

By the Committee on Rules; and Senator Baxley

595-03643-22

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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 verified as of the issuance  
12      date; requiring an online marketplace to update and  
13      require certification of the updated information at  
14      least annually; requiring the online marketplace to  
15      suspend certain sellers who do not provide such a  
16      certification or updated information; requiring online  
17      marketplaces to disclose certain information in a  
18      specified manner; requiring specified disclosures;  
19      prohibiting certain collected data from being used for  
20      any other purpose unless required by law; requiring  
21      online marketplaces to implement and maintain certain  
22      security procedures and practices relating to data  
23      security; providing for enforcement; providing  
24      construction; authorizing the Department of Legal  
25      Affairs to adopt rules; preempting the regulation of  
26      the verification and disclosure of such information to  
27      the department; providing an effective date.

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

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

559.953 Disclosure of information by online marketplaces.-

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

(a) "Consumer product" means a product that is used or bought for use primarily for personal, family, or household purposes.

(b) "High-volume third-party seller" means a participant in an online marketplace that is a third-party seller and that, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of \$5,000 or more in gross revenues. Only sales or transactions made through the online marketplace for which payment was processed by the online marketplace, either 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, storage, shipping, or delivery of a consumer product in the United States;

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

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

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59 products.

60 (d) "Seller" means a person who sells, offers to sell, or  
61 contracts to sell a consumer product through an online  
62 marketplace.

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

68 1. A seller that operates the online marketplace;

69 2. A business entity that has made available to the general  
70 public the entity's name, business address, and contact  
71 information;

72 3. A business entity with an ongoing contractual  
73 relationship with the online marketplace to provide the online  
74 marketplace with the manufacture, distribution, wholesaling, or  
75 fulfillment of shipments of consumer products; or

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

78 (f) "Verify" means to confirm information and documentation  
79 provided to an online marketplace by the use of one or more  
80 methods that enable the online marketplace to reliably determine  
81 that any information and documents provided which correspond to  
82 the seller or an individual acting on the seller's behalf are  
83 valid, not misappropriated, and not falsified.

84 (2) VERIFICATION.—

85 (a) An online marketplace shall require that any high-  
86 volume third-party seller on the online marketplace provide the  
87 online marketplace with all of the following information within

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88 10 days after qualifying as a high-volume third-party seller:

89 1. Deposit account information from a financial  
90 institution. If the high-volume third-party seller does not have  
91 deposit account information at a financial institution, such  
92 seller must provide the online marketplace with the name of the  
93 payee for payments issued by the online marketplace to the high-  
94 volume third-party seller, and the information must be confirmed  
95 by the online marketplace or by another third party contracted  
96 by the online marketplace.

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

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

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

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

108 3. A business tax identification number or, if the high-  
109 volume third-party seller does not have a business tax  
110 identification number, a taxpayer identification number.

111 (b) The online marketplace shall verify the information the  
112 high-volume third-party seller provides under this subsection  
113 within 10 days after receiving such information. If the high-  
114 volume third-party seller provides any changes to the  
115 information, the online marketplace must verify such changes  
116 within 10 days after receiving the information. If a high-volume

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117 third-party seller provides a copy of a valid government-issued  
118 tax document, the information contained within such tax document  
119 shall be presumed verified as of the date of issuance of such  
120 document.

121 (c) The online marketplace shall, on at least an annual  
122 basis, notify each high-volume third-party seller on the online  
123 marketplace that such seller must inform the online marketplace  
124 of any changes to the information previously provided by the  
125 seller within 10 days after receiving the notification. The  
126 notification must require the high-volume third-party seller to  
127 either electronically certify that the high-volume third-party  
128 seller's information is unchanged or provide changes to the  
129 information as necessary. If the online marketplace becomes  
130 aware that a high-volume third-party seller has not certified  
131 that such information is unchanged or provided such changed  
132 information within 10 days after receiving such notification,  
133 the online marketplace must suspend the selling privileges of  
134 the high-volume third-party seller until such seller provides  
135 such certification or changed information.

136 (3) DISCLOSURE.—

137 (a) An online marketplace shall disclose to consumers, in a  
138 clear and conspicuous manner in the order confirmation message  
139 or other document or communication made to the consumer after  
140 the purchase is finalized and in the consumer's account  
141 transaction history, all of the following information of any  
142 high-volume third-party seller with an aggregate total of  
143 \$20,000 or more in annual gross revenues on its online platform:

144 1. The full name of the high-volume third-party seller,  
145 which may include the seller's name or company name, or the name

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146 by which the seller or company operates on the online  
147 marketplace.

148 2. The full physical address of the high-volume third-party  
149 seller. If the seller certifies to the online marketplace that  
150 the seller does not have a business address and only has a  
151 residential street address, or has a combined business and  
152 residential address, the online marketplace may:

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

155 b. Inform consumers that a business address is not  
156 available for the seller and that consumer inquiries should be  
157 submitted to the seller by telephone, e-mail, or other means of  
158 electronic messaging provided to the seller by the online  
159 marketplace. If the seller certifies to the online marketplace  
160 that the seller is a business that has a physical address for  
161 product returns, the online marketplace may disclose the  
162 seller's physical address for product returns.

163 3. Contact information for the high-volume third-party  
164 seller, including a telephone number or an e-mail address or  
165 other means of direct electronic messaging, which may be  
166 provided to the seller by the online marketplace, to allow for  
167 direct, unhindered communication with the seller. If the only  
168 telephone number of the seller is the personal telephone number  
169 of the seller, the online marketplace must inform consumers that  
170 a telephone number is not available for the seller and that  
171 consumer inquiries should be submitted to the seller's e-mail  
172 address or other means of electronic messaging provided to the  
173 seller by the online marketplace.

174 4. Whether the high-volume third-party seller used a

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175 different seller to supply the consumer product to the consumer  
176 upon purchase. Upon the request of the consumer, the online  
177 marketplace shall disclose the identification of a seller, if  
178 the seller is different from the high-volume third-party seller  
179 listed on the consumer product listing before the purchase.

180 (b) If an online marketplace becomes aware that a high-  
181 volume third-party seller has made a false representation to the  
182 online marketplace in order to restrict access to the full  
183 physical address, telephone number, or e-mail address required  
184 in paragraph (a), the online marketplace must, after providing  
185 the seller with written or electronic notice, require the full  
186 disclosure of the high-volume third-party seller's full physical  
187 address, telephone number, and e-mail address. If such  
188 information is not disclosed within 10 days after notification,  
189 the online marketplace must suspend the selling privileges of  
190 the high-volume third-party seller on the online marketplace  
191 until the required information is disclosed.

192 (c) An online marketplace shall provide to consumers, in a  
193 conspicuous manner on the consumer product listing of any high-  
194 volume third-party seller, a reporting mechanism that allows for  
195 electronic and telephonic reporting of suspicious marketplace  
196 activity to the online marketplace.

197 (d) This subsection does not prevent an online marketplace  
198 from using any additional measures, electronic or otherwise,  
199 that it deems necessary to prevent spam, fraud, or abuse in  
200 communication between the consumer and the high-volume third-  
201 party seller, or the sale of fraudulent, stolen, or counterfeit  
202 consumer products on its platform.

203 (4) DATA USE LIMITATION.—Data collected solely to comply

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204 with the requirements of this section may not be used for any  
205 other purpose unless required by law.

206 (5) DATA SECURITY REQUIREMENT.—An online marketplace shall  
207 implement and maintain reasonable security procedures and  
208 practices, including administrative, physical, and technical  
209 safeguards, which are appropriate to the nature of the data and  
210 the purposes for which the data will be used, to protect the  
211 data collected to comply with the requirements of this section  
212 from unauthorized use, disclosure, access, destruction, or  
213 modification.

214 (6) 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 Notwithstanding s. 501.211, this section does not create a  
219 private cause of action in favor of any person damaged by a  
220 violation of this section.

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

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

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