

By Senator Baxley

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1 A bill to be entitled
2 An act relating to online marketplace transparency;
3 creating s. 559.953, F.S.; defining terms; requiring
4 online marketplaces to require high-volume third-party
5 sellers using their service to provide certain
6 information to the online marketplace within a
7 specified timeframe; requiring the online marketplace
8 to verify such information, or changes to such
9 information, within a specified timeframe; providing
10 that information on valid government-issued tax
11 documents is presumed to be verified as of the
12 issuance date; requiring an online marketplace to
13 update and require certification of the updated
14 information at least annually; requiring the online
15 marketplace to suspend certain sellers who do not
16 provide such a certification or updated information;
17 requiring online marketplaces to require high-volume
18 third-party sellers to disclose certain information in
19 a conspicuous manner on the product's listing or
20 through a link on the product's listing; authorizing
21 an online marketplace to allow partial disclosure of
22 the identity of a high-volume third-party seller under
23 certain circumstances; requiring the online
24 marketplace to revoke the partial disclosure
25 authorization under certain circumstances; requiring
26 disclosure of suppliers; providing for enforcement;
27 authorizing the Department of Legal Affairs to adopt
28 rules; preempting the regulation of the disclosure of
29 such information to the state; providing an effective

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30 date.

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32 Be It Enacted by the Legislature of the State of Florida:

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34 Section 1. Section 559.953, Florida Statutes, is created to
35 read:

36 559.953 Disclosure of information by online marketplaces.-

37 (1) DEFINITIONS.-As used in this section, the term:

38 (a) "Consumer product" means any tangible personal property
39 that is distributed in commerce and normally used for personal,
40 family, or household purposes. The term includes property
41 intended to be attached to or installed in any real property
42 without regard to whether it is so attached or installed.

43 (b) "High-volume third-party seller" means a participant in
44 an online marketplace who is a third-party seller and who, in
45 any continuous 12-month period during the previous 24 months,
46 has entered into 200 or more discrete sales or transactions of
47 new or unused consumer products resulting in the accumulation of
48 an aggregate total of \$5,000 or more in gross revenues.

49 (c) "Online marketplace" means any electronically based or
50 accessed platform that:

51 1. Includes features that allow for, facilitate, or enable
52 third-party sellers to engage in the sale, purchase, storage,
53 shipping, or delivery of or payment for a consumer product in
54 the United States; and

55 2. Hosts one or more third-party sellers.

56 (d) "Seller" means a person who sells, offers to sell, or
57 contracts to sell a consumer product through an online
58 marketplace.

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59 (e) "Third-party seller" means any seller, independent of
60 an operator, a facilitator, or an owner of an online
61 marketplace, who sells, offers to sell, or contracts to sell a
62 consumer product in the United States through an online
63 marketplace. The term does not include a seller who:

64 1. Is a business entity that has made available to the
65 general public the entity's name, business address, and working
66 contact information;

67 2. Has an ongoing contractual relationship with the owner
68 of the online marketplace to provide for the manufacture,
69 distribution, wholesaling, or fulfillment of shipments of
70 consumer products; and

71 3. Has provided to the online marketplace identifying
72 information that has been verified.

73 (f) "Verify" means to confirm information provided to an
74 online marketplace pursuant to this section by the use of:

75 1. A third-party or proprietary identity verification
76 system that has the capability to confirm a seller's name, e-
77 mail address, physical address, and phone number; or

78 2. A combination of two-factor authentication, public
79 records search, and the presentation of a government-issued
80 identification.

81 (2) VERIFICATION.—

82 (a) An online marketplace shall require that any high-
83 volume third-party seller on the online marketplace provide the
84 online marketplace with all of the following information within
85 24 hours after becoming a high-volume third-party seller:

86 1. Bank account information. The online marketplace, a
87 payment processor, or another third party contacted by the

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88 online marketplace must directly confirm the accuracy of such
89 information. If the high-volume third-party seller does not have
90 a bank account, the seller may provide the name of the payee for
91 payments issued by the online marketplace to the high-volume
92 third-party seller. The seller may provide such bank account or
93 payee information to the online marketplace or to a payment
94 processor or other third party contracted by the online
95 marketplace to maintain such information, provided that the
96 online marketplace may obtain such information on demand from
97 such payment processor or other third party.

98 2. Contact information, including all of the following:

99 a. If the high-volume third-party seller is an individual,
100 a copy of a government-issued photo identification for the
101 individual which includes the individual's name and physical
102 address.

103 b. If the high-volume third-party seller is not an
104 individual, either a copy of a government-issued photo
105 identification for an individual acting on behalf of the high-
106 volume third-party seller which includes the individual's name
107 and physical address, or a copy of a government-issued record or
108 tax document that includes the business name and physical
109 address of the high-volume third-party seller.

110 c. A working e-mail address and working phone number.

111 3. A business tax identification number or, if the high-
112 volume third-party seller does not have a business tax
113 identification number, a taxpayer identification number.

114 4. Whether the high-volume third-party seller is
115 exclusively advertising or offering a consumer product on the
116 online marketplace, or if the high-volume third-party seller is

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117 currently advertising or offering for sale the same consumer
118 product on any Internet websites other than the online
119 marketplace.

120 (b) The online marketplace shall verify the information the
121 high-volume third-party seller provides under this subsection
122 within 3 days after receiving such information. If the seller
123 provides any changes to the information, the online marketplace
124 shall verify such changes within 3 days after receiving the
125 information. If a high-volume third-party seller provides a copy
126 of a valid government-issued tax document, information contained
127 within such tax document shall be presumed to be verified as of
128 the date of issuance of such record or document.

129 (c) The online marketplace shall, on at least an annual
130 basis, notify each high-volume third-party seller on the online
131 marketplace that the seller must inform the online marketplace
132 of any changes to the information provided by the seller
133 pursuant to this subsection within 3 days after receiving the
134 notification and shall instruct each high-volume third-party
135 seller, as part of the notification, to electronically certify
136 either that the seller's information is unchanged or that the
137 seller is providing changes to the information. If the online
138 marketplace becomes aware that a high-volume third-party seller
139 has not certified that the seller's information is unchanged or
140 has not provided such changed information within 3 days after
141 receiving such notification, the online marketplace shall
142 suspend the high-volume third-party seller's participation on
143 the marketplace until the seller either has certified that the
144 seller's information is unchanged or has provided such changed
145 information and the information has been verified.

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146 (3) DISCLOSURE.—

147 (a) An online marketplace shall require a high-volume
148 third-party seller to provide, and shall disclose to consumers
149 in a conspicuous manner either on the product listing or, for
150 information other than the seller's full name, through a
151 conspicuously placed link on the product listing, all of the
152 following information:

153 1. Subject to paragraph (b), the identity of the high-
154 volume third-party seller. Such identification must include the
155 full name of the seller; the full physical address of the
156 seller; whether the seller also engages in the manufacturing,
157 importing, or reselling of consumer products; and contact
158 information for the seller, including a working phone number and
159 working e-mail address. Such working e-mail address may be
160 provided to the high-volume third-party seller by the online
161 marketplace.

162 2. Any other information determined to be necessary to
163 address circumvention or evasion of the requirements of this
164 paragraph, provided that the additional information is limited
165 to what is necessary to address such circumvention or evasion.

166 (b) Subject to paragraph (c), upon the request of a high-
167 volume third-party seller, an online marketplace may provide for
168 partial disclosure of the identity information required under
169 subparagraph (a)1. in the following situations:

170 1. If the high-volume third-party seller demonstrates to
171 the online marketplace that the seller does not have a business
172 address and only has a residential street address, the online
173 marketplace may direct the high-volume third-party seller to
174 disclose only the country and, if applicable, the state in which

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175 the high-volume third-party seller resides on the product
176 listing, and may inform consumers that there is no business
177 address available for the seller and that consumer inquiries
178 should be submitted to the seller by phone or e-mail.

179 2. If the high-volume third-party seller demonstrates to
180 the online marketplace that the seller is a business that has a
181 physical address for product returns, the online marketplace may
182 direct the high-volume third-party seller to disclose the
183 seller's physical address for product returns.

184 3. If a high-volume third-party seller demonstrates to the
185 online marketplace that the seller does not have a phone number
186 other than a personal phone number, the online marketplace shall
187 inform consumers that there is no phone number available for the
188 seller and that consumer inquiries should be submitted to the
189 seller's e-mail address.

190 (c) If an online marketplace becomes aware that a high-
191 volume third-party seller has made a false representation to the
192 online marketplace in order to justify the provision of a
193 partial disclosure under paragraph (b) or that a high-volume
194 third-party seller who has requested and received a provision
195 for a partial disclosure under paragraph (b) has not provided
196 responsive answers within a reasonable timeframe to consumer
197 inquiries submitted to the seller by phone or e-mail, the online
198 marketplace shall withdraw its provision for partial disclosure
199 and require the full disclosure of the high-volume third-party
200 seller's identity information required under subparagraph (a)1.
201 within 3 business days to the high-volume third-party seller.

202 (d) An online marketplace shall disclose to consumers, in a
203 conspicuous manner on the product listing of any high-volume

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204 third-party seller, a reporting mechanism that allows for
205 electronic and telephonic reporting of suspicious marketplace
206 activity to the online marketplace and a message encouraging
207 individuals seeking products for purchase to report suspicious
208 activity to the online marketplace.

209 (e) An online marketplace that warehouses, distributes, or
210 otherwise fulfills a consumer product order shall disclose to
211 the consumer the identification of any high-volume third-party
212 seller supplying the consumer product if different than the
213 seller listed on the product listing page.

214 (4) ENFORCEMENT.—A violation of this section constitutes a
215 violation of the Deceptive and Unfair Trade Practices Act under
216 part II of chapter 501. A person who violates this section is
217 subject to the penalties and remedies provided therein.

218 (5) RULES.—The Department of Legal Affairs may adopt rules
219 with respect to collecting and verifying information under this
220 section, provided that such regulations are limited to what is
221 necessary to collect and verify such information.

222 (6) PREEMPTION.—The regulation of the requirement for
223 online marketplaces to verify information from high-volume
224 third-party sellers on a one-time or ongoing basis or disclose
225 information to consumers is preempted to the department. A local
226 governmental entity may not establish, mandate, or otherwise
227 require the verification or disclosure of such information.

228 Section 2. This act shall take effect July 1, 2021.