

By Senator Baxley

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

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27       Section 1. Section 559.953, Florida Statutes, is created to  
28       read:

29       559.953 Disclosure of information by online marketplaces.-

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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 in  
35 an online marketplace that is a third-party seller and that, in  
36 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, either  
42 directly or through the seller'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 consumers  
54 governing their use of the platform to purchase consumer  
55 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.

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

- 65 1. A seller that operates the online marketplace;  
66 2. A business entity that has made available to the general  
67 public the entity's name, business address, and working contact  
68 information;  
69 3. A business entity with an ongoing contractual  
70 relationship with the online marketplace to provide the online  
71 marketplace with the manufacture, distribution, wholesaling, or  
72 fulfillment of shipments of consumer products; or  
73 4. A business entity that has provided to the online  
74 marketplace identifying information that has been verified.

75 (f) "Verify" means to confirm information and documentation  
76 provided to an online marketplace by the use of one or more  
77 methods that enable the online marketplace to reliably determine  
78 that any information and documents provided which correspond to  
79 the seller or an individual acting on the seller's behalf are  
80 valid, not misappropriated, and not 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 business days after qualifying as a high-volume third-party  
86 seller:

- 87 1. Deposit account information from a financial

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

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

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

97 b. If the high-volume third-party seller is an individual,  
98 a copy of a valid government-issued photo identification for the  
99 individual which includes the individual's name and physical  
100 address.

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 business days after receiving such information. If the  
114 high-volume third-party seller provides any changes to the  
115 information, the online marketplace must verify such changes  
116 within 10 business days after receiving the information. If a

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117 high-volume third-party seller provides a copy of a valid  
118 government-issued tax document, the information contained within  
119 such tax document shall be presumed verified as of the date of  
120 issuance of such 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 business days after receiving the notification.  
126 The notification must require the high-volume third-party seller  
127 to either electronically certify that the high-volume third-  
128 party seller's information is unchanged or provide changes to  
129 the 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 business days after receiving such  
133 notification, the online marketplace must suspend the selling  
134 privileges of the high-volume third-party seller until such  
135 seller provides such certification or changed information.

136 (3) DISCLOSURE.—

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

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146 1. The full name of the high-volume third-party seller.

147 2. The full physical address of the high-volume third-party  
148 seller. If the full physical address of the high-volume third-  
149 party seller is the primary residential address of such high-  
150 volume third-party seller, only the city, state, and country of  
151 the high-volume third-party seller is required to be disclosed.

152 3. Contact information for the high-volume third-party  
153 seller, including a working telephone number and working e-mail  
154 address to allow for direct, unhindered communication with the  
155 high-volume third-party seller. If the only telephone number of  
156 the high-volume third-party seller is the personal telephone  
157 number of the high-volume third-party seller, then only the  
158 working e-mail address is required to be disclosed or the online  
159 marketplace must provide other means of electronic messaging to  
160 contact such seller.

161 4. The identification of any seller that supplies the  
162 consumer product to the consumer upon purchase, if such seller  
163 is different than the high-volume third-party seller listed on  
164 the consumer product listing before the purchase.

165 (b) If an online marketplace becomes aware that a high-  
166 volume third-party seller has made a false representation to the  
167 online marketplace in order to restrict access to the full  
168 physical address, telephone number, or e-mail address required  
169 in paragraph (a), the online marketplace must, after providing  
170 the seller with written or electronic notice, require the full  
171 disclosure of the high-volume third-party seller's full physical  
172 address, telephone number, and e-mail address. If such  
173 information is not disclosed within 10 business days after  
174 notification, the online marketplace must suspend the selling

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175 privileges of the high-volume third-party seller on the online  
176 marketplace until the required information is disclosed.

177 (c) An online marketplace shall provide to consumers, in a  
178 conspicuous manner on the consumer product listing of any high-  
179 volume third-party seller, a reporting mechanism that allows for  
180 electronic and telephonic reporting of suspicious marketplace  
181 activity to the online marketplace and a message encouraging  
182 individuals seeking goods for purchase to report suspicious  
183 activity to the online marketplace.

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

188 (4) ENFORCEMENT.—A violation of this section constitutes a  
189 violation of the Deceptive and Unfair Trade Practices Act under  
190 part II of chapter 501. A person who violates this section is  
191 subject to the penalties and remedies provided therein.

192 (5) RULES.—The Department of Legal Affairs may adopt rules  
193 with respect to collecting and verifying information under this  
194 section, provided that such rules are limited to what is  
195 necessary to collect and verify such information.

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

202 Section 2. This act shall take effect July 1, 2022.