

HB 1223

2021

1 A bill to be entitled
2 An act relating to disclosure of online marketplace
3 information; creating s. 501.144, F.S.; providing
4 definitions; requiring that online marketplaces
5 require certain sellers to provide specified
6 information to the marketplace; requiring online
7 marketplaces to verify seller information and provide
8 certain notice to sellers regarding such information;
9 providing exceptions for disclosure of seller
10 information under certain conditions; requiring online
11 marketplaces to disclose certain seller information to
12 consumers; requiring online marketplaces to provide a
13 specified mechanism for consumers to report suspicious
14 activities; providing that violations are an unfair or
15 deceptive trade practice and subject to specified
16 penalties and remedies; authorizing the Department of
17 Agriculture and Consumer Services to adopt rules;
18 prohibiting political subdivisions from regulating
19 online marketplaces; providing applicability;
20 providing an effective date.

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

23
24 Section 1. Section 501.144, Florida Statutes, is created
25 to read:

26 501.144 Disclosure of online marketplace seller
 27 information.-

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

29 (a) "Consumer product" means any tangible personal
 30 property which is distributed in commerce and which is normally
 31 used for personal, family, or household purposes including any
 32 such property intended to be attached to or installed in any
 33 real property without regard to whether it is attached or
 34 installed.

35 (b) "High-volume third-party seller" means a participant
 36 in an online marketplace that is a third-party seller and that,
 37 in any continuous 12-month period during the previous 24 months,
 38 has entered into 200 or more discrete sales or transactions of
 39 new or unused consumer products resulting in the accumulation of
 40 an aggregate total of \$5,000 or more in gross revenues.

41 (c) "Online marketplace" means any electronically based or
 42 accessed platform that:

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

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

48 (d) "Seller" means a person who sells, offers to sell, or
 49 contracts to sell a consumer product through an online
 50 marketplace.

51 (e) "Third-party seller" means a seller, independent of an
52 operator, facilitator, or owner of an online marketplace, that
53 sells, offers to sell, or contracts to sell a consumer product
54 through an online marketplace.

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

57 1. A proprietary identity verification system, payment
58 processor, or third-party that has the capability to confirm a
59 seller's name, email address, physical address, and telephone
60 number; or

61 2. A combination of two-factor authentication, public
62 records search, and the presentation of a government-issued
63 identification.

64 (2) HIGH-VOLUME THIRD-PARTY SELLER INFORMATION.-Online
65 marketplaces shall require that a high-volume third-party seller
66 on the online marketplace provide the online marketplace with
67 the following information within 24 hours after becoming a high-
68 volume third-party seller:

69 (a) Bank account information, the accuracy of which has
70 been verified directly by the online marketplace or by a payment
71 processor or other third party contracted by the online
72 marketplace to verify such information, or, if the high-volume
73 third-party seller does not have a bank account, the name of the
74 payee for payments issued by the online marketplace to the high-
75 volume third-party seller. The bank account or payee information

76 may be provided by the high-volume third-party seller directly
77 to the online marketplace or to a payment processor or other
78 third party contracted by the online marketplace to verify the
79 information, provided that the online marketplace may obtain the
80 information on demand from such payment processor or other third
81 party.

82 (b) Contact information, as follows:

83 1. If the high-volume third-party seller is an individual,
84 a copy of a government-issued photo identification for the
85 individual that includes the individual's full name and physical
86 address.

87 2. If the high-volume third-party seller is not an
88 individual:

89 a. A copy of a government-issued photo identification for
90 an individual acting on behalf of the high-volume third-party
91 seller that includes the individual's full name and physical
92 address; or

93 b. A copy of a government-issued record or government-
94 issued tax document that includes the business name and physical
95 address of the high-volume third-party seller and a valid email
96 address and valid telephone number for the high-volume third-
97 party seller.

98 (c) A business tax identification number or, if the high-
99 volume third-party seller does not have a business tax
100 identification number, a taxpayer identification number.

101 (d) Whether the high-volume third-party seller is
102 exclusively selling or offering for sale the consumer product on
103 the online marketplace, or if the high-volume third-party seller
104 is currently selling or offering for sale the same consumer
105 product on any other Internet websites other than the online
106 marketplace.

107 (3) HIGH-VOLUME THIRD-PARTY SELLER INFORMATION
108 VERIFICATION AND NOTIFICATION.-

109 (a) An online marketplace shall verify the information
110 provided pursuant to subsection (2) within 3 days after
111 receiving the information, and shall verify within 3 days any
112 changes to the information that is provided to the online
113 marketplace by a high-volume third-party seller. If a high-
114 volume third-party seller provides a copy of a valid government-
115 issued tax document, information contained in the tax document
116 shall be presumed to be verified as of the issuance date of the
117 document.

118 (b) The online marketplace shall, on at least an annual
119 basis, notify each high-volume third-party seller participating
120 on the online marketplace that the high-volume third-party
121 seller must inform the online marketplace of any changes to the
122 information provided by the high-volume third-party seller
123 pursuant to subsection (2) within 3 days after receiving the
124 notification and shall instruct each high-volume third-party
125 seller, as part of the notification, to electronically certify

126 that the high-volume third-party seller's information is
127 unchanged or that the high-volume third-party seller is
128 providing changes to the information.

129 (c) If the online marketplace becomes aware that a high-
130 volume third-party seller has not certified that the high-volume
131 third-party seller's information is unchanged or has not
132 provided the changed information within 3 days after receiving
133 the notification, the online marketplace shall suspend the high-
134 volume third-party seller's participation on the online
135 marketplace until the high-volume third-party seller has
136 certified that the high-volume third-party seller's information
137 is unchanged or has provided the changed information and the
138 information has been verified.

139 (4) DISCLOSURE TO CONSUMERS BY ONLINE MARKETPLACE.-

140 (a) An online marketplace shall require a high-volume
141 third-party seller to provide the following information to the
142 online marketplace:

143 1. The identity of the high-volume third-party seller,
144 including:

145 a. The full name of the high-volume third-party seller.

146 b. The full physical address of the high-volume third-
147 party seller.

148 c. Whether the high-volume third-party seller also engages
149 in the manufacturing, importing, or reselling of consumer
150 products.

151 d. Contact information for the high-volume third-party
152 seller, including a valid telephone number and valid email
153 address. The email address may be an email address provided to
154 the high-volume third-party seller by the online marketplace.

155 2. Any other information the online marketplace determines
156 to be necessary to address circumvention or evasion of the
157 requirements of this paragraph, provided that the additional
158 information is limited to what is necessary to address such
159 circumvention or evasion.

160 (b) Upon the request of a high-volume third-party seller,
161 an online marketplace may provide for partial disclosure of the
162 identity information required under paragraph (a) in the
163 following situations:

164 1. If the high-volume third-party seller demonstrates to
165 the online marketplace that the high-volume third-party seller
166 does not have a business address and only has a residential
167 street address, the online marketplace may direct the high-
168 volume third-party seller to disclose only the country and, if
169 applicable, the state in which the high-volume third-party
170 seller resides on the consumer product listing, and may inform
171 consumers that there is no business address available for the
172 high-volume third-party seller and that consumer inquiries
173 should be submitted to the high-volume third-party seller by
174 telephone or email.

175 2. If the high-volume third-party seller demonstrates to

176 the online marketplace that the high-volume third-party seller
177 is a business that has a physical address for consumer product
178 returns, the online marketplace may direct the high-volume
179 third-party seller to disclose the high-volume third-party
180 seller's physical address on a consumer product listing for
181 consumer product returns.

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

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190 If an online marketplace becomes aware that a high-volume third-
191 party seller has made a false representation to the online
192 marketplace in order to justify the provision of a partial
193 disclosure under this paragraph or that a high-volume third-
194 party seller that has requested and received a provision for a
195 partial disclosure under this paragraph has not responded within
196 a reasonable timeframe to consumer inquiries submitted to the
197 high-volume third-party seller by telephone or email, 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 paragraph (a) upon

201 3 business days' notice to the high-volume third-party seller.

202 (c) An online marketplace that warehouses, distributes, or
203 otherwise fulfills a consumer product order shall disclose to
204 the consumer the identification of any high-volume third-party
205 seller supplying the consumer product if different than the
206 seller listed on the consumer product listing.

207 (d) The online marketplace shall disclose the information
208 under this subsection to consumers in a conspicuous manner on
209 the consumer product listing. Information other than the
210 seller's full name shall be disclosed through a conspicuously
211 placed link on the consumer product listing.

212 (5) CONSUMER REPORTING MECHANISM.—An online marketplace
213 shall provide a reporting mechanism in a conspicuous manner on
214 the consumer product listing of any high-volume third-party
215 seller that allows for electronic and telephonic reporting of
216 suspicious marketplace activity to the online marketplace. The
217 mechanism must include a message encouraging consumers to report
218 suspicious activity to the online marketplace.

219 (6) ENFORCEMENT.—

220 (a) A high-volume third-party seller that violates this
221 section commits an unfair or deceptive trade practice in
222 violation of part II of chapter 501 and is subject to the
223 penalties and remedies imposed for such violation.

224 (b) The department may adopt rules with respect to
225 collecting and verifying information under this section,

226 provided that the rules are limited to what is necessary to
227 collect and verify such information.

228 (c) A political subdivision may not establish or mandate
229 regulations for online marketplaces.

230 (7) APPLICABILITY.-This section does not apply to an
231 online marketplace seller that:

232 (a) Is a business entity that has made its name, business
233 address, and working contact information available to the
234 general public.

235 (b) Has an ongoing contractual relationship with the owner
236 of the online marketplace to provide for the manufacture,
237 distribution, wholesale, or fulfillment of shipments of consumer
238 products.

239 (c) Has provided identifying information to the online
240 marketplace that has been verified pursuant to this section.

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