

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 895 Session of 2021

INTRODUCED BY REGAN, MENSCH, YUDICHAK, LAUGHLIN, PITTMAN, MARTIN, AUMENT, YAW, SABATINA, BREWSTER, ROBINSON, STEFANO AND SCAVELLO, OCTOBER 18, 2021

SENATOR TOMLINSON, CONSUMER PROTECTION AND PROFESSIONAL LICENSURE, AS AMENDED, APRIL 13, 2022

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," providing for COLLECTION, VERIFICATION AND <--
7 disclosure of information by online marketplaces to inform
8 customers CONSUMERS. <--

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of December 17, 1968 (P.L.1224, No.387),
12 known as the Unfair Trade Practices and Consumer Protection Law,
13 is amended by adding a section to read:

14 ~~Section 9.4. Disclosure of Information by Online <--
15 Marketplaces to Inform Customers. (a) The following shall
16 apply:~~

17 ~~(1) An online marketplace shall require that a high volume
18 third party seller on the online marketplace provide the online
19 marketplace with all of the following information within twenty
20 four hours of becoming a high volume third party seller:~~

1 ~~(i) Accurate bank account information that has been~~  
2 ~~confirmed directly by the online marketplace, a payment~~  
3 ~~processor or other third party contracted by the online~~  
4 ~~marketplace. If the high volume third party seller does not have~~  
5 ~~a bank account, the name of the payee for payments issued by the~~  
6 ~~online marketplace to the high volume third party seller. The~~  
7 ~~high volume third party seller may provide the bank account or~~  
8 ~~payee information under this subclause to the online~~  
9 ~~marketplace, a payment processor or other third party contracted~~  
10 ~~by the online marketplace to maintain the information. The~~  
11 ~~online marketplace may obtain the bank account or payee~~  
12 ~~information under this subclause on demand from a payment~~  
13 ~~processor or other third party contracted by the online~~  
14 ~~marketplace.~~

15 ~~(ii) Contact information, including all of the following:~~

16 ~~(A) If the high volume third party seller is an individual,~~  
17 ~~a copy of a government issued photo identification for the~~  
18 ~~individual that includes the individual's name and physical~~  
19 ~~address.~~

20 ~~(B) If the high volume third party seller is not an~~  
21 ~~individual, all of the following:~~

22 ~~(I) A copy of a government issued photo identification for~~  
23 ~~an individual acting on behalf of the high volume third party~~  
24 ~~seller that includes the individual's name and physical address.~~

25 ~~(II) A copy of a government issued record or tax document~~  
26 ~~that includes the business name and physical address of the~~  
27 ~~high volume third party seller.~~

28 ~~(III) A working email address and working telephone number~~  
29 ~~for the high volume third party seller.~~

30 ~~(C) A business tax identification number. If the high volume~~

1 ~~third party seller does not have a business tax identification~~  
2 ~~number, a taxpayer identification number.~~

3 ~~(D) Whether the high volume third party seller is~~  
4 ~~exclusively advertising or offering the consumer product on the~~  
5 ~~online marketplace or currently advertising or offering for sale~~  
6 ~~the same consumer product on any other Internet websites other~~  
7 ~~than the online marketplace.~~

8 ~~(2) The online marketplace shall verify the information~~  
9 ~~provided by the high volume third party seller under clause (1)~~  
10 ~~and each change to the information within three days. If the~~  
11 ~~high volume third party seller provides a copy of a valid~~  
12 ~~government issued tax document under clause (1)(ii)(B)(II),~~  
13 ~~information contained within the tax document shall be presumed~~  
14 ~~to be verified as of the date of issuance of such record or~~  
15 ~~document.~~

16 ~~(3) The online marketplace shall, on at least an annual~~  
17 ~~basis, notify the high volume third party seller on the online~~  
18 ~~marketplace that the high volume third party seller must inform~~  
19 ~~the online marketplace of each change to the information~~  
20 ~~provided by the high volume third party seller under clause (1)~~  
21 ~~within three days of receiving the notice under this clause. As~~  
22 ~~part of the notice under this clause, the online marketplace~~  
23 ~~shall instruct the high volume third party seller to~~  
24 ~~electronically certify that the high volume third party seller's~~  
25 ~~information under clause (1) is unchanged or that the high~~  
26 ~~volume third party seller is providing a change to the~~  
27 ~~information. If the online marketplace becomes aware that the~~  
28 ~~high volume third party seller has not complied with the~~  
29 ~~provisions of this clause, the online marketplace shall suspend~~  
30 ~~the high volume third party seller's participation on the online~~

1 ~~marketplace until the high volume third party seller complies~~  
2 ~~with the provisions of this clause.~~

3 ~~(b) The following shall apply:~~

4 ~~(1) Except as provided under clause (2), an online~~  
5 ~~marketplace shall require a high volume third party seller on~~  
6 ~~the online marketplace to provide all of the following~~  
7 ~~information:~~

8 ~~(i) The identity of the high volume third party seller,~~  
9 ~~including all of the following information:~~

10 ~~(A) The full name of the high volume third party seller.~~

11 ~~(B) The full physical address of the high volume third party~~  
12 ~~seller.~~

13 ~~(C) Whether the high volume third party seller engages in~~  
14 ~~the manufacturing, importing or reselling of consumer products.~~

15 ~~(D) Contact information for the high volume third party~~  
16 ~~seller, including a functioning telephone number and email~~  
17 ~~address. The online marketplace may provide the functioning~~  
18 ~~email address to the high volume third party seller by the~~  
19 ~~online marketplace.~~

20 ~~(ii) Any other information determined to be necessary by the~~  
21 ~~online marketplace to address any potential circumvention or~~  
22 ~~evasion of the requirements under this clause.~~

23 ~~(2) Subject to clause (3), upon the request of the high~~  
24 ~~volume third party seller, the online marketplace may provide~~  
25 ~~for partial disclosure of the identity information required~~  
26 ~~under clause (1) in any of the following situations:~~

27 ~~(i) If the high volume third party seller demonstrates to~~  
28 ~~the online marketplace that the high volume third party seller~~  
29 ~~does not have a business address and only has a residential~~  
30 ~~street address, the online marketplace may:~~

1 ~~(A) direct the high volume third party seller to disclose~~  
2 ~~only the country and, if applicable, the state where the high~~  
3 ~~volume third party seller resides on the product listing; and~~

4 ~~(B) inform consumers that there is no business address~~  
5 ~~available for the high volume third party seller and that~~  
6 ~~consumer inquiries should be submitted to the high volume third~~  
7 ~~party seller by telephone or email.~~

8 ~~(ii) If the high volume third party seller demonstrates to~~  
9 ~~the online marketplace that the seller is a business that has a~~  
10 ~~physical address for product returns, the online marketplace may~~  
11 ~~direct the high volume third party seller to disclose the high~~  
12 ~~volume third party seller's physical address for product~~  
13 ~~returns.~~

14 ~~(iii) If the high volume third party seller demonstrates to~~  
15 ~~the online marketplace that the high volume third party seller~~  
16 ~~does not have a telephone number other than a personal telephone~~  
17 ~~number, the online marketplace shall inform consumers that there~~  
18 ~~is no telephone number available for the high volume third party~~  
19 ~~seller and that consumer inquiries should be submitted to the~~  
20 ~~high volume third party seller's email.~~

21 ~~(3) If an online marketplace becomes aware that a high~~  
22 ~~volume third party seller has made a false representation to the~~  
23 ~~online marketplace in order to justify the provision of a~~  
24 ~~partial disclosure under clause (2) or that a high volume third~~  
25 ~~party seller who has requested and received a provision for a~~  
26 ~~partial disclosure under clause (2) has not provided responsive~~  
27 ~~answers within a reasonable time period to consumer inquiries~~  
28 ~~submitted to the high volume third party seller by telephone or~~  
29 ~~email, the online marketplace shall withdraw the provision for~~  
30 ~~partial disclosure under clause (2) and require the full~~

1 ~~disclosure of the high volume third party seller's identity~~  
2 ~~information required under clause (1) within three business~~  
3 ~~days' notice to the high volume third party seller.~~

4 ~~(4) The online marketplace shall disclose to a consumer, in~~  
5 ~~a conspicuous manner on the product listing of the high volume~~  
6 ~~third party seller, a reporting mechanism that allows for~~  
7 ~~electronic and telephonic reporting of suspicious marketplace~~  
8 ~~activity to the online marketplace and a message encouraging~~  
9 ~~the consumer to report suspicious activity to the online~~  
10 ~~marketplace.~~

11 ~~(c) In addition to the requirements under subsection (b), an~~  
12 ~~online marketplace that warehouses, distributes or otherwise~~  
13 ~~fulfills a consumer product order shall disclose to the consumer~~  
14 ~~the identification of a high volume third party seller supplying~~  
15 ~~the consumer product if different than the seller listed on the~~  
16 ~~product listing page.~~

17 ~~(d) Violations of this section shall be declared unlawful~~  
18 ~~under section 3 of this act and shall be subject to the~~  
19 ~~penalties imposed under this act.~~

20 ~~(e) A political subdivision may not establish, mandate or~~  
21 ~~otherwise require an online marketplace to verify information~~  
22 ~~from a high volume third party seller on a one time or ongoing~~  
23 ~~basis or disclose information to consumers.~~

24 ~~(f) The Bureau of Consumer Protection within the Office of~~  
25 ~~Attorney General may promulgate regulations regarding the~~  
26 ~~collection and verification of information from high volume~~  
27 ~~third party sellers under subsections (a) and (b).~~

28 ~~(g) As used in this section:~~

29 ~~"Consumer product" means tangible personal property that is~~  
30 ~~distributed in commerce and is normally used for personal,~~

1 ~~family or household purposes, including tangible personal~~  
2 ~~property intended to be attached to or installed in real~~  
3 ~~property without regard to whether the tangible personal~~  
4 ~~property is attached or installed.~~

5 ~~"High volume third party seller" means a participant in an~~  
6 ~~online marketplace who is a third party seller and who, in any~~  
7 ~~continuous twelve month period during the previous twenty four~~  
8 ~~months, has entered into two hundred or more discrete sales or~~  
9 ~~transactions of new or unused consumer products resulting in the~~  
10 ~~accumulation of an aggregate total of five thousand dollars~~  
11 ~~(\$5,000) or more in gross revenues.~~

12 ~~"Online marketplace" means an electronically based or~~  
13 ~~accessed platform that hosts high volume third party sellers and~~  
14 ~~includes features which allow for, facilitate or enable high~~  
15 ~~volume third party sellers to engage in the sale, purchase,~~  
16 ~~payment, storage, shipping or delivery of a consumer product in~~  
17 ~~the United States.~~

18 ~~"Seller" means a person who sells, offers to sell or~~  
19 ~~contracts to sell a consumer product through an online~~  
20 ~~marketplace.~~

21 ~~"Third party seller" means a seller, independent of an~~  
22 ~~operator, facilitator or owner of an online marketplace, who~~  
23 ~~sells, offers to sell or contracts to sell a consumer product in~~  
24 ~~the United States through an online marketplace. The term shall~~  
25 ~~not include a seller who:~~

26 ~~(1) is operating as a business entity that has made the~~  
27 ~~business entity's name, business address and working contact~~  
28 ~~information available to the general public;~~

29 ~~(2) has an ongoing contractual relationship with the owner~~  
30 ~~of the online marketplace to provide for the manufacture,~~

~~1 distribution, wholesaling or fulfillment of the shipment of  
2 consumer products; and~~

~~3 (3) has provided verified information under subsection (a).~~

~~4 "Verify" means to confirm information provided to an online  
5 marketplace by the use of any of the following:~~

~~6 (1) A third party or proprietary identity verification  
7 system that has the capability to confirm a seller's name, email  
8 address, physical address and telephone number.~~

~~9 (2) A combination of a two factor authentication, a public  
10 records search and the presentation of a government issued  
11 identification.~~

12 SECTION 9.4. COLLECTION, VERIFICATION AND DISCLOSURE OF <--  
13 INFORMATION BY ONLINE MARKETPLACES TO INFORM CONSUMERS.-- (A) AN  
14 ONLINE MARKETPLACE SHALL REQUIRE THAT A HIGH-VOLUME THIRD-PARTY  
15 SELLER ON THE ONLINE MARKETPLACE'S PLATFORM PROVIDE THE ONLINE  
16 MARKETPLACE WITH THE FOLLOWING INFORMATION NOT LATER THAN TEN  
17 DAYS AFTER QUALIFYING AS A HIGH-VOLUME THIRD-PARTY SELLER ON THE  
18 PLATFORM:

19 (1) A BANK ACCOUNT NUMBER OR, IF THE HIGH-VOLUME THIRD-PARTY  
20 SELLER DOES NOT HAVE A BANK ACCOUNT, THE NAME OF THE PAYEE FOR  
21 PAYMENTS ISSUED BY THE ONLINE MARKETPLACE TO THE HIGH-VOLUME  
22 THIRD-PARTY SELLER. THE REQUIRED BANK ACCOUNT OR PAYEE  
23 INFORMATION SHALL BE PROVIDED BY THE HIGH-VOLUME THIRD-PARTY  
24 SELLER TO ANY OF THE FOLLOWING:

25 (I) THE ONLINE MARKETPLACE.

26 (II) A PAYMENT PROCESSOR OR OTHER THIRD PARTY CONTRACTED BY  
27 THE ONLINE MARKETPLACE TO MAINTAIN THE INFORMATION IF THE ONLINE  
28 MARKETPLACE ENSURES THAT THE ONLINE MARKETPLACE CAN OBTAIN THE  
29 INFORMATION ON DEMAND FROM THE PAYMENT PROCESSOR OR OTHER THIRD  
30 PARTY.



1 (2) CONTACT INFORMATION FOR THE HIGH-VOLUME THIRD-PARTY  
2 SELLERS AS FOLLOWS:

3 (I) IF THE HIGH-VOLUME THIRD-PARTY SELLER IS AN INDIVIDUAL,  
4 THE INDIVIDUAL'S NAME.

5 (II) IF THE HIGH-VOLUME THIRD-PARTY SELLER IS NOT AN  
6 INDIVIDUAL, ONE OF THE FOLLOWING FORMS OF CONTACT INFORMATION:

7 (A) A COPY OF A VALID GOVERNMENT-ISSUED IDENTIFICATION FOR  
8 AN INDIVIDUAL ACTING ON BEHALF OF THE HIGH-VOLUME THIRD-PARTY  
9 SELLER, INCLUDING THE INDIVIDUAL'S NAME.

10 (B) A COPY OF A VALID GOVERNMENT-ISSUED RECORD OR TAX  
11 DOCUMENT, INCLUDING THE BUSINESS NAME AND PHYSICAL ADDRESS OF  
12 THE HIGH-VOLUME THIRD-PARTY SELLER.

13 (III) A BUSINESS TAX IDENTIFICATION NUMBER OR, IF THE HIGH-  
14 VOLUME THIRD-PARTY SELLER DOES NOT HAVE A BUSINESS TAX  
15 IDENTIFICATION NUMBER, A TAXPAYER IDENTIFICATION NUMBER.

16 (IV) A CURRENT WORKING TELEPHONE NUMBER.

17 (V) A CURRENT WORKING EMAIL ADDRESS.

18 (B) AN ONLINE MARKETPLACE SHALL HAVE ALL OF THE FOLLOWING  
19 DUTIES:

20 (1) PERIODICALLY, BUT NOT LESS THAN ANNUALLY, ISSUE A  
21 WRITTEN OR ELECTRONIC NOTICE TO A HIGH-VOLUME THIRD-PARTY SELLER  
22 ON THE ONLINE MARKETPLACE'S PLATFORM OF THE REQUIREMENT TO KEEP  
23 THE INFORMATION COLLECTED UNDER SUBSECTION (A) CURRENT.

24 (2) REQUIRE A HIGH-VOLUME THIRD-PARTY SELLER ON THE ONLINE  
25 MARKETPLACE'S PLATFORM TO, NOT LATER THAN TEN DAYS AFTER  
26 RECEIVING THE NOTICE UNDER SUBSECTION (B) (1), SUBMIT ANY CHANGES  
27 TO THE INFORMATION UNDER SUBSECTION (A). CERTIFY THERE HAVE BEEN  
28 NO CHANGES TO THE INFORMATION REQUIRED UNDER SUBSECTION (A).

29 (C) IMMEDIATELY FOLLOWING THE TEN DAYS, IF A HIGH-VOLUME  
30 THIRD-PARTY SELLER DOES NOT COMPLY WITH SUBSECTION (B) (2), THE

1 ONLINE MARKETPLACE SHALL PROVIDE THE HIGH-VOLUME THIRD-PARTY  
2 SELLER WITH A SECOND WRITTEN OR AN ELECTRONIC NOTICE AND AN  
3 OPPORTUNITY TO COMPLY WITH SUBSECTION (B) (2).

4 (D) IF A HIGH-VOLUME THIRD-PARTY SELLER FAILS TO COMPLY  
5 WITHIN TEN DAYS AFTER THE ISSUANCE OF THE SECOND NOTICE, THE  
6 ONLINE MARKETPLACE SHALL SUSPEND THE FUTURE SALES ACTIVITY OF  
7 THE HIGH-VOLUME THIRD-PARTY SELLER UNTIL THE HIGH-VOLUME THIRD-  
8 PARTY SELLER COMPLIES WITH SUBSECTION (B) (2).

9 (E) AN ONLINE MARKETPLACE SHALL VERIFY ALL OF THE FOLLOWING:

10 (1) THE INFORMATION COLLECTED UNDER SUBSECTION (A) NOT LATER  
11 THAN TEN DAYS AFTER THE COLLECTION.

12 (2) A CHANGE TO THE INFORMATION UNDER SUBSECTION (A) NOT  
13 LATER THAN TEN DAYS AFTER BEING NOTIFIED OF THE CHANGE BY A  
14 HIGH-VOLUME THIRD PARTY SELLER UNDER SUBSECTION (B) (2).

15 (F) IF A HIGH-VOLUME THIRD-PARTY SELLER PROVIDES A COPY OF A  
16 VALID GOVERNMENT-ISSUED RECORD OR TAX DOCUMENT UNDER SUBSECTION  
17 (A) (2) (II) (B), THE INFORMATION CONTAINED IN THE RECORD OR TAX  
18 DOCUMENT SHALL BE PRESUMED TO BE VERIFIED AS OF THE DATE OF  
19 ISSUANCE OF THE RECORD OR TAX DOCUMENT.

20 (G) DATA COLLECTED SOLELY TO COMPLY WITH THE REQUIREMENTS OF  
21 THIS SECTION MAY NOT BE USED FOR ANY OTHER PURPOSE UNLESS  
22 REQUIRED BY FEDERAL OR STATE LAW. AN ONLINE MARKETPLACE SHALL  
23 IMPLEMENT AND MAINTAIN REASONABLE SECURITY PROCEDURES AND  
24 PRACTICES, INCLUDING ADMINISTRATIVE, PHYSICAL AND TECHNICAL  
25 SAFEGUARDS, APPROPRIATE TO THE NATURE OF THE DATA COLLECTED  
26 UNDER THIS SECTION AND THE PURPOSES FOR WHICH THE DATA WILL BE  
27 USED, TO PROTECT THE DATA FROM UNAUTHORIZED USE, DISCLOSURE,  
28 ACCESS, DESTRUCTION OR MODIFICATION.

29 (H) AN ONLINE MARKETPLACE SHALL REQUIRE A HIGH-VOLUME THIRD-  
30 PARTY SELLER THAT HAS AN AGGREGATE TOTAL OF TWENTY THOUSAND

1 DOLLARS (\$20,000) OR MORE IN ANNUAL GROSS REVENUES ON THE ONLINE  
2 MARKETPLACE AND USES THE ONLINE MARKETPLACE'S PLATFORM TO DO ALL  
3 OF THE FOLLOWING:

4 (1) PROVIDE THE INFORMATION SPECIFIED UNDER SUBSECTION (I)  
5 TO THE ONLINE MARKETPLACE.

6 (2) DISCLOSE THE INFORMATION SPECIFIED UNDER SUBSECTION (I)  
7 TO A CONSUMER IN A CONSPICUOUS MANNER IN ALL OF THE FOLLOWING:

8 (I) THE ORDER CONFIRMATION MESSAGE OR OTHER DOCUMENT OR  
9 COMMUNICATION MADE TO THE CONSUMER AFTER A PURCHASE IS  
10 FINALIZED.

11 (II) THE CONSUMER'S ACCOUNT TRANSACTION HISTORY.

12 (I) EXCEPT AS PROVIDED UNDER SUBSECTION (J), A HIGH-VOLUME  
13 THIRD-PARTY SELLER SPECIFIED UNDER SUBSECTION (H) SHALL PROVIDE  
14 AND DISCLOSE ALL OF THE FOLLOWING INFORMATION IN ACCORDANCE WITH  
15 SUBSECTION (H):

16 (1) THE IDENTITY OF THE HIGH-VOLUME THIRD-PARTY SELLER,  
17 INCLUDING THE FULL NAME OF THE HIGH-VOLUME THIRD-PARTY SELLER,  
18 WHICH MAY INCLUDE THE HIGH-VOLUME THIRD-PARTY SELLER'S NAME OR  
19 COMPANY NAME OR THE NAME BY WHICH THE HIGH-VOLUME THIRD-PARTY  
20 SELLER OR COMPANY OPERATES ON THE ONLINE MARKETPLACE.

21 (2) THE PHYSICAL ADDRESS OF THE HIGH-VOLUME THIRD-PARTY  
22 SELLER.

23 (3) THE CONTACT INFORMATION FOR THE HIGH-VOLUME THIRD-PARTY  
24 SELLER TO ALLOW FOR THE DIRECT, UNHINDERED COMMUNICATION WITH  
25 THE HIGH-VOLUME THIRD-PARTY SELLER BY A CONSUMER ON THE ONLINE  
26 MARKETPLACE, INCLUDING ANY OF THE FOLLOWING:

27 (I) A CURRENT WORKING TELEPHONE NUMBER.

28 (II) A CURRENT WORKING EMAIL ADDRESS.

29 (III) ANY OTHER MEANS OF DIRECT ELECTRONIC MESSAGING,  
30 INCLUDING MESSAGING PROVIDED BY THE ONLINE MARKETPLACE.

1       (4) WHETHER THE HIGH-VOLUME THIRD-PARTY SELLER USED A  
2 DIFFERENT SELLER THAN LISTED ON THE PRODUCT LISTING, PRIOR TO  
3 PURCHASE, TO SUPPLY A CONSUMER PRODUCT TO A CONSUMER AND UPON  
4 REQUEST, THE INFORMATION SPECIFIED UNDER CLAUSES (1), (2) AND  
5 (3) RELATING TO THE DIFFERENT SELLER.

6       (J) SUBJECT TO THE LIMITATIONS UNDER SUBSECTION (K), UPON  
7 THE REQUEST OF A HIGH-VOLUME THIRD-PARTY SELLER, AN ONLINE  
8 MARKETPLACE MAY PROVIDE FOR THE PARTIAL DISCLOSURE OF THE  
9 INFORMATION SPECIFIED UNDER SUBSECTION (I) (1), (2) AND (3) TO A  
10 CONSUMER IN ACCORDANCE WITH THE FOLLOWING:

11       (1) IF THE HIGH-VOLUME THIRD-PARTY SELLER CERTIFIES TO THE  
12 ONLINE MARKETPLACE THAT THE HIGH-VOLUME THIRD-PARTY SELLER DOES  
13 NOT HAVE A BUSINESS ADDRESS AND ONLY HAS A RESIDENTIAL STREET  
14 ADDRESS, OR HAS A COMBINED BUSINESS AND RESIDENTIAL ADDRESS, THE  
15 ONLINE MARKETPLACE MAY DO ANY OF THE FOLLOWING:

16       (I) DISCLOSE TO THE CONSUMER ONLY THE COUNTRY AND, IF  
17 APPLICABLE, THE STATE WHERE THE HIGH-VOLUME THIRD-PARTY SELLER  
18 RESIDES.

19       (II) INFORM THE CONSUMER THAT THERE IS NO BUSINESS ADDRESS  
20 AVAILABLE FOR THE HIGH-VOLUME THIRD-PARTY SELLER AND THAT  
21 CONSUMER INQUIRIES SHOULD BE SUBMITTED TO THE HIGH-VOLUME THIRD-  
22 PARTY SELLER BY TELEPHONE, EMAIL OR ANY OTHER MEANS OF  
23 ELECTRONIC MESSAGING PROVIDED TO THE HIGH-VOLUME THIRD-PARTY  
24 SELLER BY THE ONLINE MARKETPLACE.

25       (2) IF THE HIGH-VOLUME THIRD-PARTY SELLER CERTIFIES TO THE  
26 ONLINE MARKETPLACE THAT THE HIGH-VOLUME THIRD-PARTY SELLER IS A  
27 BUSINESS THAT HAS A PHYSICAL ADDRESS FOR PRODUCT RETURNS, THE  
28 ONLINE MARKETPLACE MAY DISCLOSE THE HIGH-VOLUME THIRD-PARTY  
29 SELLER'S PHYSICAL ADDRESS FOR PRODUCT RETURNS.

30       (3) IF THE HIGH-VOLUME THIRD-PARTY SELLER CERTIFIES TO THE

1 ONLINE MARKETPLACE THAT THE HIGH-VOLUME THIRD-PARTY SELLER DOES  
2 NOT HAVE A TELEPHONE NUMBER OTHER THAN A PERSONAL TELEPHONE  
3 NUMBER, THE ONLINE MARKETPLACE SHALL INFORM THE CONSUMER THAT  
4 THERE IS NO TELEPHONE NUMBER AVAILABLE FOR THE HIGH-VOLUME  
5 THIRD-PARTY SELLER AND CONSUMER INQUIRIES SHOULD BE SUBMITTED TO  
6 THE HIGH-VOLUME THIRD-PARTY SELLER'S EMAIL ADDRESS OR OTHER  
7 MEANS OF ELECTRONIC MESSAGING PROVIDED TO SUCH SELLER BY THE  
8 ONLINE MARKETPLACE.

9 (K) IF AN ONLINE MARKETPLACE BECOMES AWARE THAT A HIGH-  
10 VOLUME THIRD-PARTY SELLER HAS MADE A FALSE REPRESENTATION TO THE  
11 ONLINE MARKETPLACE TO JUSTIFY A PARTIAL DISCLOSURE UNDER  
12 SUBSECTION (J) OR THE HIGH-VOLUME THIRD-PARTY SELLER HAS  
13 REQUESTED AND RECEIVED AN AUTHORIZATION FOR A PARTIAL DISCLOSURE  
14 UNDER SUBSECTION (J) AND HAS NOT PROVIDED RESPONSIVE ANSWERS  
15 WITHIN A REASONABLE TIME FRAME TO A CONSUMER INQUIRY SUBMITTED  
16 TO THE HIGH-VOLUME THIRD-PARTY IN ACCORDANCE WITH SUBSECTION  
17 (I), THE ONLINE MARKETPLACE SHALL, AFTER PROVIDING THE HIGH-  
18 VOLUME THIRD-PARTY SELLER WITH A WRITTEN OR AN ELECTRONIC NOTICE  
19 AND AN OPPORTUNITY TO RESPOND NOT LATER THAN TEN DAYS AFTER THE  
20 ISSUANCE OF THE NOTICE, SUSPEND THE FUTURE SALES ACTIVITY OF THE  
21 HIGH-VOLUME THIRD-PARTY SELLER UNLESS THE HIGH-VOLUME THIRD-  
22 PARTY SELLER CONSENTS TO THE DISCLOSURE OF THE IDENTITY  
23 INFORMATION REQUIRED UNDER SUBSECTION (I) (1), (2) AND (3).

24 (L) AN ONLINE MARKETPLACE SHALL, IN A CLEAR AND CONSPICUOUS  
25 MANNER, DISCLOSE TO A CONSUMER ON EACH PRODUCT LISTING OF A  
26 HIGH-VOLUME THIRD-PARTY SELLER A REPORTING MECHANISM THAT ALLOWS  
27 FOR ELECTRONIC AND TELEPHONIC REPORTING OF SUSPICIOUS  
28 MARKETPLACE ACTIVITY TO THE ONLINE MARKETPLACE.

29 (M) IF A HIGH-VOLUME THIRD PARTY SELLER DOES NOT COMPLY WITH  
30 THE REQUIREMENTS TO PROVIDE AND DISCLOSE INFORMATION ON THE

1 PLATFORM UNDER THIS SECTION, THE ONLINE MARKETPLACE SHALL, AFTER  
2 PROVIDING THE HIGH-VOLUME THIRD-PARTY SELLER WITH A WRITTEN OR  
3 AN ELECTRONIC NOTICE AND AN OPPORTUNITY TO PROVIDE OR DISCLOSE  
4 THE INFORMATION NOT LATER THAN TEN DAYS AFTER THE ISSUANCE OF  
5 THE NOTICE, SUSPEND THE FUTURE SALES ACTIVITY OF THE HIGH-VOLUME  
6 THIRD-PARTY SELLER UNTIL THE HIGH-VOLUME THIRD-PARTY SELLER  
7 COMPLIES WITH THE REQUIREMENTS UNDER THIS SECTION.

8 (N) THIS SECTION SHALL NOT PREVENT AN ONLINE MARKETPLACE  
9 FROM PREVENTING FRAUD, ABUSE OR SPAM THROUGH ANY LEGAL CAPACITY  
10 ON THE ONLINE MARKETPLACE.

11 (O) THE ATTORNEY GENERAL SHALL ENFORCE THE PROVISIONS OF  
12 THIS SECTION. IN ADDITION TO THE RELIEF UNDER THIS ACT UNDER  
13 SECTIONS 4 AND 4.1, A CIVIL PENALTY OF UP TO \$1,000 MAY BE  
14 LEVIED AGAINST A PERSON OR ENTITY THAT VIOLATES A PROVISION OF  
15 THIS SECTION. A PENALTY MAY BE LEVIED FOR EACH VIOLATION.

16 (P) A POLITICAL SUBDIVISION SHALL NOT ESTABLISH, MANDATE OR  
17 OTHERWISE REQUIRE AN ONLINE MARKETPLACE TO COLLECT OR VERIFY  
18 INFORMATION FROM A HIGH-VOLUME THIRD-PARTY SELLER OR DISCLOSE  
19 INFORMATION TO A CONSUMER.

20 (Q) AS USED IN THIS SECTION:

21 "CONSUMER PRODUCT" MEANS AS THE TERM IS DEFINED UNDER 15  
22 U.S.C. § 2301(1).

23 "HIGH-VOLUME THIRD-PARTY SELLER" MEANS A PARTICIPANT IN AN  
24 ONLINE MARKETPLACE WHO IS A THIRD-PARTY SELLER AND WHO, FOR A  
25 CONTINUOUS PERIOD OF TWELVE MONTHS DURING THE PREVIOUS TWENTY-  
26 FOUR MONTHS, HAS ENTERED INTO AT LEAST TWO HUNDRED DISCRETE  
27 SALES OF NEW OR UNUSED CONSUMER PRODUCTS AND AN AGGREGATE TOTAL  
28 OF AT LEAST FIVE THOUSAND DOLLARS (\$5,000) GROSS REVENUES. FOR  
29 PURPOSES OF CALCULATING THE NUMBER OF DISCRETE SALES OR THE  
30 AGGREGATE GROSS REVENUES UNDER THIS DEFINITION, AN ONLINE

1 MARKETPLACE SHALL ONLY COUNT SALES MADE THROUGH THE ONLINE  
2 MARKETPLACE AND FOR WHICH PAYMENT WAS PROCESSED BY THE ONLINE  
3 MARKETPLACE DIRECTLY OR THROUGH THE ONLINE MARKETPLACE'S PAYMENT  
4 PROCESSOR.

5 "ONLINE MARKETPLACE" MEANS ANY PERSON OR ENTITY THAT OPERATES  
6 A CONSUMER-DIRECTED, ELECTRONICALLY BASED OR ACCESSED PLATFORM  
7 THAT:

8 (1) INCLUDES FEATURES THAT ALLOW FOR, FACILITATE OR ENABLE A  
9 THIRD-PARTY SELLER TO ENGAGE IN THE SALE, PURCHASE, PAYMENT,  
10 STORAGE, SHIPPING OR DELIVERY OF A CONSUMER PRODUCT IN THE  
11 UNITED STATES;

12 (2) IS USED BY A THIRD-PARTY SELLER; AND

13 (3) HAS A CONTRACTUAL OR SIMILAR RELATIONSHIP WITH A  
14 CONSUMER TO GOVERN THE CONSUMER'S USE OF THE PLATFORM TO  
15 PURCHASE A CONSUMER PRODUCT.

16 "SELLER" MEANS A PERSON WHO SELLS, OFFERS TO SELL OR  
17 CONTRACTS TO SELL A CONSUMER PRODUCT THROUGH AN ONLINE  
18 MARKETPLACE'S PLATFORM.

19 "THIRD-PARTY SELLER" MEANS A SELLER, INDEPENDENT OF AN ONLINE  
20 MARKETPLACE, WHO SELLS, OFFERS TO SELL OR CONTRACTS TO SELL A  
21 CONSUMER PRODUCT IN THE UNITED STATES THROUGH AN ONLINE  
22 MARKETPLACE. THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

23 (1) A SELLER WHO OPERATES AN ONLINE MARKETPLACE'S PLATFORM.

24 (2) A BUSINESS ENTITY THAT MEETS ALL OF THE FOLLOWING  
25 CRITERIA:

26 (I) THE BUSINESS ENTITY HAS MADE THE BUSINESS ENTITY'S NAME,  
27 BUSINESS ADDRESS AND CONTACT INFORMATION AVAILABLE TO THE  
28 PUBLIC.

29 (II) THE BUSINESS ENTITY HAS AN ONGOING CONTRACTUAL  
30 RELATIONSHIP WITH AN ONLINE MARKETPLACE TO PROVIDE THE ONLINE

1 MARKETPLACE WITH THE MANUFACTURING, DISTRIBUTION, WHOLESALING OR  
2 FULFILLMENT OF THE SHIPMENT OF A CONSUMER PRODUCT.

3 (III) THE BUSINESS ENTITY HAD PROVIDED THE INFORMATION  
4 DESCRIBED UNDER SUBSECTION (A) TO AN ONLINE MARKETPLACE, WHICH  
5 HAS BEEN VERIFIED IN ACCORDANCE WITH THIS SECTION.

6 "VERIFY" MEANS TO CONFIRM INFORMATION PROVIDED TO AN ONLINE  
7 MARKETPLACE UNDER THIS SECTION, INCLUDING THE USE OF A METHOD  
8 THAT ENABLES THE ONLINE MARKETPLACE TO RELIABLY DETERMINE THE  
9 VALIDITY OF THE INFORMATION CORRESPONDING TO A HIGH-VOLUME  
10 THIRD-PARTY SELLER OR AN INDIVIDUAL ACTING ON THE HIGH-VOLUME  
11 THIRD-PARTY SELLER'S BEHALF AND CONFIRM THE INFORMATION IS NOT  
12 MISAPPROPRIATED OR FALSIFIED.

13 Section 2. This act shall take effect in 180 days.