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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/01/2022	.	
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The Committee on Rules (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 42 - 202
and insert:
directly or through the online marketplace's payment processor,
count towards the calculation for the number of discrete sales
or transactions or the gross revenues.

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

1. Includes features that allow for, facilitate, or enable
third-party sellers to engage in the sale, purchase, payment,



12 storage, shipping, or delivery of a consumer product in the
13 United States;

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

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

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

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

27 1. A seller that operates the online marketplace;

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

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

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

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



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41 the seller or an individual acting on the seller's behalf are
42 valid, not misappropriated, and not falsified.

43 (2) VERIFICATION.—

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

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

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

57 a. A valid e-mail address and phone number.

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

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

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



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

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

95 (3) DISCLOSURE.—

96 (a) An online marketplace shall disclose to consumers, in a
97 clear and conspicuous manner in the order confirmation message
98 or other document or communication made to the consumer after



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99 the purchase is finalized and in the consumer's account
100 transaction history, all of the following information of any
101 high-volume third-party seller with an aggregate total of
102 \$20,000 or more in annual gross revenues on its online platform:

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

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

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

114 b. Inform consumers that a business address is not
115 available for the seller and that consumer inquiries should be
116 submitted to the seller by telephone, e-mail, or other means of
117 electronic messaging provided to the seller by the online
118 marketplace. If the seller certifies to the online marketplace
119 that the seller is a business that has a physical address for
120 product returns, the online marketplace may disclose the
121 seller's physical address for product returns.

122 3. Contact information for the high-volume third-party
123 seller, including a telephone number or an e-mail address or
124 other means of direct electronic messaging, which may be
125 provided to the seller by the online marketplace, to allow for
126 direct, unhindered communication with the seller. If the only
127 telephone number of the seller is the personal telephone number



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128 of the seller, the online marketplace must inform consumers that
129 a telephone number is not available for the seller and that
130 consumer inquiries should be submitted to the seller's e-mail
131 address or other means of electronic messaging provided to the
132 seller by the online marketplace.

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

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

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

156 (d) This subsection does not prevent an online marketplace



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157 from using any additional measures, electronic or otherwise,
158 that it deems necessary to prevent spam, fraud, or abuse in
159 communication between the consumer and the high-volume third-
160 party seller, or the sale of fraudulent, stolen, or counterfeit
161 consumer products on its platform.

162 (4) DATA USE LIMITATION.—Data collected solely to comply
163 with the requirements of this section may not be used for any
164 other purpose unless required by law.

165 (5) DATA SECURITY REQUIREMENT.—An online marketplace shall
166 implement and maintain reasonable security procedures and
167 practices, including administrative, physical, and technical
168 safeguards, which are appropriate to the nature of the data and
169 the purposes for which the data will be used, to protect the
170 data collected to comply with the requirements of this section
171 from unauthorized use, disclosure, access, destruction, or
172 modification.

173 (6) ENFORCEMENT.—A violation of this section constitutes a
174 violation of the Deceptive and Unfair Trade Practices Act under
175 part II of chapter 501. A person who violates this section is
176 subject to the penalties and remedies provided therein.
177 Notwithstanding s. 501.211, this section does not create a
178 private cause of action in favor of any person damaged by a
179 violation of this section.

180 (7) RULES.—The Department of Legal Affairs may adopt rules
181 with respect to collecting and verifying information under this
182 section, provided that such rules are limited to what is
183 necessary to collect and verify such information.

184 (8) PREEMPTION.—The regulation of the requirement for
185 online marketplaces to verify information from high-volume



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186 third-party sellers on a one-time or ongoing basis or disclose
187 information to consumers is preempted to the department. A local
188 governmental entity may not establish, mandate, or otherwise
189 require the verification or disclosure of such information.

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

191

192 ===== T I T L E A M E N D M E N T =====

193 And the title is amended as follows:

194 Delete lines 18 - 19

195 and insert:

196 specified manner; requiring specified disclosures;
197 prohibiting certain collected data from being used for
198 any other purpose unless required by law; requiring
199 online marketplaces to implement and maintain certain
200 security procedures and practices relating to data
201 security; providing for enforcement; providing
202 construction; authorizing the Department