

Amendment No.1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Judiciary Committee
 2 Representative Toledo offered the following:

Amendment

Remove lines 42-204 and insert:

6 directly or through the online marketplace's payment processor,
 7 count towards the calculation for the number of discrete sales
 8 or transactions or the gross revenues.

9 (c) "Online marketplace" means any consumer-directed
 10 electronically based or accessed platform that:

11 1. Includes features that allow for, facilitate, or enable
 12 third-party sellers to engage in the sale, purchase, payment,
 13 storage, shipping, or delivery of a consumer product in the
 14 United States;

15 2. Is used by one or more third-party sellers for such
 16 purposes; and

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17 3. Has a contractual or similar relationship with
18 consumers governing their use of the platform to purchase
19 consumer products.

20 (d) "Seller" means a person who sells, offers to sell, or
21 contracts to sell a consumer product through an online
22 marketplace.

23 (e) "Third-party seller" means any seller, independent of
24 an online marketplace, that sells, offers to sell, or contracts
25 to sell a consumer product in the United States through an
26 online marketplace. The term does not include, with respect to
27 an online marketplace:

28 1. A seller that operates the online marketplace;

29 2. A business entity that has made available to the
30 general public the entity's name, business address, and working
31 contact information;

32 3. A business entity with an ongoing contractual
33 relationship with the online marketplace to provide the online
34 marketplace with the manufacture, distribution, wholesaling, or
35 fulfillment of shipments of consumer products; or

36 4. A business entity that has provided to the online
37 marketplace identifying information that has been verified.

38 (f) "Verify" means to confirm information and
39 documentation provided to an online marketplace by the use of
40 one or more methods that enable the online marketplace to
41 reliably determine that any information and documents provided

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42 which correspond to the seller or an individual acting on the
43 seller's behalf are valid, not misappropriated, and not
44 falsified.

45 (2) VERIFICATION.—

46 (a) An online marketplace shall require that any high-
47 volume third-party seller on the online marketplace provide the
48 online marketplace with all of the following information within
49 10 days after qualifying as a high-volume third-party seller:

50 1. Deposit account information from a financial
51 institution. If the high-volume third-party seller does not have
52 deposit account information at a financial institution, the
53 seller must provide the online marketplace with the name of the
54 payee for payments issued by the online marketplace to the high-
55 volume third-party seller, and the information must be confirmed
56 by the online marketplace or by another third party contracted
57 by the online marketplace.

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

59 a. A valid e-mail address and working phone number.

60 b. If the high-volume third-party seller is an individual,
61 the individual's name.

62 c. If the high-volume third-party seller is not an
63 individual, either a copy of a government-issued photo
64 identification for an individual acting on behalf of the seller
65 which includes such individual's name and physical address or a
66 copy of a government-issued record or tax document that includes

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67 the business name and physical address of the high-volume third-
68 party seller.

69 3. A business tax identification number or, if the high-
70 volume third-party seller does not have a business tax
71 identification number, a taxpayer identification number.

72 (b) The online marketplace shall verify the information
73 the high-volume third-party seller provides under this
74 subsection within 10 days after receiving such information. If
75 the high-volume third-party seller provides any changes to the
76 information, the online marketplace must verify such changes
77 within 10 days after receiving the information. If a high-volume
78 third-party seller provides a copy of a valid government-issued
79 tax document, the information contained within such tax document
80 shall be presumed verified as of the date of issuance of such
81 document.

82 (c) The online marketplace shall, on at least an annual
83 basis, notify each high-volume third-party seller on the online
84 marketplace that the seller must inform the online marketplace
85 of any changes to the information previously provided by the
86 seller within 10 days after receiving the notification. The
87 notification must require the high-volume third-party seller to
88 electronically certify that the high-volume third-party seller's
89 information is unchanged or provide changes to the information
90 as necessary. If the online marketplace becomes aware that a
91 high-volume third-party seller has not certified that such

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92 information is unchanged or provided such changed information
93 within 10 days after receiving such notification, the online
94 marketplace must suspend the selling privileges of the high-
95 volume third-party seller until the seller provides such
96 certification or changed information.

97 (3) DISCLOSURE.-

98 (a) An online marketplace shall disclose to consumers in a
99 clear and conspicuous manner in the order confirmation message
100 or other document or communication made to the consumer after
101 the purchase is finalized and in the consumer's account
102 transaction history, all of the following information of any
103 high-volume third party seller with an aggregate total of
104 \$20,000 or more in annual gross revenues on its online platform:

105 1. The full name of the high-volume third-party seller,
106 which may include the seller's name or seller's company name, or
107 the name by which the seller or company operates on the online
108 marketplace.

109 2. The full physical address of the high-volume third-
110 party seller. If the seller certifies to the online marketplace
111 that the seller does not have a business address and only has a
112 residential street address, or has a combined business and
113 residential address, the online marketplace may:

114 a. Disclose to consumers the country of the seller and, if
115 applicable, the state in which the seller resides.

116 b. Inform consumers that a business address is not

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117 available for the seller and that consumer inquiries should be
118 submitted to the seller by phone, e-mail, or other means of
119 electronic messaging provided to the seller by the online
120 marketplace. If the seller certifies to the online marketplace
121 that the seller is a business that has a physical address for
122 product returns, the online marketplace may disclose the
123 seller's physical address for product returns.

124 3. Contact information for the high-volume third-party
125 seller, including a working telephone number and a working e-
126 mail address or other means of direct electronic messaging,
127 which may be provided to the seller by the online marketplace,
128 to allow for direct, unhindered communication with the seller.
129 If the only telephone number of the seller is the personal
130 telephone number of the seller, then the online marketplace
131 shall inform consumers that a phone number is not available for
132 the seller and that consumer inquiries should be submitted to
133 the seller's e-mail address or other means of electronic
134 messaging provided to the seller by the online marketplace.

135 4. Whether the high-volume third-party seller uses a
136 different seller to supply the consumer product to the consumer
137 upon purchase. Upon the request of the consumer, the online
138 marketplace shall disclose the identification of a seller, if
139 the seller is different from the high-volume third-party seller
140 listed on the consumer product listing before the purchase.

141 (b) If an online marketplace becomes aware that a high-

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142 volume third-party seller has made a false representation to the
143 online marketplace in order to restrict access to the full
144 physical address, telephone number, or e-mail address required
145 in paragraph (a), the online marketplace must, after providing
146 the seller with written or electronic notice, require the full
147 disclosure of the high-volume third-party seller's full physical
148 address, telephone number, and e-mail address. If such
149 information is not disclosed within 10 days after notification,
150 the online marketplace must suspend the selling privileges of
151 the high-volume third-party seller on the online marketplace
152 until the required information is disclosed.

153 (c) An online marketplace shall provide to consumers, in a
154 conspicuous manner on the consumer product listing of any high-
155 volume third-party seller, a reporting mechanism that allows for
156 electronic and telephonic reporting of suspicious activity to
157 the online marketplace.

158 (d) This subsection does not prevent an online marketplace
159 from providing any additional measures, electronic or otherwise,
160 that it deems necessary to prevent the sale of fraudulent,
161 stolen, or counterfeit consumer products on its platform.

162 (4) ENFORCEMENT.—A violation of this section constitutes a
163 violation of the Deceptive and Unfair Trade Practices Act under
164 part II of chapter 501. A person who violates this section is
165 subject to the penalties and remedies provided therein. Section
166 501.211 notwithstanding, nothing in this section creates a

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167 private cause of action in favor of any person damaged by a
168 violation of this section.

169 (5) RULES.—The Department of Legal Affairs may adopt rules
170 with respect to collecting and verifying information under this
171 section, provided that such rules are limited to what is
172 necessary to collect and verify such information.

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

179 Section 2. This act shall take effect January 1, 2023.