

HCS HB 2108 -- ORGANIZED RETAIL THEFT

SPONSOR: Roberts

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Crime Prevention by a vote of 7 to 1.

The following is a summary of the House Committee Substitute for HB 2108.

This bill specifies that a high-volume third-party seller on an online marketplace must provide to the marketplace certain information, such as bank account information and contact information, within 10 days of becoming a high-volume seller. The online marketplace must verify within 10 days the information provided by the seller. Additionally, the online marketplace must, at least annually, notify each high-volume third-party seller that the seller must inform the marketplace, within three days, of any changes to the information provided. The bill also specifies certain information the seller must disclose to consumers conspicuously, either on the product listing or through a link in the product's listing. If a third-party seller requests, an online marketplace may provide for a partial disclosure of such information.

The bill also states that a person commits the offense of organized retail theft if the person, alone or in concert with others, commits a series of thefts of retail merchandise against a merchant with the intent to return the merchandise to the merchant for value or resell the merchandise for value.

The offense of organized retail theft is a class C felony if the aggregated value of all the thefts committed during a 120-day period is at least \$1,500 and no more than \$10,000 and a class B felony if the aggregated value is more than \$10,000. The factors for determining the aggregated value are specified in the bill.

These provisions have a delayed effective date of February 28, 2023.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that this bill deals with groups of people getting together committing thefts and the other part is how they are selling the merchandise. In addition to the loss of the goods, those thefts have become more and more violent. Over 80% of cases of organized retail theft involved some sort of threat; over

70% involved assault; and over 40% involved a weapon. There has been \$15 billion in tax revenues lost; \$68 billion of merchandise lost. There is a lack of transparency online, which allows people to hide behind screen names and sell stolen products. In the past, when someone stole, you would deal with the person who stole and the goods stolen, but this bill addresses this in a group situation and the online selling. If someone sold a faulty product and someone was injured or killed, if the vendor is known, there is some level of accountability; if the item was sold on the Internet and there is no identity to the seller, there is no way to hold the seller accountable. This is to at least require the taking of the time to make sure the online seller is a legitimate seller. We want to hold people responsible. This bill is already law in Arkansas. Legislatures around the country are debating this bill. There has been a rapid increase in organized retail theft and counterfeit goods. There has been an up-tick in sales of stolen goods. They want platforms to know who is selling on their platform by verifying who is selling. Banking information only goes to the marketplace, not anyone else. It does not get disclosed to consumers. Even what does get disclosed to consumers is drafted with privacy in mind, but what gets disclosed to the consumer is what you would see printed on a business card or an invoice. This will not be harmful to small businesses because legitimate businesses are competing with these bad actors and this will help drive up their business. This only deals with new and unused merchandise, not independent sellers selling used goods. This helps consumers because things stolen from places like Walgreens are ingestibles and when they are stolen they could be kept anywhere in a warehouse somewhere and not in a temperature-controlled environment and a product like formula is breaking down and is resold to consumers in an unsafe condition. This is not petty theft; this is major organized operations. Walgreens has to spend over \$4 million to keep employees safe because of the violence from this type of organized theft. These thieves know how to bypass or remove the security tags and such from goods. We need to give law enforcement the tools to go after these organized retail theft criminals.

Testifying for the bill were Representative Roberts; Missouri Retailers Association; Walgreens; Jeremy Sutherburg, Walgreens; Walmart; and Arnie C. Ac Dienoff.

OPPONENTS: Those who oppose the bill say that Amazon has invested over \$2 billion in Missouri and has created over 10,000 jobs. It wants to hold bad actors accountable while protecting honest sellers. Amazon already ensures that only authentic products are sold there, and they already have strong security efforts to make sure sellers are legitimate. The bill will hurt honest small

businesses by setting up roadblocks for sellers. The bad actors will ignore the law but a legitimate seller will stop selling if they fail to gather the information necessary. It would create more bureaucracy. This will not help consumers make decisions. The federal bill (HR 5502) being introduced is a better route.

Testifying against the bill were Elizabeth Hunger, Etsy, Inc.; Ruthie Barko, Technet; Amazon Service; Ebay; Nathan Garnett, Offerup Inc.; and the Missouri Municipal League.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.