

# **The Home Depot Supports SB 610 3.2.22 PDF.pdf**

Uploaded by: Brian Gamberini

Position: FAV



**1155 F Street, N.W. • Suite 400 • Washington, DC 20004**

**March 2, 2022**

**Maryland State Senate  
Senate Finance Committee**

Dear Chairman Kelly and Vice-Chairman Feldman and Honorable Members of the Committee,

My name is Brian Gamberini and I'm the Sr. Manager, State and Local Government Relations for The Home Depot here in Maryland.

On behalf of our 8,000 plus associates across the state of Maryland, I am here today to support S.B. 610-- the INFORM Consumers Act of 2022 – a bill introduced by Senator Jennings.

As criminals become more brazen, the threats to Home Depot associates and customers have increased. While the recent rash of smash-n-grab incidents has drawn attention across the country, Organized Retail Crime has been a long-term problem for retailers like The Home Depot and businesses across Maryland of all sizes. S.B. 610 gets at the incentive of organized retail crime; the ability for illegal fencing operations to sell stolen products easily, quickly, and anonymously online.

Under S.B. 610, high-volume sellers are being asked to provide six basic pieces of information to the online marketplaces that any legitimate business should be willing to share. This information would then be verified by the online marketplaces – some of the most technologically advanced companies in the world – and then under this bill, portions of that information would be disclosed to consumers in the Maryland, so they know who and where they are making purchases from. It also assures consumers that they will have the ability to communicate with the seller if their product is damaged or defective.

Historically, Maryland has had strong laws regulating transactions at pawn shops; but now the pawn shop has moved online to these marketplaces which are much less

regulated, and sellers are able to operate anonymously. At a time when consumers are doing more and more of their shopping online, it's time to consider protections related to those changing buying patterns.

Right now, over 20 states around the country are considering similar bills and the US Congress is considering an INFORM Consumers Act of its own. Our belief is that Maryland cannot wait any longer to act because the criminals aren't going to wait around until the Federal Government acts on this issue.

I want to thank you for your time today and I ask for a favorable report on S.B. 610.

Brian

Brian Gamberini  
Sr. Manager, State and Local Government Relations  
The Home Depot, Mid-Atlantic Region

# **SB 610 - Support - Walmart.pdf**

Uploaded by: Caitlin McDonough

Position: FAV



Jennifer Hoehn  
Director, Public Affairs & State & Local  
Government Relations  
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March 1, 2022

The Honorable Delores G. Kelley  
Senate Finance Committee  
3 East Miller Senate Office Building  
Annapolis, Maryland 21401

**Re: Support of SB 610: Commercial Law - Consumer Protection - Online Marketplace Disclosure Requirements (INFORM Consumers Act of 2022)**

Dear Chairman Kelley and Honorable Members of the Committee:

Walmart supports Senate Bill 610: INFORM Consumers Act of 2022 (SB 610) as this important piece of legislation would increase transparency and accountability for online marketplaces and protect Marylanders. HB 610 addresses both the serious concern of counterfeit goods and stolen property sold via online marketplace platforms and offers essential protections for consumers in Maryland.

The U.S. Department of Homeland Security (DHS) has estimated that counterfeit and pirated goods now represent more than \$500 billion in global trade<sup>1</sup>. In recent years, seizures of infringing goods at U.S. borders have increased significantly to nearly 33,000 in FY2019<sup>2</sup>. In some instances, items are falsely labeled, made from substandard or dangerous materials such as lead, or do not meet U.S. safety regulations.

As both a brick-and-mortar retailer and an online marketplace operator, Walmart believes that the seller disclosure and verification requirements within HB 610 are best practices for all marketplaces and are needed to empower consumers, law enforcement officials, and health officers to reduce fraudulent sales. The legislation would not harm law-abiding small sellers but would make it harder for bad actors to compete with lawful sellers by deceiving and defrauding customers in Maryland.

Federal and state laws are already in place and enforced against brick-and-mortar retailers who sell fraudulent items in a physical retail environment. As DHS noted, "The U.S. brick-and-mortar retail store economy has a well-developed regime for licensing, monitoring, and otherwise ensuring the protection of intellectual property rights[.]"<sup>3</sup> HB 610 addresses the

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<sup>1</sup> U. S. Department of Homeland Security. (2020). "Combatting Trafficking in Counterfeit and Pirated Goods: Report to the President of the United States."

<sup>2</sup> Id.

<sup>3</sup> Id.



problem of insufficient transparency and accountability specific to online marketplaces that do not adhere to best practices of seller information disclosure and verification.

Walmart is proud to employ nearly 18,456 associates across 60 retail locations in the State of Maryland. In FY 2021 alone, Walmart spent over \$1.9B with local suppliers, supporting over 31,209 in-state jobs, and donated \$5.3M to charitable organizations operating in local communities. Maintaining the trust and confidence of our online customers is essential to our business, and we believe all online marketplaces should do the same.

For these reasons, Walmart respectfully requests a favorable report on HB 610. Thank you for your consideration of this practical legislative solution that will help reduce the sale of stolen and pirated items on online marketplaces and protect Maryland consumers.

Please do not hesitate to contact Walmart with any questions or to discuss this issue further. Thank you for your consideration.

Sincerely,  
Jennifer Hoehn  
Director, Public Affairs and State and Local Government Relations  
Walmart Stores, Inc.

**SB0610\_GSK\_fav.pdf**

Uploaded by: John Andryszak

Position: FAV

**GSK Consumer Healthcare**

184 Liberty Corner Road  
Suite 200  
Warren, New Jersey 07059



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March 2, 2022  
Senate Finance Committee  
Senate Bill 0610 – Favorable  
Deana Lykins, GSK Consumer Healthcare

Chairwoman Kelley, Vice-Chairman Feldman and members of the Committee

My name is Deana Lykins, Lead, State Government Affairs for GSK Consumer Healthcare. On behalf of GSK, I would like to request the Senate Finance Committee to favorably release Senate Bill 0610, legislation which would establish certain consumer protections for purchases made from high-volume third-party sellers on online marketplaces.

GSK Consumer Healthcare is the manufacturer of 25% of all over-the-counter (OTC) health products in the United States. These products are manufactured in packaging approved by the FDA to ensure the shelf-life of the drug indicated on the package. In addition, many of these products must be stored at certain temperatures to ensure effectiveness.

The increase in stolen and counterfeit products sold online is a serious concern to GSK Consumer Healthcare. Stolen products can become adulterated affecting their ability to provide relief to suffering Maryland citizens and counterfeit drugs can contain unknown ingredients which can cause innumerable types harm and injury to your citizens.

Across the country we have seen retail establishments forced to close their doors due to the increased incidents of “smash and grab” crimes – where the criminals steal products not for personal use but to sell online. The lack of transparency in these high-volume third-party online transactions only encourages these types of crime. When drug stores close access to healthcare is limited.

For these reasons, I encourage you to vote in favor of Senate Bill 0610 to help protect Maryland consumers and retailers. Thank you for your time and attention to this important matter.

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# **SB0610\_SponsorAmendment\_643723-01**

Uploaded by: Senator Jennings

Position: FWA



SB0610/643723/1

AMENDMENTS  
PREPARED  
BY THE  
DEPT. OF LEGISLATIVE  
SERVICES

08 MAR 22  
14:43:52

BY: Senator Jennings  
(To be offered in the Finance Committee)

AMENDMENT TO SENATE BILL 610  
(First Reading File Bill)

On page 2, in line 20, strike “RESULTING” and substitute “:

**(I) THAT WERE MADE THROUGH THE ONLINE  
MARKETPLACE;**

**(II) FOR WHICH PAYMENT WAS PROCESSED BY THE ONLINE  
MARKETPLACE, EITHER DIRECTLY OR THROUGH ITS PAYMENT PROCESSOR; AND**

**(III) THAT RESULTED”;**

in line 23, strike “AN” and substitute “A PERSON THAT:

**(1) OPERATES A CONSUMER-DIRECTED”;**

strike line 25 in its entirety; and in line 26, strike “(2)” and substitute “(I)”.

On page 3, in line 2, after “STATES” insert “;AND

**(II) IS USED BY ONE OR MORE THIRD-PARTY SELLERS FOR  
THE PURPOSES DESCRIBED IN ITEM (1) OF THIS PARAGRAPH; AND**

**(2) HAS A CONTRACTUAL OR SIMILAR RELATIONSHIP WITH  
CONSUMERS GOVERNING THEIR USE OF THE PLATFORM TO PURCHASE  
CONSUMER PRODUCTS”;**

in line 6, after “THROUGH” insert “THE PLATFORM OF”; strike beginning with the colon in line 21 down through “IDENTIFICATION” in line 28 and substitute “ONE OR MORE METHODS THAT ENABLE THE ONLINE MARKETPLACE TO RELIABLY DETERMINE THAT INFORMATION AND DOCUMENTS PROVIDED:”

(1) ARE VALID;

(2) CORRESPOND TO THE SELLER OR AN INDIVIDUAL ACTING ON THE SELLER’S BEHALF;

(3) HAVE NOT BEEN MISAPPROPRIATED; AND

(4) HAVE NOT BEEN FALSIFIED”.

On page 4, in line 1, strike “24 HOURS” and substitute “10 DAYS”; in the same line, strike “BECOMING A” and substitute “QUALIFYING AS A”; in line 2, after “SELLER” insert “ON THE PLATFORM OF THE ONLINE MARKETPLACE”; in line 8, after “SUBSECTION;” insert “AND”; strike beginning with “; AND” in line 10 down through “WEBSITES” in line 14; strike beginning with the first “A” in line 23 down through “ADDRESS” in line 24 and substitute “THE INDIVIDUAL’S NAME”; and strike beginning with “AND” in line 31 down through “ADDRESS” in line 32.

On page 5, strike in their entirety lines 6 through 13, inclusive; in lines 14 and 21, strike “(C)” and “(D)”, respectively, and substitute “(B)” and “(C)”, respectively; in lines 16 and 32, strike “3 BUSINESS” and substitute “10”; and in line 22, after “ON” insert “THE PLATFORM OF”.

On page 6, in line 1, strike “SUSPEND” and substitute “:

(I) PROVIDE THE HIGH-VOLUME THIRD-PARTY SELLER WITH A WRITTEN OR ELECTRONIC NOTICE AND AN OPPORTUNITY TO RESPOND NOT LATER THAN 10 BUSINESS DAYS AFTER THE ISSUANCE OF THE NOTICE; AND

(II) SUSPEND”;

after line 3, insert:

“(D) UNLESS OTHERWISE REQUIRED BY LAW, DATA COLLECTED SOLELY TO COMPLY WITH THE REQUIREMENT OF THIS SECTION MAY NOT BE USED FOR ANY OTHER PURPOSE.

(E) AN ONLINE MARKETPLACE SHALL IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND PRACTICES TO PROTECT THE DATA COLLECTED FROM UNAUTHORIZED USE, DISCLOSURE, ACCESS, DESTRUCTION, OR MODIFICATION, INCLUDING ADMINISTRATIVE, PHYSICAL, AND TECHNICAL SAFEGUARDS APPROPRIATE TO THE NATURE OF THE DATA AND THE PURPOSE FOR WHICH THE DATA WILL BE USED.”;

in line 6, after “SELLER” insert “WITH AN AGGREGATE TOTAL OF \$20,000 OR MORE IN ANNUAL GROSS REVENUES ON THE ONLINE MARKETPLACE”; in line 7, after “ON” insert “THE PLATFORM OF”; in line 10, after “SELLER” insert “WHICH MAY INCLUDE THE HIGH-VOLUME THIRD-PARTY SELLER’S NAME, THE HIGH-VOLUME THIRD-PARTY SELLER’S BUSINESS NAME, OR THE NAME BY WHICH THE HIGH-VOLUME THIRD-PARTY SELLER OR BUSINESS OPERATES ON THE ONLINE MARKETPLACE”; in line 12, after “SELLER” insert “TO ALLOW DIRECT AND UNHINDERED COMMUNICATION BETWEEN HIGH-VOLUME THIRD-PARTY SELLERS AND USERS OF THE ONLINE MARKETPLACE”; in the same line, strike “PHYSICAL” and substitute “BUSINESS”; strike in their entirety lines 15 and 16 and substitute “USES A

(Over)

DIFFERENT SELLER TO FULFILL A PURCHASE ORDER TO CUSTOMERS PLACED THROUGH THE ONLINE MARKETPLACE;

(IV) ON THE REQUEST OF AN AUTHENTICATED PURCHASER, IF A HIGH-VOLUME THIRD-PARTY SELLER USES A DIFFERENT SELLER TO FULFILL PURCHASE ORDERS TO CONSUMERS, THE SAME INFORMATION DISCLOSURES REQUIRED BY THIS SECTION BUT FOR THE DIFFERENT SELLER; AND”;

in line 17, strike “(IV)” and substitute “(V)”; in line 20, strike “PROVIDE” and substitute “DISCLOSE”; and in the same line, after “THE” insert “PLATFORM OF THE”.

On page 7, in line 26, after “ON” insert “THE PLATFORM OF”; in the same line, strike “3 BUSINESS” and substitute “10”; and in line 29, after “A” insert “CLEAR AND”.

# **SB 610 - CPD - Support w-Amendments 2022 - INFORM**

Uploaded by: Steven Sakamoto-Wengel

Position: FWA

**BRIAN E. FROSH**  
*Attorney General*

**ELIZABETH F. HARRIS**  
*Chief Deputy Attorney General*

**CAROLYN QUATTROCKI**  
*Deputy Attorney General*

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**STATE OF MARYLAND**  
**OFFICE OF THE ATTORNEY GENERAL**  
**CONSUMER PROTECTION DIVISION**

**WILLIAM D. GRUHN**  
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Consumer Protection Division

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March 2, 2022

To: The Honorable Dolores G. Kelley  
Chair, Finance Committee

From: Steven M. Sakamoto-Wengel  
Consumer Protection Counsel for Regulation, Legislation and Policy

Re: Senate Bill 610 – Commercial Law - Consumer Protection – Online Marketplace  
Disclosure Requirements (SUPPORT WITH AMENDMENTS)

The Consumer Protection Division of the Office of the Attorney General supports Senate Bill 610, sponsored by Senators Jennings and Feldman, with the amendments discussed below. Senate Bill 610, also known as the INFORM Act, would help to cut down on the sale of counterfeit and stolen products on online marketplaces like Amazon and Facebook by, among other things, requiring those online marketplaces to verify information about third-party sellers on their websites. The bill would also require disclosure of information about third-party sellers to assist consumers who may have disputes.

The Division has received complaints from consumers who have purchased goods from third-party sellers through online marketplaces that have turned out to be counterfeit, stolen or defective. Senate Bill 610 would help to address this situation by ensuring that the online marketplace obtain basic information to verify the legitimacy of the third-party seller, including tax identification and bank or payment account information. The bill would also require that the online marketplace disclose contact information for the third-party seller to consumers if a problem arises.<sup>1</sup>

The Division believes that Senate Bill 610 would help to cut down on the ability of rogue third-party sellers to hide behind anonymity on online marketplaces. However, the Division believes that some of the provisions of Senate Bill 610 would need to be amended:

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<sup>1</sup> Nothing in Senate Bill 610 would diminish any liability that an online marketplace would have for the sale of counterfeit goods on its website.

- Section 14-4401(b)(1) defines the term “Consumer Product” (page 2, lines 10 through 14). However, the Consumer Protection Act uses the term “Consumer Goods”, Commercial Law § 13-101(d). The Division is concerned that introducing the term “Consumer Product” could create confusion in enforcing the law and recommends that Consumer Product be replaced by “Consumer Goods” throughout the bill.
- The Division is not sure about the intent of section 14-4406 (page 8, lines 17-22) or what constitutes a political subdivision. The Division notes that both Montgomery and Howard Counties have consumer protection offices that assist consumers and undertake enforcement actions for violations of consumer protection laws. Section 14-4406 could impair the ability of those offices to assist consumers who are victims of fraudulent third-party sellers. The Division recommends that the section be deleted from the bill.
- Section 14-4407 (page 8, line 24) provides that the Division “shall” issue regulations to carry out the INFORM Act. While the Division believes that regulations might be appropriate in implementing the law, the Division also believes that a determination of whether regulations are needed warrants changing the requirement (“shall”) to an authorization (“may”).

Accordingly, the Division respectfully requests that the Finance Committee return a favorable report on this bill with the amendments discussed.

cc: The Honorable J.B. Jennings  
The Honorable Brian J. Feldman  
Members, Finance Committee



**SB 610\_Amazon\_UNF.pdf**

Uploaded by: Thomas Maloney

Position: UNF



**Testimony on SB 610 (Unfavorable)**  
**Finance Committee**  
**Maryland Senate**  
**March 2, 2022**

Chairwoman Kelley, Vice Chair Feldman, and members of the committee: thank you for the opportunity to register our opposition to SB 610. Amazon has created more than 29,000 jobs and invested more than \$9.5 billion in infrastructure and employee compensation in Maryland since 2010. There are also more than 31,000 small- and medium-sized businesses in the state selling with Amazon.

SB 610 is not the right approach to fighting organized retail theft. We oppose this bill because it will hurt small businesses that sell online and do nothing to actually prevent fraud and abuse.

Customer trust is central to everything we do at Amazon. Amazon has the processes, technology, and teams in place to protect our sellers and customers by preventing fraudulent activity before it occurs. We leverage advanced technology and expert investigators to verify a potential seller's identity and ensure that only authentic and legal products are sold in our store.

On top of our preventive efforts, we believe a more effective way to stop organized retail theft is to provide greater resources for law enforcement to go after criminals. We have joined forces with Attorneys General in states like Illinois and Utah, establishing retail theft task forces. We also support legislation at the federal level, H.R. 5520, which gives online marketplaces flexibility in how we stop bad actors and does not favor one business model over another. We also think it is important to establish a national approach to this problem, preventing an unworkable patchwork of state-level regulations.

For these reasons, we urge an unfavorable report on SB 610. Please feel free to contact me for additional information.

Thomas J. Maloney  
Sr. Manager, Public Policy

# **NetChoice Opposition to MD SB610.pdf**

Uploaded by: Zachary Lilly

Position: UNF

## Maryland SB 610

# Opposition to SB 610 and its negative impact on Maryland Small Businesses and Consumers

*March 2, 2022*

Chair Kelley, Vice-Chair Feldman, and members of the Finance Committee:

We ask you **to not advance SB 610** because it:

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

SB 610 harms online marketplaces with unfair burdens that treat online sellers like criminals rather than addressing the true issues at play in retail crime. SB 610 fails to address the actual theft itself or those criminal enterprises to stealing hundreds of products from the stores themselves.

Instead, SB 610 just makes it harder for Maryland's entrepreneurs, independent sellers, and small businesses to benefit from the online marketplaces that enable them to compete with the big-box stores. This proposal would lessen Maryland's competitiveness compared to other states and conflict with federal law.

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

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

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

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

SB 610 requires the additional collection of often sensitive personal information for selling online. Sales listings under the proposals the seller's name and address in the listing itself. It doesn't require too much imagination to see how requiring such sensitive information be made public could lead to very dangerous—even deadly—situations. The result would be either increased data privacy concerns or discouraging a productive entrepreneurial activity.

While SB 610 has an exception for those who do not have a business address, it requires platforms to disclose this information as a result. This distinguishes home-based businesses from their large counterparts and could make it more difficult to gain consumer trust.

### **3. The bill requires online marketplaces to address the failures of big-box retail to address problematic and criminal behavior.**

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

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

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

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

### **While SB 610 seeks to address the problems of criminal retail theft activity, the reality is it would punish everyday Marylanders by placing burdens on their ability to access online marketplaces.**

This is a misguided approach that punishes beneficial aspects of the economy along with bad actors. We ask that you not advance SB 610.

Thank you again for the opportunity to testify.

Sincerely,

Zachary Lilly  
Deputy Director of State & Federal Affairs  
**NetChoice**

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