



Office of the Mayor

CONSENT CALENDAR

May 14, 2024

To: Honorable Members of the City Council

From: Mayor Jesse Arreguín, Councilmember Sophie Hahn, and Councilmember Susan Wengraf

Subject: Support SB 1144 – Shutting Down the Market for Stolen Goods

RECOMMENDATION

Adopt a Resolution in support of SB 1144 (Skinner), which will make it more difficult to sell stolen goods on online marketplaces. Send a copy of the Resolution to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymember Buffy Wicks.

BACKGROUND

Retail thefts across California are on the rise, with commercial burglaries up in 14 of the 15 largest counties, including a 65% jump in Alameda County between 2019-2022. In Berkeley, commercial burglaries rose 42% during this time frame, and rose an additional 32% to a total of 574 commercial burglaries in 2023. In many of these cases, organized retail theft is being used to illegally acquire and sell stolen goods.

To address these growing criminal trends, in 2022 the State passed SB 301 (Skinner), which requires online marketplaces to ensure that high-volume third-party sellers on their platforms were operating legally by imposing transparency requirements on high-volume and high-dollar sellers and authorizing the Attorney General to seek civil penalties, as well as injunctive or other preventive relief, from any person or entity that violates any of the bill's provisions.

In February 2024, Senator Skinner introduced SB 1144, which builds upon SB 301. Specifically, it extends its application to online marketplaces and third-party sellers not currently covered by SB 301, by allowing specified local actors to enforce violations, and by adding additional obligations on covered platforms. In addition, the bill expands the scope of who may commence a civil action. Currently, only the Attorney General may bring such a civil action. This bill would additionally authorize a district attorney in any county, a city attorney in any city, or a county counsel in any county to bring an enforcement suit, lessening the burden on the Attorney General to conduct enforcement.

By making it more difficult to sell stolen goods, SB 1144 will help deter criminals and organized crime rings from targeting stores that have become popular destinations for such crimes. This in turn will help support the economy and safety of Berkeley's commercial corridors.

Support SB 1144

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FINANCIAL IMPLICATIONS

None

ENVIRONMENTAL SUSTAINABILITY

There are no environmental impacts associated with the recommendations in this report.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Resolution

2: Text of SB 1144

RESOLUTION NO. ##,###-N.S.

IN SUPPORT OF SB 1144 – SHUTTING DOWN THE MARKET FOR STOLEN GOODS

WHEREAS, California is experiencing an increase in retail theft, with a 65% increase in commercial burglaries in Alameda County from 2019-2022, and 574 commercial burglaries in Berkeley in 2023; and

WHEREAS, organized retail theft and criminals often use online marketplaces as a platform to sell stolen goods; and

WHEREAS, in 2022 the State passed SB 301 (Skinner), which requires online marketplaces to ensure that high-volume third-party sellers on their platforms were operating legally by imposing transparency requirements on high-volume and high-dollar sellers and authorizing the Attorney General to seek civil penalties, as well as injunctive or other preventive relief, from any person or entity that violates any of the bill's provisions; and

WHEREAS, building upon SB 301, in February 2024, Senator Skinner introduced SB 1144, which extends its application to online marketplaces and third-party sellers not currently covered by SB 301, by allowing specified local actors to enforce violations, and by adding additional obligations on covered platforms; and

WHEREAS, this bill would additionally authorize a district attorney in any county, a city attorney in any city, or a county counsel in any county to bring an enforcement suit, lessening the burden on the Attorney General to conduct enforcement.

WHEREAS, by making it more difficult to sell stolen goods, SB 1144 will help deter criminals and organized crime rings from targeting stores that have become popular destinations for such crimes, which in turn will help support the economy and safety of Berkeley's commercial corridors.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that it hereby supports SB 1144.

BE IT FURTHER RESOLVED that copies of this Resolution be sent to Governor Gavin Newsom, State Senator Nancy Skinner, and Assemblymember Buffy Wicks.

AMENDED IN SENATE APRIL 4, 2024

AMENDED IN SENATE MARCH 19, 2024

SENATE BILL

No. 1144

Introduced by Senator Skinner
(Coauthors: Senators Min, Ochoa Bogh, Rubio, and Wiener)

February 14, 2024

An act to amend Sections 1749.8 and 1749.8.4 of, and to add Section 1749.8.9 to, the Civil Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 1144, as amended, Skinner. Marketplaces: online marketplaces.

Existing law generally requires an online marketplace to require a high-volume third-party seller on the online marketplace to make certain disclosures. Existing law requires an online marketplace to suspend future sales activity of a high-volume third-party seller that is not in compliance with those information sharing requirements, as specified. Existing law imposes certain information retention and security requirements on an online marketplace and prohibits specified uses of that information.

Existing law generally defines a “high-volume third-party seller,” for purposes of the above-described provisions, as a third-party seller who has entered into a certain number of consumer product sales transactions through an online marketplace for which payment is processed by the online marketplace, as specified. Existing law defines an “online marketplace,” for purposes of those provisions, as a consumer-directed, electronically accessed platform that includes features that allow for, facilitate, or enable, and are used by, a third-party seller to engage in the sale, purchase, payment, storage, shipment, or delivery of a consumer

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product and that has a contractual relationship with consumers governing their use of the platform to purchase consumer products.

This bill would revise the types of transactions that qualify a third-party seller as a “high-volume third-party seller,” for those purposes. Specifically, the bill would remove the conditions that the transactions be made through an online marketplace and that the online marketplace process the payment and, instead, would add the condition that the transactions were made utilizing an online marketplace. The bill would also revise the definition of “online marketplace” by removing the conditions that the above-described features be used by third-party sellers, and that the platform have the above-described contractual relationship with consumers.

Existing law requires a high-volume third-party seller to disclose and certify to the online marketplace certain identification, contact, and payment information of the seller, as specified.

This bill would require an online marketplace to ~~verify and identify~~ *disclose* to consumers ~~that each~~ *whether a* high-volume third-party seller has complied with those disclosure and certification requirements. The bill would ~~prohibit~~ *require* an online marketplace ~~from allowing a business or person to utilize its platform or other services if there is reason to believe the business or person is selling stolen goods. to establish and maintain a policy prohibiting the sale of stolen goods on the marketplace and to provide a mechanism to notify the marketplace of the sale of stolen goods, as specified.~~ The bill would require an online marketplace to alert local, regional, or state law enforcement agencies in California if it reasonably believes that a third-party seller or high-volume third-party seller is selling or attempting to sell stolen goods to a California resident.

Existing law requires a person or entity who violates the above-described provisions to be liable for a civil penalty not to exceed \$10,000 for each violation and reasonable attorney’s fees and costs and to be subject to preventive relief, as specified. Existing law limits recovery and relief to a civil action brought by the Attorney General, as specified.

This bill would expand recovery and relief to a civil action brought by a district attorney in any county, a city attorney in any city, or a county counsel in any county.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that it is the
2 intent of the Legislature to stop theft from retail stores and
3 community theft by curtailing the sale of stolen property on online
4 marketplaces.

5 SEC. 2. Section 1749.8 of the Civil Code is amended to read:
6 1749.8. For purposes of this title:

7 (a) “Consumer product” means tangible personal property that
8 is distributed in commerce and normally used for personal, family,
9 or household purposes, including property intended to be attached
10 to or installed in real property regardless of whether it is actually
11 attached or installed.

12 (b) “High-volume third-party seller” means a third-party seller
13 *on an online marketplace* who, in any continuous 12-month period
14 during the previous 24 months, has entered into 200 or more
15 discrete transactions utilizing ~~an~~ *the* online marketplace for the
16 sale of new or unused consumer products to buyers located in
17 California resulting in the accumulation of an aggregate total of
18 five thousand dollars (\$5,000) or more in gross revenues.

19 (c) “Online marketplace” means a consumer-directed,
20 electronically accessed platform that includes features that allow
21 for, facilitate, or enable a third-party seller to engage in the sale,
22 purchase, payment, storage, shipment, or delivery of a consumer
23 product in this state.

24 (d) “Third-party seller” means a person or entity, independent
25 of an online marketplace, who sells, offers to sell, or contracts with
26 an online marketplace to sell a consumer product in the state by
27 or utilizing an online marketplace.

28 (e) “Verify” means to confirm that information provided to an
29 online marketplace pursuant to this title is accurate. Methods of
30 confirmation include the use of one or more methods that enable
31 the online marketplace to reliably determine that the information
32 and documents are valid, correspond to the seller or an individual
33 acting on the seller’s behalf, are not misappropriated, and are not
34 falsified.

35 SEC. 3. Section 1749.8.4 of the Civil Code is amended to read:

36 1749.8.4. (a) A person or entity who violates any provision
37 of this title shall be liable for a civil penalty not to exceed ten
38 thousand dollars (\$10,000) for each violation, which may be

1 assessed and recovered only in a civil action brought in the name
2 of the people of the State of California by the Attorney General,
3 a district attorney in any county, a city attorney in any city, or a
4 county counsel in any county.

5 (b) In addition to the civil penalty provided by subdivision (a),
6 the Attorney General, district attorney, city attorney, or county
7 counsel who prevails in an action to enforce this title shall be
8 entitled to the following relief:

9 (1) Reasonable attorney’s fees and costs, including expert
10 witness fees and other litigation expenses.

11 (2) Preventive relief, including a permanent or temporary
12 injunction, restraining order, or other order against any person
13 responsible for the conduct.

14 SEC. 4. Section 1749.8.9 is added to the Civil Code, to read:

15 1749.8.9. (a) An online marketplace shall ~~verify and identify~~
16 *disclose* to consumers ~~that each~~ *whether a* high-volume third-party
17 seller has complied with Section ~~1749.8.1 lawfully.~~ *1749.8.1.*

18 (b) An online marketplace shall alert local, regional, or state
19 law enforcement agencies in California if it reasonably believes
20 that a third-party seller is selling or attempting to sell stolen goods
21 to a California resident.

22 (c) ~~(1) An online marketplace shall not allow a business or~~
23 ~~person to utilize its platform or other services if there is reason to~~
24 ~~believe that the business or person is selling stolen goods. shall~~
25 *do both of the following:*

26 (A) *Establish and maintain a policy prohibiting the sale of stolen*
27 *goods on the online marketplace, which shall include consequences*
28 *for knowingly selling stolen goods on the online marketplace,*
29 *including, but not limited to, suspension or termination of the*
30 *seller’s account.*

31 (B) *Provide a mechanism on the online marketplace that allows*
32 *any individual to notify the online marketplace that a seller is or*
33 *may be selling stolen goods.*

34 (2) *The policy and mechanism required by this subdivision shall*
35 *be publicly posted and readily accessible to users.*

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