

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2108
101ST GENERAL ASSEMBLY

3230H.05C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 407 and 570, RSMo, by adding thereto two new sections relating to retail sales, with penalty provisions and a delayed effective date for a certain section.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 407 and 570, RSMo, are amended by adding thereto two new sections, to be known as sections 407.1700 and 570.035, to read as follows:

407.1700. 1. For the purposes of this section, the following terms shall mean:

(1) "Consumer product", any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether the personal property is so attached or installed;

(2) "High-volume third-party seller", a participant in an online marketplace who is a third-party seller and who, in any continuous twelve-month period during the previous twenty-four months, has entered into two hundred or more discrete sales or transactions of new or unused consumer products with an aggregate total of five thousand dollars or more in gross revenue. For purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues under this subdivision, an online marketplace shall be required to count only sales or transactions made through the online marketplace and for which payment was processed by the online marketplace, either directly or through its payment processor;

(3) "Online marketplace", any person or entity that operates a consumer-directed, electronically-based or accessed platform that:

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 (a) Includes features that allow for, facilitate, or enable third-party sellers to
18 engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer
19 product in the United States;

20 (b) Is used by one or more third-party sellers for such purposes; and

21 (c) Has a contractual or similar relationship with consumers governing its use of
22 the platform to purchase consumer products;

23 (4) "Seller", a person who sells, offers to sell, or contracts to sell a consumer
24 product through an online marketplace's platform;

25 (5) "Third-party seller", any seller, independent of an online marketplace, who
26 sells, offers to sell, or contracts to sell a consumer product through an online
27 marketplace. This term shall not include a seller who:

28 (a) Operates the online marketplace's platform; or

29 (b) Is a business entity that has:

30 a. Made available to the general public the entity's name, business address, and
31 working contact information;

32 b. An ongoing contractual relationship with the online marketplace to provide
33 the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of
34 shipments of consumer products; and

35 c. Provided to the online marketplace identifying information, as described in
36 subparagraph a. of this paragraph, that has been verified under subsection 2 of this
37 section;

38 (6) "Verify", to confirm information provided to an online marketplace under
39 this section, which may include the use of one or more methods that enable the online
40 marketplace to reliably determine that any information and documents provided are
41 valid, corresponding to the seller or an individual acting on the seller's behalf; not
42 misappropriated; and not falsified.

43 2. An online marketplace shall require any high-volume third-party seller on the
44 online marketplace to provide, no later than ten days after qualifying as a high-volume
45 third-party seller, the following information:

46 (1) Bank account information, including a bank account number or, if such seller
47 does not have a bank account, the name of the payee for payments issued by the online
48 marketplace to such seller. The bank account or payee information required under this
49 subdivision may be provided by the seller in the following ways:

50 (a) To the online marketplace; or

51 (b) To a payment processor or other third party contracted by the online
52 marketplace to maintain such information, provided that the online marketplace

53 ensures that it may obtain such information on demand from such payment processor or
54 other third party;

55 (2) Contact information for such seller, including the following:

56 (a) With respect to a high-volume third-party seller who is an individual, the
57 individual's name; or

58 (b) With respect to a high-volume third-party seller who is not an individual, one
59 of the following forms of contact information:

60 a. A copy of a valid government-issued identification for an individual acting on
61 behalf of such seller that includes the individual's name; or

62 b. A copy of a valid government-issued record or tax document that includes the
63 business name and physical address of such seller;

64 (3) A current working email address and phone number for such seller; and

65 (4) A business tax identification number or, if such seller does not have a
66 business tax identification number, a taxpayer identification number.

67 3. An online marketplace shall:

68 (1) Periodically, but no less than annually, notify any high-volume third-party
69 seller on such online marketplace's platform of the requirement to keep any information
70 collected under subsection 2 of this section current; and

71 (2) Require any high-volume third-party seller on such online marketplace's
72 platform to, no later than ten days after receiving the notice under subdivision (1) of this
73 subsection, electronically certify that:

74 (a) The seller has provided any changes to such information to the online
75 marketplace if any such changes have occurred;

76 (b) There have been no changes to such seller's information; or

77 (c) Such seller has provided any changes to such information to the online
78 marketplace.

79 4. In the event that a high-volume third-party seller does not provide the
80 information or certification required under subsections 2 and 3 of this section, the online
81 marketplace shall, after providing the seller with written or electronic notice and an
82 opportunity to provide such information or certification no later than ten days after the
83 issuance of such notice, suspend any future sales activity of such seller until such seller
84 provides such information or certification.

85 5. (1) An online marketplace shall:

86 (a) Verify the information collected in subsection 2 of this section no later than
87 ten days after such collection; and

88 **(b) Verify any change to such information no later than ten days after being**
89 **notified of such change by a high-volume third-party seller under subsection 3 of this**
90 **section.**

91 **(2) In the case of a high-volume third-party seller who provides a copy of a valid**
92 **government-issued tax document, any information contained in such tax document shall**
93 **be presumed to be verified as of the date of issuance of such document.**

94 **(3) Data collected to comply solely with the requirements of this section shall not**
95 **be used for any other purpose unless required by law.**

96 **(4) An online marketplace shall implement and maintain reasonable security**
97 **procedures and practices, including administrative, physical, and technical safeguards,**
98 **appropriate to the nature of the data and the purposes for which the data will be used,**
99 **to protect the data collected to comply with the requirements of this section from**
100 **unauthorized use, disclosure, access, destruction, or modification.**

101 **6. (1) An online marketplace shall:**

102 **(a) Require any high-volume third-party seller with an aggregate total of twenty**
103 **thousand dollars or more in annual gross revenues on such online marketplace, and that**
104 **uses such online marketplace's platform, to provide the information described in**
105 **subdivision (2) of this subsection to the online marketplace; and**

106 **(b) Disclose the information described in subdivision (2) of this subsection to**
107 **consumers in a clear and conspicuous manner in the order confirmation message or**
108 **other document or communication made to a consumer after a purchase is finalized and**
109 **in the consumer's account transaction history.**

110 **(2) The information required shall be the following:**

111 **(a) Subject to subdivision (3) of this subsection, the identity of the high-volume**
112 **third-party seller, including:**

113 **a. The full name of the seller, which may include the seller's name or seller's**
114 **company name, or the name by which the seller or company operates on the online**
115 **marketplace;**

116 **b. The physical address of the seller; and**

117 **c. Contact information for the seller, to allow for the direct, unhindered**
118 **communication with high-volume third-party sellers by users of the online marketplace,**
119 **including:**

120 **(i) A current working phone number;**

121 **(ii) A current working email address; or**

122 **(iii) Other means of direct electronic messaging, which may be provided to such**
123 **seller by the online marketplace; and**

124 **(b) Whether the high-volume third-party seller used a different seller to supply**
125 **the consumer product to the consumer upon purchase and, upon the request of an**
126 **authenticated purchaser, the information described in paragraph (a) of this subdivision**
127 **relating to any such seller who supplied the consumer product to the purchaser if such**
128 **seller is different than the high-volume third-party seller listed on the product listing**
129 **prior to purchase.**

130 **(3) Subject to subdivision (2) of this subsection, upon the request of a high-**
131 **volume third-party seller, an online marketplace may provide for partial disclosure of**
132 **the identity information required under paragraph (a) of subdivision (2) of this**
133 **subsection in the following situations:**

134 **(a) If such seller certifies to the online marketplace that the seller does not have a**
135 **business address and only has a residential street address, or has a combined business**
136 **and residential address, the online marketplace may:**

137 **a. Disclose only the country and, if applicable, the state in which such seller**
138 **resides; and**

139 **b. Inform consumers that there is no business address available for the seller and**
140 **that consumer inquiries should be submitted to the seller by phone, email, or other**
141 **means of electronic messaging provided to such seller by the online marketplace;**

142 **(b) If such seller certifies to the online marketplace that the seller is a business**
143 **that has a physical address for product returns, the online marketplace may disclose the**
144 **seller's physical address for product returns; and**

145 **(c) If such seller certifies to the online marketplace that the seller does not have a**
146 **phone number other than a personal phone number, the online marketplace shall**
147 **inform consumers that there is no phone number available for the seller and that**
148 **consumer inquiries should be submitted to the seller's email address or other means of**
149 **electronic messaging provided to such seller by the online marketplace.**

150 **(4) If an online marketplace becomes aware that a high-volume third-party**
151 **seller has made a false representation to the online marketplace in order to justify the**
152 **provision of a partial disclosure under subdivision (1) of this subsection or that a high-**
153 **volume third-party seller who has requested and received a provision for a partial**
154 **disclosure under subdivision (1) of this subsection has not provided responsive answers**
155 **within a reasonable time frame to consumer inquiries submitted to the seller by phone,**
156 **email, or other means of electronic messaging provided to such seller by the online**
157 **marketplace, the online marketplace shall, after providing the seller with written or**
158 **electronic notice and an opportunity to respond no later than ten days after the issuance**
159 **of such notice, suspend any future sales activity of such seller unless such seller consents**

160 to the disclosure of the identity information required under paragraph (a) of subdivision
161 (2) of this subsection.

162 (5) An online marketplace shall disclose to consumers in a clear and conspicuous
163 manner on the product listing of any high-volume third-party seller a reporting
164 mechanism that allows for electronic and telephonic reporting of suspicious
165 marketplace activity to the online marketplace.

166 (6) If a high-volume third-party seller does not comply with the requirements to
167 provide and disclose information under this subsection, the online marketplace shall,
168 after providing the seller with written or electronic notice and an opportunity to provide
169 or disclose such information no later than ten days after the issuance of such notice,
170 suspend any future sales activity of such seller until the seller complies with such
171 requirements.

172 7. (1) A violation of the provisions of this section shall be treated as a violation of
173 sections 407.010 to 407.130.

174 (2) The consumer protection section of the office of the attorney general may
175 promulgate rules and regulations with respect to collecting, verifying, and disclosing
176 information under this section, provided that such rules and regulations are limited to
177 what is necessary to collect, verify, or disclose such information. Any rule or portion of
178 a rule, as that term is defined in section 536.010, that is created under the authority
179 delegated in this section shall become effective only if it complies with and is subject to
180 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
181 chapter 536 are nonseverable, and if any of the powers vested with the general assembly
182 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
183 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
184 and any rule proposed or adopted after the effective date of this section shall be invalid
185 and void.

186 8. If the attorney general has reason to believe that any online marketplace has
187 violated or is violating this section or a rule or regulation promulgated under this
188 section that affects one or more residents of Missouri, the attorney general may bring a
189 civil action in any appropriate circuit court to:

190 (1) Enjoin further such violation by the defendant;

191 (2) Enforce compliance with this section or such rule or regulation;

192 (3) Obtain civil penalties in the amount provided for under subsection 6 of this
193 section;

194 (4) Obtain other remedies permitted under state law; and

195 (5) Obtain damages, restitution, or other compensation on behalf of residents of
196 this state.

570.035. 1. As used in this section, the following terms mean:

2 **(1) "Internet or network site", any identifiable site on the internet or on a**
3 **network, or an electronic bulletin board or a similar type of site;**

4 **(2) "Merchant", as defined in section 150.010.**

5 **2. A person commits the offense of organized retail theft if he or she, alone or**
6 **acting together with any other person or persons, commits two or more stealing offenses**
7 **of retail merchandise against one or more merchants either on the merchant's premises**
8 **or through the use of an internet or network site in the state with the intent to deprive**
9 **the merchant of such merchandise or return it for payment of something of value in any**
10 **manner including, but not limited to, through the use of an internet or network site.**

11 **3. The offense of organized retail theft is a class C felony if the aggregated value**
12 **of the property involved in all thefts committed in the organized retail theft in this state**
13 **during a period of one hundred twenty days is no less than one thousand five hundred**
14 **dollars and no more than ten thousand dollars.**

15 **4. The offense of organized retail theft is a class B felony if the aggregated value**
16 **of the property or services involved in all thefts committed in the organized retail theft**
17 **in this state during a period of one hundred twenty days is more than ten thousand**
18 **dollars.**

19 **5. In any prosecution for a violation of this section, the violation shall be deemed**
20 **to have been committed and may be prosecuted in any jurisdiction in this state in which**
21 **any theft committed by any participant in the organized retail theft was committed**
22 **regardless of whether the defendant was ever physically present in such jurisdiction.**

Section B. Section 407.1700 of section A of this act shall become effective on
2 February 28, 2023.

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