



CONSUMER
HEALTHCARE
PRODUCTS
ASSOCIATION

Taking healthcare personally.

March 2, 2022

The Honorable Robert Rodriguez
Senate Business, Labor, and Technology Committee
200 E. Colfax
Room 346
Denver, CO 80203

RE: Support for HB 1099 – Disclosure of Information by Online Marketplaces

Dear Chairman Rodriguez:

On behalf of the Consumer Healthcare Products Association (CHPA), the national trade organization representing the leading manufacturers of over-the-counter (OTC) medications, dietary supplements, and consumer medical devices, I'd like to express support for HB 1099-legislation requiring online marketplaces to disclose certain information to consumers.

OTC medicines play a critical role in our nation's overall healthcare. Our members' products provide millions of Americans with safe, effective, and affordable therapies to treat and prevent many common ailments and diseases. These medicines are affordable to patients, can be obtained without the intervention of a physician, and help empower families to treat conditions with trusted, Food and Drug Administration (FDA) approved treatments. We, therefore, take very seriously any threat to the safety of consumers purchasing OTC products in online marketplaces. The sale of stolen and counterfeit consumer healthcare products represents a serious hazard to the health and welfare of Colorado families. HB 1099 would alleviate many of these concerns and create a much more confident buying experience for consumers.

When licensed pharmacies and verified vendors sell over-the-counter medications and food products, they are complying with federal and state regulations to ensure that the items are effective and safe to consume. They take care to handle and store them under specified conditions and pull items when they're set to expire. Conversely, when OTC products are stolen and resold, or when counterfeit products are being transacted, these standards and safeguards can no longer be guaranteed. Compromised safety standards can lead to careless management of medicine and invite package tampering or other forms of malpractice which could cause harm to Colorado residents.

As record numbers of consumers turn to online shopping and unregulated third-party sellers operating through online marketplaces as their preferred purchase method of choice, the need to ensure product safety and integrity must also expand. HB 1099 establishes baseline requirements for online marketplaces that can better guarantee the safety of consumers using OTC healthcare products.

For these reasons, we strongly support the passage of HB 1099 and respectfully request the support of the full Senate Business, Labor, and Technology Committee as well. We thank Representative Carver for filing this critical legislation and encourage you to contact me directly with any questions on our position.

Taking healthcare personally.

Respectfully submitted,



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cc: Senate Business, Labor, and Technology Committee

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STATE OF COLORADO
DEPARTMENT OF LAW

Office of the Attorney General

Attorney General Phil Weiser
Testimony on House Bill 22-1099
Before the Committee on Business, Labor, & Technology,
Colorado Senate
- March 2, 2022 -

Chairman Rodriguez and members of the Committee, thank you for the opportunity to discuss with you today the growing problem of online retail theft. Online retail theft is, without question, a growing problem for retailers and consumers. And we need swift action to cut off the demand and ease by which criminal organizations can misuse online platforms to sell stolen goods. House Bill 22-1009 aims at a key driver of the recent spike in retail thefts—the ease in which online platforms can provide an anonymous and low-risk method to resell stolen goods.

To understand how prevalent the misuse of online platforms for selling stolen products is, simply login on to eBay, or go to your Facebook account and scroll through the Facebook Marketplace function. There you will quickly see:

- photos of car trunks and hatchbacks filled with dozens of undelivered packages, billed as “mystery box” packages available for sale;
- postings for the sale of “undeliverable mail”;
- listings with images of rooms and garages filled with hundreds of unopened Amazon boxes, described as “unclaimed packages” or “returned goods”; and
- warehouse photos of stacks of boxes of unopened brand name tools, offered for sale at a fraction of the price you would find at retail stores.

In the past, theft was a much riskier game. Stealing a product and then reselling it meant having to meet buyers face-to-face, or having a buyer visit a garage filled with stolen merchandise. Thieves undertook a risk of arrest when attempting to resell.

But with the rise of on-line platforms, that risk is close to zero. A theft ring can simply create a fake account, click the option to become a third-party seller, post their stolen items online, and ship stolen products anonymously. The ease in which

this can be done and the anonymity provided has made retail theft—both shoplifting from retailers as well as porch piracy theft—a much less risky and much more profitable crime.

And these crimes have major impacts on working families leading to increases in costs for goods as well as added costs to businesses for security systems and personnel to guard their inventory. This trend is very much impacting Colorado's businesses, as you will hear from our partners in the private sector and the Colorado Retail Council which we worked with collaboratively on this bill and you will be hearing from today.

HB 22-1099 fills an important gap to bolster the fight against online retail theft. The work of law enforcement is critical in cutting off these crime rings, but it's essential that we supplement that work by clamping down on tools that lower the risk for these thefts. That means making it less easy and less anonymous to sell stolen goods through online platforms.

The bill requires online marketplaces to place requirements for the privilege of high-volume selling. This includes: (1) verifying to the marketplace the seller's information, including contact information; and (2) requiring the seller to disclose to consumers their identity, including the seller's full name and the origins of the products being sold. And critically, the bill calls for online marketplaces to create an easy-to-see and -use reporting mechanism to report suspicious marketplace activities. So when a consumer sees blatantly criminal postings like the ones I mentioned earlier, they have a simple tool to flag such postings.

One critical consideration for the Committee is that requirements of this type should be targeted to those online sellers most likely to be fueled and run by crime rings, and not impose undue requirements and burdens on small businesses that move their retail through the Internet. HB 22-1099 protects those small businesses. By only applying the bill's requirements to "high-volume third-party sellers", the disclosure and verification requirements will only attach to sellers that move a volume of inventory and sales that will capture large-scale crime rings, and are unlikely to impact mom-and-pop retailers. We should always ensure that burdens placed on business owners are both necessary and targeted appropriately to protect the marketplace—as an attorney who spent much of my career investigating antitrust cases and enforcing consumer laws, I believe that HB 22-1099 does just that.

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Mr. Chairman, committee members, thank you for the opportunity to visit with you today. This bill is the product of collaboration between the private sector and government—I wish to thank the business leaders who we partnered with in crafting this legislation. And I am particularly grateful for the leadership of Senators Zenzinger and Woodward for bringing this most needed change to our lawbooks.

Thank you for the opportunity to speak to you today in support of HB 22-1099, and I am happy to answer any questions you may have.