

116TH CONGRESS
2D SESSION

S. 3431

To require online marketplaces to disclose certain verified information regarding high-volume third party sellers of consumer products to inform consumers.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2020

Mr. CASSIDY (for himself, Mr. DURBIN, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require online marketplaces to disclose certain verified information regarding high-volume third party sellers of consumer products to inform consumers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Integrity, Notification,
5 and Fairness in Online Retail Marketplaces for Con-
6 sumers Act” or the “INFORM Consumers Act”.

1 **SEC. 2. DISCLOSURE OF INFORMATION BY ONLINE MAR-**
 2 **KETPLACES TO INFORM CONSUMERS.**

3 (a) VERIFICATION REQUIRED.—Any online market-
 4 place shall verify, on an annual basis, the identity of any
 5 high-volume third party seller on the online marketplace
 6 by requiring the high-volume third party seller to provide,
 7 on at least an annual basis, the following information:

8 (1) Verified bank account information.

9 (2) A government-issued photo identification for
 10 an individual representing the high-volume third
 11 party seller.

12 (3) A government-issued record verifying the in-
 13 dividual or business contact information.

14 (4) A business tax identification number.

15 (b) INFORMATION REQUIRED.—

16 (1) IN GENERAL.—Any online marketplace shall
 17 require a high-volume third party seller on the on-
 18 line marketplace to provide, and shall disclose to
 19 consumers in a conspicuous manner on the product
 20 listing or through a conspicuously placed link on the
 21 product listing, the following information:

22 (A) Subject to paragraph (2), the identity
 23 of the high-volume third party seller which shall
 24 include—

25 (i) the full name of the seller;

1 (ii) the full business address of the
2 seller;

3 (iii) whether the seller engages in the
4 manufacturing, importing, retail, or resell-
5 ing of consumer products; and

6 (iv) contact information for the seller,
7 including a phone number and working
8 email address.

9 (B) Contact information that allows for re-
10 porting of suspicious marketplace activity to the
11 online marketplace and a message encouraging
12 individuals seeking goods for purchase to report
13 suspicious activity to the online marketplace.

14 (C) Any other information that the Com-
15 mission determines to be necessary to address
16 circumvention or evasion of the requirements of
17 this paragraph, provided that the additional in-
18 formation is limited to what is necessary to ad-
19 dress such circumvention or evasion.

20 (2) EXCEPTION.—

21 (A) IN GENERAL.—Subject to subpara-
22 graph (B), upon the request of a high-volume
23 third party seller, an online marketplace may
24 provide for partial disclosure of the identity in-

1 formation required under paragraph (1)(A) in
2 the following situations:

3 (i) If the high-volume third party sell-
4 er demonstrates to the online marketplace
5 that the seller does not have a business ad-
6 dress and only has a personal street ad-
7 dress, the online marketplace may direct
8 the high-volume third-party seller to dis-
9 close only the country and, if applicable,
10 the State in which the high-volume third-
11 party seller resides on the product listing,
12 and may inform consumers that there is no
13 business address available for the seller
14 and that consumer inquiries should be sub-
15 mitted to the seller's email address.

16 (ii) If a high-volume third party seller
17 demonstrates to the online marketplace
18 that the seller does not have a phone num-
19 ber other than a personal phone number,
20 the online marketplace may inform con-
21 sumers that there is no phone number
22 available for the seller and that consumer
23 inquiries should be submitted to the sell-
24 er's email address.

1 (B) LIMITATION ON EXCEPTION.—If an
2 online marketplace becomes aware that a high-
3 volume third party seller has made a false rep-
4 resentation to the online marketplace in order
5 to justify the provision of a partial disclosure
6 under subparagraph (A) or that a high-volume
7 third party seller who has requested and re-
8 ceived a provision for a partial disclosure under
9 subparagraph (A) has not provided responsive
10 answers within a reasonable timeframe to con-
11 sumer inquiries submitted to the seller’s email
12 address, the online marketplace shall withdraw
13 its provision for partial disclosure and require
14 the full disclosure of the high-volume third
15 party seller’s identity information required
16 under paragraph (1)(A) upon three business
17 days’ notice to the high-volume third party sell-
18 er.

19 (c) FULFILLMENT OR SHIPMENT BY DIFFERENT
20 PARTY THAN SELLER.—In addition to the requirements
21 of subsection (b), an online marketplace that warehouses,
22 distributes, or otherwise fulfills a consumer product order
23 shall disclose to the consumer the identification of any
24 high-volume third party seller supplying the consumer

1 product if different than the seller listed on the product
2 listing page.

3 (d) ENFORCEMENT.—

4 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
5 TICES.—A violation of subsection (a), (b), or (c)
6 shall be treated as a violation of a rule defining an
7 unfair or deceptive act or practice prescribed under
8 section 18(a)(1)(B) of the Federal Trade Commis-
9 sion Act (15 U.S.C. 57a(a)(1)(B)).

10 (2) POWERS OF THE COMMISSION.—

11 (A) IN GENERAL.—The Commission shall
12 enforce this Act in the same manner, by the
13 same means, and with the same jurisdiction,
14 powers, and duties as though all applicable
15 terms and provisions of the Federal Trade
16 Commission Act (15 U.S.C. 41 et seq.) were in-
17 corporated into and made a part of this Act.

18 (B) PRIVILEGES AND IMMUNITIES.—Any
19 person that violates subsection (a), (b), or (c)
20 shall be subject to the penalties, and entitled to
21 the privileges and immunities, provided in the
22 Federal Trade Commission Act (15 U.S.C. 41
23 et seq.).

24 (3) REGULATIONS.—The Federal Trade Com-
25 mission may promulgate regulations under section

1 553 of title 5, United States Code, as necessary with
2 respect to collecting and verifying information under
3 this section.

4 (4) AUTHORITY PRESERVED.—Nothing in this
5 Act shall be construed to limit the authority of the
6 Commission under any other provision of law.

7 (e) DEFINITIONS.—In this Act:

8 (1) COMMISSION.—The term “Commission”
9 means the Federal Trade Commission.

10 (2) CONSUMER PRODUCT.—The term “con-
11 sumer product” means any tangible personal prop-
12 erty which is distributed in commerce and which is
13 normally used for personal, family, or household
14 purposes (including any such property intended to
15 be attached to or installed in any real property with-
16 out regard to whether it is so attached or installed).

17 (3) HIGH-VOLUME THIRD PARTY SELLER.—The
18 term “high-volume third party seller” means a user
19 of an online marketplace who is a third party seller
20 and who, in any continuous 12-month period during
21 the previous 24 months, has entered into 200 or
22 more discrete sales or transactions of new or unused
23 consumer products resulting in the accumulation of
24 an aggregate total of \$5,000 or more in gross reve-
25 nues.

1 (4) ONLINE MARKETPLACE.—The term “online
2 marketplace” means any electronically based or
3 accessed platform that—

4 (A) includes features that allow for, facili-
5 tate, or enable third party sellers to engage in
6 the sale, purchase, payment, storage, shipping,
7 or delivery of a consumer product in the United
8 States; and

9 (B) hosts one or more third party sellers.

10 (5) SELLER.—The term “seller” means a per-
11 son who sells, offers to sell, or contracts to sell a
12 consumer product through an online marketplace.

13 (6) THIRD PARTY SELLER.—

14 (A) IN GENERAL.—The term “third party
15 seller” means any seller, independent of an op-
16 erator, facilitator, or owner of an online mar-
17 ketplace, who sells, offers to sell, or contracts to
18 sell a consumer product in the United States
19 through an online marketplace.

20 (B) EXCLUSION.—The term “third party
21 seller” does not include a seller who—

22 (i) is a business entity that has made
23 available to the general public the entity’s
24 name, business address, and working con-
25 tact information;

(ii) has an ongoing contractual relationship with the owner of the online marketplace to provide for the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and

(iii) has provided to the owner of the online marketplace identifying information, as described in subsection (a), that has been verified by the owner.

(7) VERIFY.—The term “verify” means to confirm a marketplace seller’s personal identifiable information by the use of an approved third party identity verification system that has the capability to confirm a seller’s name, email address, physical address, and phone number, or through the use of a combination of two-factor authentication, public records search, and the presentation of a government-issued identification.

SEC. 3. OTHER AUTHORITIES.

Nothing in this Act shall be construed to limit or otherwise affect any other Federal authority, rule, regulation, or standard that applies to consumer products, including the provisions of section 230 of the Communications Act of 1934 (47 U.S.C. 230) as such provisions apply to an online marketplace.

1 **SEC. 4. EFFECTIVE DATE.**

2 This Act shall take effect 180 days after the date of
3 the enactment of this Act.

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