

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 disclosure of suppliers;
19 providing for enforcement; providing construction;
20 authorizing the Department of Legal Affairs to adopt
21 rules; preempting the regulation of the verification
22 and disclosure of such information to the department;
23 providing an effective date.

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

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

29 559.953 Disclosure of information by online marketplaces.—

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

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

34 (b) "High-volume third-party seller" means a participant
35 in an online marketplace that is a third-party seller and that,
36 in any continuous 12-month period during the previous 24 months,
37 has entered into 200 or more discrete sales or transactions of
38 new or unused consumer products resulting in the accumulation of
39 an aggregate total of \$5,000 or more in gross revenues. Only
40 sales or transactions made through the online marketplace for
41 which payment was processed by the online marketplace, directly
42 or through the online marketplace's payment processor, count
43 towards the calculation for the number of discrete sales or
44 transactions or the gross revenues.

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

47 1. Includes features that allow for, facilitate, or enable
48 third-party sellers to engage in the sale, purchase, payment,
49 storage, shipping, or delivery of a consumer product in the
50 United States;

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

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

56 (d) "Seller" means a person who sells, offers to sell, or
57 contracts to sell a consumer product through an online
58 marketplace.

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

64 1. A seller that operates the online marketplace;

65 2. A business entity that has made available to the
66 general public the entity's name, business address, and working
67 contact information;

68 3. A business entity with an ongoing contractual
69 relationship with the online marketplace to provide the online
70 marketplace with the manufacture, distribution, wholesaling, or
71 fulfillment of shipments of consumer products; or

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

74 (f) "Verify" means to confirm information and
75 documentation provided to an online marketplace by the use of

76 one or more methods that enable the online marketplace to
77 reliably determine that any information and documents provided
78 which correspond to the seller or an individual acting on the
79 seller's behalf are valid, not misappropriated, and not
80 falsified.

81 (2) VERIFICATION.—

82 (a) An online marketplace shall require that any high-
83 volume third-party seller on the online marketplace provide the
84 online marketplace with all of the following information within
85 10 days after qualifying as a high-volume third-party seller:

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

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

95 a. A valid e-mail address and working phone number.

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

98 c. If the high-volume third-party seller is not an
99 individual, a copy of a government-issued photo identification
100 for an individual acting on behalf of the seller which includes

101 the individual's name and physical address or a copy of a
102 government-issued record or tax document that includes the
103 business name and physical address of the high-volume third-
104 party seller.

105 3. A business tax identification number or, if the high-
106 volume third-party seller does not have a business tax
107 identification number, a taxpayer identification number.

108 (b) The online marketplace shall verify the information
109 the high-volume third-party seller provides under this
110 subsection within 10 days after receiving the information. If
111 the high-volume third-party seller provides any changes to the
112 information, the online marketplace must verify the changes
113 within 10 days after receiving the information. If a high-volume
114 third-party seller provides a copy of a valid government-issued
115 tax document, the information contained within the tax document
116 shall be presumed verified as of the date of issuance of the
117 document.

118 (c) The online marketplace shall, on at least an annual
119 basis, notify each high-volume third-party seller on the online
120 marketplace that the seller must inform the online marketplace
121 of any changes to the information previously provided by the
122 high-volume third-party seller within 10 days after receiving
123 the notification. The notification must require the high-volume
124 third-party seller to electronically certify that the high-
125 volume third-party seller's information is unchanged or provide

126 changes to the information as necessary. If the online
127 marketplace becomes aware that a high-volume third-party seller
128 has not certified that the information is unchanged or provided
129 the changed information within 10 days after receiving the
130 notification, the online marketplace must suspend the selling
131 privileges of the high-volume third-party seller until the high-
132 volume third-party seller provides the certification or changed
133 information.

134 (3) DISCLOSURE.—

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

142 1. The full name of the high-volume third-party seller,
143 which may include the seller's name or company name, or the name
144 by which the seller or company operates on the online
145 marketplace.

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

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

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

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

172 4. Whether the high-volume third-party seller uses a
173 different seller to supply the consumer product to the consumer
174 upon purchase. Upon the request of the consumer, the online
175 marketplace shall disclose the identification of a seller, if

176 the seller is different from the high-volume third-party seller
177 listed on the consumer product listing before the purchase.

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

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

195 (d) This subsection does not prevent an online marketplace
196 from providing any additional measures, electronic or otherwise,
197 that it deems necessary to prevent the sale of fraudulent,
198 stolen, or counterfeit consumer products on its platform.

199 (4) ENFORCEMENT.—A violation of this section constitutes a
200 violation of the Deceptive and Unfair Trade Practices Act under

201 part II of chapter 501. A person who violates this section is
 202 subject to the penalties and remedies provided therein.
 203 Notwithstanding s. 501.211, this section does not create a
 204 private cause of action in favor of any person damaged by a
 205 violation of this section.

206 (5) RULES.—The Department of Legal Affairs may adopt rules
 207 with respect to collecting and verifying information under this
 208 section, provided that the rules are limited to what is
 209 necessary to collect and verify the information.

210 (6) PREEMPTION.—The regulation of the requirement for
 211 online marketplaces to verify information from high-volume
 212 third-party sellers on a one-time or ongoing basis or disclose
 213 information to consumers is preempted to the department. A local
 214 governmental entity may not establish, mandate, or otherwise
 215 require the verification or disclosure of such information.

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