

1 HB318  
2 216991-4  
3 By Representatives Isbell, Reynolds, Whitt and Moore (P)  
4 RFD: Commerce and Small Business  
5 First Read: 09-FEB-22

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ENROLLED, An Act,

Relating to online marketplaces; to require certain disclosures to be made by high-volume third-party sellers of certain consumer products on online marketplaces; and to provide for civil remedies.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms shall have the following meanings:

(1) CONSUMER PRODUCT. Any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes, including, but not limited to, any property intended to be attached to or installed in any real property without regard to whether it is attached or installed.

(2) HIGH-VOLUME THIRD-PARTY SELLER. A participant in an online marketplace that is a third-party seller and, in any continuous 12-month period during the previous 24 months, that has entered into 200 or more discrete sales or transactions of new or unused consumer products of an aggregate total of five thousand dollars (\$5,000) or more in gross revenue in this state made through the online marketplace and for which payment was processed by the online marketplace or through a third party.

1           (3) ONLINE MARKETPLACE. Any person or entity that  
2 operates a consumer-directed electronically based or accessed  
3 platform that does all of the following:

4           a. Includes features that allow for, facilitate, or  
5 enable third-party sellers to engage in the sale, purchase,  
6 payment, storage, shipment, or delivery of a consumer product  
7 within this state.

8           b. Is used by one or more third-party sellers.

9           c. Has a contractual or similar relationship with  
10 consumers governing their use of the platform to purchase  
11 consumer products.

12           (4) SELLER. A person who sells, offers to sell, or  
13 contracts to sell a consumer product through an online  
14 marketplace's platform.

15           (5) THIRD-PARTY SELLER. Any seller, independent of  
16 an online marketplace, that sells, offers to sell, or  
17 contracts to sell a consumer product in this state through an  
18 online marketplace. The term does not include, with respect to  
19 an online marketplace, any of the following:

20           a. A seller that operates the online marketplace's  
21 platform.

22           b. A business entity that has all of the following:

23           1. Made available to the general public the entity's  
24 name, business address, and working contact information.

1           2. An ongoing contractual relationship with the  
2 online marketplace to provide the online marketplace with the  
3 manufacture, distribution, wholesaling, or fulfillment of  
4 shipments of consumer products.

5           3. Provided to the online marketplace the identity  
6 information required under Section 2(a) that has been verified  
7 in accordance with Section 2(d).

8           (6) VERIFY. To confirm information and documents  
9 provided to an online marketplace, pursuant to this act,  
10 through the use of one or more methods that enable an online  
11 marketplace to reliably determine that any information and  
12 documents provided are valid, correspond to the seller or an  
13 individual acting on the seller's behalf, are not  
14 misappropriated, and are not falsified.

15           Section 2. (a) An online marketplace shall require  
16 any high-volume third-party seller on its platform, not later  
17 than 10 days after qualifying as such, to provide all of the  
18 following information to the online marketplace:

19           (1) A bank account number or, if the high-volume  
20 third-party seller does not have a bank account, the name of  
21 the payee for payments issued by the online marketplace to the  
22 high-volume third-party seller. This information may be  
23 provided by the high-volume third-party seller to the online  
24 marketplace or to a third party contracted by the online  
25 marketplace to maintain the information; provided, however,

1 that the online marketplace ensures that it can obtain the  
2 information on demand from the third party.

3 (2) Contact information, which shall include either  
4 of the following:

5 a. If the high-volume third-party seller is an  
6 individual, the individual's name.

7 b. If the high-volume third-party seller is not an  
8 individual, either of the following:

9 1. A copy of a valid government issued  
10 identification for an individual acting on behalf of a seller  
11 that includes the individual's name.

12 2. A copy of a valid government issued record or tax  
13 document that includes the business name and physical address  
14 of the high-volume third-party seller.

15 (3) A business tax identification number or, if the  
16 high-volume third-party seller does not have a business tax  
17 identification number, a taxpayer identification number.

18 (4) A current working email address and telephone  
19 number for the high-volume third-party seller.

20 (b) An online marketplace shall do both of the  
21 following for each high-volume third-party seller on its  
22 platform:

23 (1) Periodically, but not less than annually,  
24 provide notification of the requirement to keep current the  
25 information required under subsection (a).

1           (2) Require the high-volume third-party seller, not  
2 later than 10 days after receiving the notice provided under  
3 subdivision (1), to submit electronic certification of either  
4 of the following:

5           a. That there have been changes to the information  
6 required to be provided under subsection (a). If there have  
7 been changes to the information required to be provided, the  
8 high-volume third-party seller shall update the information in  
9 its certified response.

10           b. That there have been no changes to the  
11 information required to be provided under subsection (a).

12           (c) In the event that a high-volume third-party  
13 seller does not provide the information or certification  
14 required under subsection (a) or (b), the online marketplace,  
15 after providing the seller with written or electronic notice  
16 and an opportunity to provide the information or certification  
17 not later than 10 days after the issuance of the notice, shall  
18 suspend any future sales activity of the seller until the  
19 seller provides the required information or certification.

20           (d) (1) An online marketplace shall verify both of  
21 the following:

22           a. The information and documents required to be  
23 provided under subsection (a) have been received not later  
24 than 10 days after receipt of notification under subdivision  
25 (b) (1).

1           b. Any change in the information or to the documents  
2 have been received not later than 10 days after being notified  
3 of the change by a high-volume third-party seller under  
4 subsection (b).

5           (2) If a high-volume third-party seller provides a  
6 copy of a valid government issued tax document, any  
7 information contained within the tax document shall be  
8 presumed to be verified as of the date the document was  
9 issued.

10           Section 3. (a) Except as provided in subsection (b),  
11 an online marketplace shall require any high-volume  
12 third-party seller with an aggregate total of twenty thousand  
13 dollars (\$20,000) or more in annual gross revenues on its  
14 platform to provide to the online marketplace and disclose to  
15 consumers in a clear and conspicuous manner all of the  
16 following identity information:

17           (1) The full name of the high-volume third-party  
18 seller, including the company name or the name by which the  
19 seller or company operates on the online marketplace.

20           (2) The physical address of the high-volume  
21 third-party seller.

22           (3) Contact information for the high-volume  
23 third-party seller that will allow for direct unhindered  
24 communication with the seller by consumers of the online  
25 marketplace, including one or more of the following:

1 a. A current working telephone number.

2 b. A current working email address.

3 c. Other means of direct electronic messaging, which  
4 may be provided by the online marketplace; provided, however,  
5 that the requirements of this paragraph shall not prohibit the  
6 online marketplace from preventing actual fraud, abuse, or  
7 spam through the communication.

8 (4) Whether the high-volume third-party seller used  
9 a different seller to supply the product to the consumer upon  
10 purchase and, upon the request of an authenticated purchaser,  
11 the information described in subdivisions (1) through (3)  
12 relating to the different seller that is different than the  
13 high-volume third-party seller listed on the product listing  
14 page prior to purchase. The identity information of the  
15 different seller shall be provided on the product listing  
16 page, directly, via hyperlink, or, after the purchase is  
17 finalized, in the order confirmation message or other document  
18 or communication made to a consumer and in the consumer's  
19 account transaction history.

20 (b) Upon the request of a high-volume third-party  
21 seller, an online marketplace may provide for partial  
22 disclosure of the identity information required under  
23 subsection (a) if the high-volume third-party seller certifies  
24 to the online marketplace that any of the following apply:



1           (1) The seller does not have a business address and  
2 only has a residential street address, or has a combined  
3 business and residential address. If this subdivision is  
4 applicable, the online marketplace shall do both of the  
5 following:

6           a. Disclose only the country and, if applicable, the  
7 city and state in which the seller resides.

8           b. Inform consumers that there is no business  
9 address available for the high-volume third-party seller and  
10 that consumer inquiries should be submitted to the seller by  
11 telephone, email, or other means of electronic messaging  
12 provided to the seller by the online marketplace.

13           (2) The seller is a business that has a physical  
14 address for product returns. If this subdivision is  
15 applicable, the online marketplace shall disclose the seller's  
16 physical address for product returns.

17           (3) The seller does not have a telephone number  
18 other than a personal telephone number. If this subdivision is  
19 applicable, the online marketplace shall inform consumers that  
20 there is no telephone number available for the seller and that  
21 consumer inquiries should be submitted to the seller's email  
22 address or other means of electronic messaging provided to the  
23 seller by the online marketplace.

24           (c) (1) Subject to subdivision (3), an online  
25 marketplace shall suspend any future sales activity of a

1 high-volume third-party seller if the online marketplace  
2 becomes aware of either of the following:

3 a. That the high-volume third-party seller has made  
4 a false representation to the online marketplace in order to  
5 justify the provision of a partial disclosure of the identity  
6 information under subsection (b).

7 b. That the high-volume third-party seller that has  
8 requested and received a provision for a partial disclosure  
9 has not provided responsive answers within a reasonable time  
10 frame to consumer inquiries submitted to the seller by  
11 telephone, email, or other means of electronic messaging  
12 provided to the seller by the online marketplace.

13 (2) Prior to any suspension under this subsection,  
14 the online marketplace shall provide the high-volume  
15 third-party seller with written or electronic notice and an  
16 opportunity to respond not later than 10 days after the  
17 issuance of the notice.

18 (3) A high-volume third-party seller may avoid  
19 suspension under this subsection by consenting to the  
20 disclosure of the identity information required under  
21 subsection (a).

22 (d) If a high-volume third-party seller does not  
23 comply with the requirements to provide and disclose  
24 information under this section, then, after providing the  
25 seller with written or electronic notice and an opportunity to

1 provide or disclose the information not later than 10 days  
2 after the issuance of the notice, the online marketplace shall  
3 suspend any future sales activities of the seller until the  
4 seller complies with the requirements.

5 Section 4. An online marketplace shall disclose to  
6 consumers in a clear and conspicuous manner, on the product  
7 listing of any high-volume third-party seller, a reporting  
8 mechanism that allows for electronic and telephonic reporting  
9 of suspicious marketplace activity to the online marketplace.

10 Section 5. (a) Information or documents collected  
11 solely to comply with the requirements this act shall not be  
12 used for any other purpose unless required by law.

13 (b) An online marketplace shall implement and  
14 maintain reasonable security procedures and practices,  
15 including administrative, physical, and technical safeguards,  
16 appropriate to the nature of the data and the purposes for  
17 which the data will be used, to protect the information or  
18 documents collected to comply with the requirements of this  
19 article from unauthorized use, disclosure, access,  
20 destruction, or modification.

21 Section 6. ~~(a) If the Attorney General has reason to~~  
22 ~~believe that any online marketplace has violated or is~~  
23 ~~violating this act and the violation affects one or more~~  
24 ~~residents of this state, the Attorney General may bring a~~

1 ~~civil action in any appropriate court to do any of the~~  
2 ~~following:~~

3 ~~(1) Enjoin the violation by the defendant.~~

4 ~~(2) Enforce compliance with this act.~~

5 ~~(3) Obtain damages, restitution, or other~~  
6 ~~compensation on behalf of the residents of this state.~~

7 ~~(4) Obtain other remedies permitted under state law~~  
8 ~~; provided, that such remedies shall not include any remedy to~~  
9 ~~enjoin or limit in any way an online marketplace's~~  
10 ~~participation in the state Simplified Use Tax Remittance~~  
11 ~~Program, as defined under Section 40-23-191, Code of Alabama~~  
12 ~~1975.~~

13 ~~(b) Nothing in this act shall be construed as~~  
14 ~~imposing any requirement, qualification, or condition for an~~  
15 ~~online marketplace to be eligible to participate in the state~~  
16 ~~Simplified Use Tax Remittance Program.~~

17 ~~(b) (c) Nothing in this act shall be construed to~~  
18 ~~prohibit any district attorney, law enforcement officer,~~  
19 ~~official, or agency of this state from initiating or~~  
20 ~~continuing any proceeding in a court against an online~~  
21 ~~marketplace for a violation of any other civil law or a~~  
22 ~~criminal law of this state.~~

23 (a) A violation of any provision of this act shall  
24 be actionable as a violation of the Deceptive Trade Practices

1 Act, enforceable by the Attorney General or any district  
2 attorney.

3 (b) Nothing in this act shall be construed as  
4 imposing any requirement, qualification, or condition for an  
5 online marketplace to be eligible to participate in the state  
6 Simplified Use Tax Remittance Program, as defined under  
7 Section 40-23-191, Code of Alabama 1975.

8 Section 7. This act shall become effective on ~~the~~  
9 ~~first day of the third month~~ January 1, 2023, following its  
10 passage and approval by the Governor, or its otherwise  
11 becoming law.

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Speaker of the House of Representatives

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President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in  
and was passed by the House 17-MAR-22, as amended.

Jeff Woodard  
Clerk

Senate	<hr/>	07-APR-22	Amended and Passed
House	<hr/>	07-APR-22	Concurred in Senate Amendment