Ben put it, your real name, your real  
14 phone number, your real contact information so that  
15 retailers can find you, law enforcement can find you if you  
16 are caught stealing from a store, and you're seen selling  
17 that to a booster. Yeah, I mean, it adds an element of  
18 risk.

19 And so, I don't think people are going to stop  
20 stealing. I don't think people are going to stop selling  
21 counterfeits. I think it's going to be a lot harder to  
22 build a business selling stolen goods, and I think some  
23 people are going to say, you know what? Given this risk,  
24 I'm not going to do it anymore.

25 REPRESENTATIVE SNYDER: Well, I think you're

1 right that it's going to stop them in some marketplaces,  
2 but I don't think this solves the problem of retail theft.  
3 I think your stores are still going to have an issue with  
4 the professional thieves cleaning you out. So, you know, I  
5 look at our public education system, and I see security  
6 guards at all of my public schools. You know, I think  
7 maybe instead of your employees trying to tackle down a  
8 thief, maybe some stores should think about that also.

9 My next question too, if I may, when did Arkansas  
10 pass this law? How long ago?

11 MR. BREWER: [inaudible].

12 REPRESENTATIVE SNYDER: You know, I would suggest  
13 that we in Pennsylvania take a look maybe six, seven months  
14 down the road to see if the professional thieves have  
15 stopped in Arkansas, if this has had any impact at all on  
16 that. Thank you, Mr. Chairman.

17 MAJORITY CHAIRMAN MARSHALL: Thank you,  
18 Representative Snyder. Representative Mackenzie?

19 REPRESENTATIVE MACKENZIE: Great. Well, thank  
20 you, Mr. Chairman, and thank you to all the panelists for  
21 their testimony today. So in my opinion, it seems like  
22 everybody should recognize that there is a problem with  
23 counterfeit goods and stolen goods being sold online. We  
24 all see that as an overarching problem. But, it seems that  
25 there is a disagreement in the root cause of the problem.

1           So, Panel 1 is pointing the finger at the  
2 platforms, Panel 2 is saying it's not the platforms. So I  
3 guess we're looking for -- if it's not the platforms, what  
4 are the other root causes? And so, one that has been  
5 highlighted is that there are DAs and law enforcement  
6 officials out there who are making public pronouncements  
7 saying that we are not going to prosecute the theft under  
8 \$500 or \$750. They are issuing summary offenses for that  
9 type of retail theft.

10           So, I guess my question is for Panel 2. If it's  
11 not the platforms, do you see -- and I'll ask specifically  
12 of Caroline Joiner here from Amazon. Do you see public  
13 pronouncements from law enforcements that they are not  
14 going to prosecute retail theft, they aren't going to  
15 prosecute looters -- do you see that as a root cause of  
16 this problem? Yes or no?

17           MS. JOINER: Yes.

18           REPRESENTATIVE MACKENZIE: Okay. And so, with  
19 the task forces that you are proposing or you've mentioned  
20 as a possible solution, how would that address that lack of  
21 enforcement or willingness to enforce laws by DAs and other  
22 officials?

23           MS. JOINER: Well, part of the task force efforts  
24 in other states has been to look and see whether or not the  
25 penalties are appropriate and need to be looked at again by

1 the legislators. So, obviously that's a law enforcement  
2 question, but yes, we need to look at whether the penalties  
3 are appropriate, whether law enforcement has the tools and  
4 the resources to adequately -- you know, to bring these  
5 cases.

6 REPRESENTATIVE MACKENZIE: So, would the task  
7 force -- a possible proposal would be to increase mandatory  
8 punishment. Because obviously, I mean, the DAs are using  
9 their leniency or flexibility in the existing law to, you  
10 know, issue summary offenses as opposed to actually  
11 prosecuting these crimes, putting these people in jail.  
12 So, is that one of the possible recommendations that could  
13 be out there?

14 MS. JOINER: That's -- some of the states that  
15 have passed the law enforcement task forces have looked at,  
16 whether or not the penalties are appropriate and effective.  
17 And -- obviously think you should do that as well.

18 REPRESENTATIVE MACKENZIE: Okay. And final  
19 question. So, these other states that have already done  
20 these task forces, have they already issued recommendations  
21 that are publicly available that we could see, as opposed  
22 to going down the -- a similar path and spending time on  
23 that?

24 MS. JOINER: Utah is the furthest along. They're  
25 about a year and a half into it. So yeah, there are things

1 that are working with those task forces. And I think that  
2 one of the key elements is a dedicated prosecutor,  
3 dedicated analyst, some -- you know, some dedicated  
4 resources to make this work.

5 REPRESENTATIVE MACKENZIE: Okay, great. Thank  
6 you. Thank you, Mr. Chairman.

7 MAJORITY CHAIRMAN MARSHALL: Thank you,  
8 Representative. Representative Burns?

9 REPRESENTATIVE BURNS: Thank you guys for taking  
10 our questions. I have three questions. Who -- I don't  
11 have the bill in front of me, but who has access to this  
12 information that's requested, the name, address, EIN  
13 number, all of that? Who would have access to that  
14 information, according to the bill?

15 MR. OLSEN: The marketplaces would be required to  
16 collect and verify that information.

17 REPRESENTATIVE BURNS: But it's not open to the  
18 public?

19 MR. OLSEN: Well, I mean, it would be displayed  
20 on the marketplace as a means of being able to contact the  
21 seller.

22 REPRESENTATIVE BURNS: So --

23 MR. BREWER: Not the Tax ID [inaudible].

24 REPRESENTATIVE BURNS: Not the --

25 MR. OLSEN: Not --

1           REPRESENTATIVE BURNS: No banking information?

2       Yeah.

3           MR. OLSEN: Like an email or phone number.

4           REPRESENTATIVE BURNS: So, I fail to -- I'm  
5 failing to see why that is such an issue in this case. I  
6 just think, like, you -- unless you just don't want the  
7 seller's contact -- or the consumer contacting the seller  
8 directly, you want everything to run through you. However,  
9 to me a business should be providing that information to  
10 prove they're legitimate, first of all. And I think that's  
11 what the crutch (phonetic) of this legislation is.

12                   And you had talked about a task force. So, what  
13 if the information just went to law enforcement or the task  
14 force, so the consumer couldn't contact directly the  
15 person, but the seller would know that information is being  
16 turned over to law enforcement?

17                   We have very strict laws in Pennsylvania  
18 regarding pawnshops and how they operate, almost making  
19 them not acceptable here in Pennsylvania. Now, we're  
20 only -- they're only asking for a few details of a person's  
21 information. So, I'm having a hard time understanding why  
22 that's an issue for the online retailers.

23           MS. JOINER: Well, we don't have an issue with  
24 verifying our sellers and disclosing information about the  
25 sellers. But, you know, instead of our risk-based,

1 reasonable, constantly evolving verification system, this  
2 puts into statute sort of a rigid framework that's not  
3 future proof. That's a challenge with what's in the bill.

4           And then again on the posting the email and the  
5 phone number, it is enticing those conversations to happen  
6 offline, and that's a -- that's going to be a huge problem  
7 for us. Because it takes away all the confidence of  
8 shopping on Amazon when we'd like to -- we have a A-to-Z  
9 guarantee. You are guaranteed a refund. You are  
10 guaranteed a return. Those conversations happen offline,  
11 we cannot monitor that. That's a huge challenge with the  
12 posting of the email and the phone number. We do provide  
13 business name and business address. There is a ton of  
14 transparency about our sellers. We just -- we do not want  
15 those conversations happening off platform.

16           REPRESENTATIVE BURNS: Well, I'm saying what if  
17 that information went directly to law enforcement from the  
18 beginning? Like the minute you sign up for an account with  
19 that -- you have to post that information, and you give  
20 that directly to law enforcement as a deterrent from  
21 organized crime having that information?

22           MR. OLSEN: I think you're talking about a great  
23 deal of information, and that would be responsible of the  
24 law enforcement body, whether it's a local, state, however,  
25 to maintain, protect and, you know, accurately process

1 that.

2           So, I think you're stepping into some privacy  
3 issues alone with that. I'm not sure what the, you know,  
4 cyber security measures are of the local sheriffs, or the  
5 local, you know, law enforcement body, but, you know, from  
6 where I sit the biggest issue with this bill is the privacy  
7 concerns.

8           You know, so when you're asking for people to  
9 have contact information, you're also creating a safety  
10 concern if that, you know, transaction is then taken  
11 offline. There are platforms like Offer Up, where the  
12 whole, you know, idea is to maintain a trail, so to speak,  
13 of communication and transaction and resolution. But, it's  
14 very easy if you have someone's email address to say, hey,  
15 meet me in the parking lot, you know? I'll knock ten bucks  
16 off. It's -- that's where we as, like, online marketplaces  
17 have a real issue, is that intersection of privacy and  
18 safety that this bill would significantly compromise.

19           MR. BREWER: I would just say one thing. We  
20 don't think it's going to jeopardize anyone's privacy. I  
21 don't know about sending things proactively to law  
22 enforcement, but, you know, there is some agreement here on  
23 task force concept. We support it, they support it. But  
24 what I would say though is if you look at what some of the  
25 announcements of these task forces have said, the Attorney

1 General of the State of Illinois just launched his. The  
2 Attorney General of New Mexico has launched his. What they  
3 have said is we're going to put this task force together,  
4 and we need the transparency in the format, which is what  
5 the Federal bill is called that mirrors the state  
6 legislation. Or they're chasing shadows, too.

7 So, you can't just say we want more law  
8 enforcement, we want more prosecutors. If there is no  
9 transparency, you're chasing screen names. We've got to  
10 provide them with some basic information so that they can  
11 connect the dots.

12 So, the task forces are a great idea, but I would  
13 be careful talking about how great they are, because those  
14 same AGs have said we need the transparency in order for  
15 this task force to work.

16 REPRESENTATIVE BURNS: And one last question.  
17 When -- if Pennsylvania should enact this, what's stopping  
18 the organized crimerrings from going to Philadelphia,  
19 stealing these goods and then driving them to Maryland,  
20 setting up an online retail location there and selling them  
21 from there? I mean, to me this is probably more of a  
22 Federal issue than a state-by-state issue, because I don't  
23 know how you stop that from happening.

24 And, I think another issue that we're faced with  
25 is when DAs say they're not going to prosecute people for

1 retail theft unless it's over \$700 or more. So, that  
2 creates another obstacle all together that I think we  
3 probably need to address in some form or fashion.

4 MR. BREWER: The felony threshold is a tricky  
5 one. [inaudible]. I'll just say on the state-by-state  
6 side, if we could get the Federal government to pass one  
7 framework -- if I had that magic wand that would do it --  
8 if you're paying attention, they're having a little bit of  
9 a hard time right now even on the things they agree on. I  
10 don't think that's happening anytime soon. And I would  
11 say, similar to the sales tax issue that John mentioned a  
12 year ago, it was really the states that had to force the  
13 issue before the Federal Government did anything.

14 Privacy: you guys have debated that issue here.  
15 You know, we've been hearing about a national privacy  
16 framework for some time [inaudible] and instead the states  
17 have -- you know, California, Washington and Virginia and  
18 Colorado have started to pass, you know, privacy  
19 frameworks. I think that most businesses would agree a  
20 national framework is always the best, but the problem has  
21 gotten so out of control that we're asking the states to  
22 lead [inaudible]. So, it is theoretically imperfect to do  
23 this state by state, but at this point we're asking the  
24 states to act. So, thank you.

25 MR. DUGAN: I think the -- it's important to note

1 that the task forces that are out there -- to your  
2 question, Representative, they're not looking at  
3 shoplifters, right? The threshold level for individual  
4 acts of or habitual shoplifting for personal use, they're  
5 not on the table, and the task forces are not going to work  
6 those cases.

7           The prosecutors that I've spoken with in every  
8 major city essentially across the country that's  
9 considering these task forces or have enacted them, they're  
10 going after the worst of the worst, the criminal  
11 organizations, right? The prosecutors, they're looking for  
12 criminal conspiracies, criminal organizations, not  
13 shoplifting.

14           So, I don't think the threshold levels  
15 would -- hell, I mean, I'd love a lower threshold. Don't  
16 get me wrong, but I don't think that plays into what the  
17 task forces are looking at. They're -- what each of them  
18 have said to me is, don't bring me shoplifting cases. I'm  
19 not interested in those. I am interested in organized  
20 retail crime, and I need transparency to do that. So I  
21 think task forces are great, but there are different  
22 components to it.

23           MAJORITY CHAIRMAN MARSHALL: Thank you,  
24 Representative Burns. In the interest of time, we will go  
25 a little bit beyond 10:45 to try to get as many member

1 questions. But, if the panels could keep their responses  
2 as brief as possible, and then maybe you could contact  
3 members after the hearing. We'll go to Representative  
4 Mullins.

5 REPRESENTATIVE MULLINS: Good morning, and thank  
6 you very much for your testimony. I very much appreciate  
7 each of you. Caroline, you did just fine public speaking,  
8 so I -- that's my daughter's name, and you do it proud.

9 We -- so everyone here agrees there's a problem,  
10 and I think everyone here has shopped successfully online.  
11 I've been happy nine -- you know, nine out of ten times.  
12 I -- although I've purchased cologne in my past that  
13 smelled like diesel fuel. I'm not wearing it today. You're  
14 welcome.

15 So, everyone here agrees there is a problem, and  
16 I am objectively -- and I mean that -- trying to sort  
17 through a problem that we all -- that we all recognize  
18 exists. And I appreciate my colleague, Representative  
19 Tomlinson, for her efforts toward consumer protection.  
20 Again, something laudable and, I think, that everyone here  
21 is interested in.

22 But, I am trying to wrap my head around the  
23 problem, and I think Representative Mackenzie and Snyder  
24 sort of got towards what I was trying to get at. And, you  
25 know, what -- I'm trying to understand the scope and scale

1 of the problem. We've got brazen shoplifting like we saw  
2 in the videos, and then we have, I'm sure, warehouse  
3 pallets that go missing or bounce off the back of a truck,  
4 and then how much can you track the goods that end up at  
5 yard sales, pawnshops, someone's trunk, flea markets versus  
6 online platforms? You know, where are these things ending  
7 up?

8           And then to that end -- and this may be just food  
9 for thought. And -- you know, and I'll stop short of us  
10 all, you know, correcting or marking up the bill and having  
11 a drafting session right here, although it would be  
12 interesting. But, is the sweet spot, you know, improving  
13 law enforcement's power and engagement in these cases? You  
14 know, introducing better privacy protections, because  
15 privacy and -- you know -- or, you know -- I know privacy,  
16 I heard, was an issue or a concern here today -- utilizing  
17 and improving verifications that platforms like Amazon and  
18 others use.

19           And then, you know, we -- this threshold issue.  
20 At what -- roughly what threshold -- or adjusted threshold  
21 is organized crime happening? At what level do -- does it  
22 become just, you know, I stole one power drill and I sold  
23 it online versus I stole 40 power drills and I'm selling  
24 them online? At what point am I an organized criminal  
25 here?

1           So, forgive me for the meandering question. I  
2 don't even know who to address it to. So, I just  
3 appreciate in -- you know, again, in the interest of time  
4 taking a shot at it.

5           MR. DUGAN: That's a great question. And it -- a  
6 lot of the levels of organized crime depend on what type of  
7 product is stolen, really. It really is based on what  
8 types of product. The local entity, the lowest kind of  
9 level of ORC, steals mostly soft-line clothing and whatnot.  
10 Those guys are unorganized. They're unorganized, they're  
11 violent, and, you know, they're selling it usually on  
12 Facebook marketplace or something very local. So is that  
13 organized crime? I mean, that's a great question, right?  
14 I mean, the -- when you get to the next level, home  
15 improvement, electronics, stuff like that that are sold  
16 almost exclusively online, and people are habitually going  
17 after the same victims for the same product, the same  
18 results, selling on the same sites, yes, I think that's  
19 organized, and I think that's organized activity, and I  
20 think any prosecutor would define it that way. In our  
21 world in healthcare, over-the-counter medicines, razor  
22 blades. I mean, you guys go in to buy a razor blade, you  
23 got to go through ten things of security to buy it, right?  
24 This is why, right? Because that's a high commodity.  
25 That's a high organized retail crime item. That is the

1 highest level. Those products get sold state to state,  
2 transnationally, and they're massive criminal  
3 organizations, and there's no doubt that they also fuel  
4 human trafficking, narcotics, money laundering, and  
5 they -- and some money goes to the Middle East, right?  
6 So -- and some terrorist watch list. So, that's like the  
7 highest scale of what we do at CVS, but the definition -- I  
8 mean, is one guy stealing one item and selling it online?  
9 I wouldn't consider that organized retail crime, and I  
10 think -- I don't think any prosecutor would prosecute it  
11 that way. I think it's a conspiracy, and multiple victims  
12 and multiple offenses. But exactly what that number is,  
13 I'm not sure.

14 MAJORITY CHAIRMAN MARSHALL: Thank you.

15 Representative Delozier?

16 REPRESENTATIVE DELOZIER: Thank you,  
17 Mr. Chairman. Most of my questions have been asked, but I  
18 have two quick ones, one to the folks talking about  
19 Arkansas. So, Arkansas's bill, is it the same as  
20 Pennsylvania's bill?

21 MS. JOINER: It is.

22 MR. BREWER: Pretty similar, yes.

23 REPRESENTATIVE DELOZIER: Okay. So, the bill  
24 that's going into place there, I guess my question would be  
25 to the marketplaces and to Amazon. If you have to comply

1 with Amazon's -- Amazon's? Comply with Arkansas's bill,  
2 what would be the difference in the sense that you have to  
3 do it -- since you're a national -- obviously. So -- and  
4 then any other marketplace that's national. If they're  
5 going to have to comply with Arkansas that says the same  
6 thing as this bill, how are you going to comply with one  
7 state, and why wouldn't you be able to comply with  
8 Pennsylvania?

9 MS. JOINER: We're going to continue to vet and  
10 verify our sellers, and we're going to continue to provide  
11 transparency to our sellers so that they -- to our  
12 customers so they have all the information that they need  
13 to shop with confidence online with Amazon. We're going to  
14 continue to, you know, try to fix that bill in Arkansas,  
15 but we're going to continue to verify. We're going to  
16 continue to provide transparency.

17 REPRESENTATIVE DELOZIER: Sure. And I  
18 just -- but if you have to comply with a bill that has the  
19 same language as this there, compliance would not be an  
20 issue, because you're not going to just do it for one  
21 state.

22 MS. JOINER: Yeah, and that bill is like -- just  
23 like this bill, that bill is flawed. It's going to  
24 have -- you know, it's going to --

25 REPRESENTATIVE DELOZIER: But it's in law in

1 Arkansas if I'm understanding, correct? It's been passed  
2 into law.

3 MS. JOINER: Yes.

4 REPRESENTATIVE DELOZIER: So you will have to  
5 comply in order for -- or not sell in Arkansas.

6 MS. JOINER: We're going to continue to do what  
7 we have been doing, which is vetting and verifying our  
8 sellers, and providing seller --

9 REPRESENTATIVE DELOZIER: Okay.

10 MS. JOINER: -- transparency, better information.

11 REPRESENTATIVE DELOZIER: Okay. The -- and my  
12 other quick -- about the prosecution. You've talked -- a  
13 couple -- and I -- online with Representative Snyder over  
14 there with the fact of security within the stores to stop  
15 the actual retail theft rather than trying to stop them  
16 from selling. But that being aside, with the cases that  
17 are prosecuted, how much success rate do you have in  
18 prosecuting? You know, you're mentioning you build a case,  
19 mentioning, you know, both sides are saying that they help  
20 with any case prosecution. How much success is there with  
21 prosecuting of these entities that are selling? Because if  
22 there's no penalty as -- it comes back to Representative  
23 Mackenzie's question earlier and there's no prosecution,  
24 then there's no fear of retribution or penalty, what's to  
25 stop them from continuing?

1 MR. DUGAN: Yeah. Most prosecutors are extremely  
2 successful.

3 REPRESENTATIVE DELOZIER: They are successful?

4 MR. DUGAN: They are successful, because they're  
5 prosecuting at the right level.

6 REPRESENTATIVE DELOZIER: Okay.

7 MR. DUGAN: It's not necessarily a retail theft.  
8 It's charged as a conspiracy under the RICO laws or some  
9 more severe charges; interstate transportation of stolen  
10 goods, wire fraud when they use the internet. So the  
11 charges are pretty severe.

12 REPRESENTATIVE DELOZIER: Okay. And to  
13 be -- just clarify, is Arkansas the only state that has  
14 this type of legislation? There are no other states, so  
15 it's just that one? Just clarifying. Yes? Okay, thank  
16 you.

17 MAJORITY CHAIRMAN MARSHALL: Thank you.  
18 Representative Miller?

19 REPRESENTATIVE MILLER: Thank you, Mr. Chairman,  
20 and thank you to the panelists. This is for Panel 2. I  
21 heard in the testimony previously that the collection of  
22 name, address, phone number, email and Tax ID as required  
23 would be a burden and would pose, potentially, a privacy  
24 concern.

25 My question is, as I understand the testimony

1 that that information being given would -- according to  
2 what I heard would be required to be posted online. My  
3 question is, that seems to be not what the bill says. The  
4 bill seems to say that the marketplace has to collect that  
5 information, and any communication between the buyer and  
6 seller would not have to use that obtained information.

7 So my -- could you clarify your statements on  
8 that point, please?

9 MS. JOINER: Me?

10 REPRESENTATIVE MILLER: Whoever in Panel 2. Yes.

11 MS. JOINER: I can speak to, specifically, our  
12 business model. I mean, the bill says you have to collect  
13 and verify a certain amount of information.

14 MAJORITY CHAIRMAN MARSHALL: Caroline, we have a  
15 hard time hearing --

16 MS. JOINER: Sorry --

17 MAJORITY CHAIRMAN MARSHALL: Could --

18 MS. JOINER: Yes.

19 MAJORITY CHAIRMAN MARSHALL: If you could move  
20 the microphone, maybe that would --

21 MS. JOINER: Yes. Swing it --

22 MAJORITY CHAIRMAN MARSHALL: All right.

23 MS. JOINER: Yeah, the bill has two parts. It's  
24 the verification requirements and lists a certain amount of  
25 information that needs to be collected and verified. And

1 then there is the disclosure component which is --  
2 specifies what has to be disclosed.

3 REPRESENTATIVE MILLER: Okay. Disclosed to the  
4 marketplace or to the public?

5 MS. JOINER: Disclosed on the site for -- with  
6 each of the seller -- which -- with each of --

7 REPRESENTATIVE MILLER: Okay. And so --

8 MS. JOINER: those. Yeah.

9 REPRESENTATIVE MILLER: -- here is my ultimate  
10 question. Would there be anything preventing, say in your  
11 case or any other marketplace, of saying this must be  
12 disclosed, but all communication must go through this other  
13 route? So, you had said that you require -- you want to be  
14 sure that you can have -- monitor the transaction -- or  
15 interactions between buyer and seller. Say we have to  
16 disclose this, but all communication must go through this  
17 other means with another email or another contact  
18 methodology. Is there anything preventing you from  
19 doing -- or any other marketplace entity from doing that?

20 MS. JOINER: We do that now. We post business  
21 name and business address, and we provide the buyer/seller  
22 messaging tool which directly connects the -- a buyer and a  
23 seller, and that's on -- that's found on our site.

24 REPRESENTATIVE MILLER: Okay. So --

25 MAJORITY CHAIRMAN MARSHALL: Thank you,

1 Representative Miller. We need to move on --

2 REPRESENTATIVE MILLER: Thank you.

3 MAJORITY CHAIRMAN MARSHALL: -- to Representative  
4 Farry.

5 REPRESENTATIVE FARRY: Thank you, Chairman. I'll  
6 be very brief. Essentially, what I'm seeing here is these  
7 folks have a problem. It's very clear the problem exists.  
8 Your industry is being used by the people creating the  
9 problem to sell some of it. I know one of the things we  
10 hate here is being forced to legislate something,  
11 especially when parties are adverse to issues. I know we  
12 like it much better when people come together and have a  
13 consensus on things. But, I mean, clearly there is a  
14 problem that exists. Clearly that problem is being  
15 conducted in some form or fashion through your forums, and  
16 I just really wish we could work together. Because, I  
17 don't think these guys would sit here and say you don't  
18 cooperate, or some of you don't cooperate if you were  
19 cooperating. And obviously they wouldn't come to us and go  
20 through this whole process if they had the resources and  
21 tools they need. So, I think a spirit of cooperation would  
22 make things much better.

23 To Representative Delozier's question, I  
24 guess -- you know, and it is more of a comment. But, if  
25 you have to get all that information for Arkansas, you're

1 already going to be collecting all that information from  
2 all of your sellers. So, we don't necessarily see what the  
3 problem is, because you'll already be collecting it and  
4 using it in that form and fashion to comply with that law,  
5 because obviously your forums don't know the state  
6 boundaries, so it's not like you're brick and mortar.

7           So, I just really think that we need to work with  
8 these folks to try and solve their problem, because the  
9 violence is significant, the loss of funds is significant,  
10 and we really need to work with all of these parties to try  
11 and address this.

12           MS. JOINER: We are committed --

13           MR. OLSEN: The --

14           MS. JOINER: Yeah, we are committed to fighting  
15 organized retail crime. We just don't think this bill will  
16 be effective in doing it.

17           MR. OLSEN: Yeah.

18           MAJORITY CHAIRMAN MARSHALL: Thank you,  
19 Representative.

20           MR. OLSEN: Rep, I would just note that IA and  
21 the retailers stood shoulder to shoulder in Illinois when  
22 the task force was constituted. So, I mean, in the spirit  
23 of collaboration, I think that is the route that actually  
24 addressed the problem and gets everybody in the room and  
25 sharing information.

1 MR. BREWER: [inaudible].

2 MAJORITY CHAIRMAN MARSHALL: We need to wrap it  
3 up.

4 MR. BREWER: [inaudible].

5 MAJORITY CHAIRMAN MARSHALL: Thank --

6 MR. BREWER: [inaudible].

7 MAJORITY CHAIRMAN MARSHALL: Thank you. In the  
8 spirit of both panelists sitting together, it would -- I  
9 encourage, as Representative Farry did, that you also work  
10 together. And, closing remarks from Representative --  
11 Chairman Matzie.

12 MINORITY CHAIRMAN MATZIE: Just real quick. I  
13 know we're at the end here, and I know you'll be available  
14 for more questions from members. I know other members had  
15 some questions, but we're up against session time.

16 We're all out of magic wands. I know someone  
17 said magic wand before. And, you know, it would be nice if  
18 we could get the magic wand and make this work, but there's  
19 clearly a problem. I mean, I think if you were going into  
20 a bookstore, you'd look for a book that says Racketeering  
21 101 for 2021, because it's changed, and it really has.

22 So, I think, you know, as both Chairman  
23 Farry -- Chairman Marshall said and others have said, you  
24 know, from a perspective of collaboration and working  
25 together, our goal is, in my judgment, based on the name of

1 our committee, is the consumer. We want the consumer to  
2 have confidence. We want the consumer to be protected, and  
3 we want to ensure that those small businesses that are  
4 operating in our communities have the opportunity to  
5 participate worldwide.

6 So, we're hopeful that, you know, if this can be  
7 tweaked, if we could take something out, we could put  
8 something in, but we can put down some protection there  
9 that makes sense, and we can get folks all on the same  
10 page, that would be the best part. This is step one. The  
11 bill was introduced, and now this was a hearing, and I'm  
12 sure conversations will continue.

13 So, Chairman Marshall, thanks for hosting this  
14 hearing today. I think it was very informative.

15 MAJORITY CHAIRMAN MARSHALL: Thank you,  
16 Chairman Matzie. There is certainly a lot to learn on this  
17 issue, and we will continue to work towards some type of  
18 solution. I know it's impossible to stop crime all  
19 together, but working with law enforcement, and working  
20 with the retailers and the online platforms, I think we can  
21 make it better for our consumers.

22 I apologize to the members that didn't get their  
23 questions in and encourage them to either approach the  
24 panelists after the hearing or engage electronically.

25 At this time I am adjourning this Consumer

1 Affairs hearing. Thank you.

2

3 (The hearing concluded at 11:00 a.m.)

1                   I hereby certify that the foregoing proceedings  
2 are a true and accurate transcription produced from audio  
3 on the said proceedings and that this is a correct  
4 transcript of the same.

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