
SENATE BILL 5062

State of Washington

68th Legislature

2023 Regular Session

By Senators Lovick, Kuderer, King, Salomon, and Short

Prefiled 12/16/22.

1 AN ACT Relating to online marketplace consumer protection caused
2 by organized retail crime; adding a new chapter to Title 19 RCW; and
3 declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
6 require online marketplaces to verify certain information regarding
7 high-volume third-party sellers of consumer products. It is also the
8 intent of the legislature for online marketplaces to be transparent
9 about the consumer products they sell and to disclose to consumers
10 contact and other information concerning third-party sellers.

11 NEW SECTION. **Sec. 2.** (1) **Collection.** An online marketplace
12 shall require any high-volume third-party seller on such online
13 marketplace's platform to provide, not later than 10 days after
14 qualifying as a high-volume third-party seller on the platform, the
15 following information to the online marketplace:

16 (a) A bank account number, or, if such seller does not have a
17 bank account, the name of the payee for payments issued by the online
18 marketplace to such seller. The bank account or payee information
19 required under this subsection may be provided by the seller in the
20 following ways:

1 (i) To the online marketplace; or
2 (ii) To a payment processor or other third party contracted by
3 the online marketplace to maintain such information, provided that
4 the online marketplace ensures that it can obtain such information on
5 demand from such payment processor or other third party;
6 (b) Contact information for such seller as follows:
7 (i) With respect to a high-volume third-party seller that is an
8 individual, the individual's name; or
9 (ii) With respect to a high-volume third-party seller that is not
10 an individual, one of the following forms of contact information:
11 (A) A copy of a valid government-issued identification for an
12 individual acting on behalf of such seller that includes the
13 individual's name; or
14 (B) A copy of a valid government-issued record or tax document
15 that includes the business name and physical address of such seller;
16 (c) A business tax identification number, or, if such seller does
17 not have a business tax identification number, a taxpayer
18 identification number; and
19 (d) A current working email address and phone number for such
20 seller.
21 (2) **Notification of change and annual certification.** An online
22 marketplace shall:
23 (a) Periodically, but not less than annually, notify any high-
24 volume third-party seller on such online marketplace's platform of
25 the requirement to keep any information collected under subsection
26 (1) of this section current; and
27 (b) Require any high-volume third-party seller on such online
28 marketplace's platform to, not later than 10 days after receiving
29 notice under (a) of this subsection, electronically certify that:
30 (i) The seller has provided any changes to such information to
31 the online marketplace, if any such changes have occurred;
32 (ii) There have been no changes to such seller's information; or
33 (iii) Such seller has provided any changes to such information to
34 the online marketplace.
35 (3) **Suspension.** In the event that a high-volume third-party
36 seller does not provide the information or certification required
37 under this section, the online marketplace shall, after providing the
38 seller with written or electronic notice and an opportunity to
39 provide such information or certification not later than 10 days
40 after the issuance of such notice, suspend any future sales activity

1 of such seller until such seller provides such information or
2 certification.

3 (4) **Verification.** An online marketplace shall:

4 (a) Verify the information collected under subsection (1) of this
5 section not later than 10 days after such collection; and

6 (b) Verify any change to such information not later than 10 days
7 after being notified of such change by a high-volume third-party
8 seller under subsection (2) of this section.

9 (5) **Presumption of verification.** In the case of a high-volume
10 third-party seller that provides a copy of a valid government-issued
11 tax document, any information contained in such document shall be
12 presumed to be verified as of the date of issuance of such document.

13 (6) **Data use limitation.** Data collected solely to comply with the
14 requirements of this section may not be used for any other purpose
15 unless required by law.

16 (7) **Data security requirement.** An online marketplace shall
17 implement and maintain reasonable security procedures and practices,
18 including administrative, physical, and technical safeguards,
19 appropriate to the nature of the data and the purposes for which the
20 data will be used, to protect the data collected to comply with the
21 requirements of this section from unauthorized use, disclosure,
22 access, destruction, or modification.

23 (8) **Disclosure required.** An online marketplace shall:

24 (a) Require any high-volume third-party seller with an aggregate
25 total of \$20,000 or more in annual gross revenues on such online
26 marketplace, and that uses such online marketplace's platform, to
27 provide the information described in subsection (9) of this section
28 to the online marketplace; and

29 (b) Disclose the information described in subsection (9) of this
30 section to consumers in a clear and conspicuous manner:

31 (i) In the order confirmation message or other document or
32 communication made to a consumer after a purchase is finalized; and

33 (ii) In the consumer's account transaction history.

34 (9) **Information described.** The information described in this
35 subsection is the following:

36 (a) Subject to subsection (10) of this section, the identity of
37 the high-volume third-party seller, including:

38 (i) The full name of the seller, which may include the seller
39 name or seller's company name, or the name by which the seller or
40 company operates on the online marketplace;

1 (ii) The physical address of the seller; and
2 (iii) Contact information for the seller, to allow for the
3 direct, unhindered communication with high-volume third-party sellers
4 by users of the online marketplace, including:

5 (A) A current working phone number;

6 (B) A current working email address; or

7 (C) Other means of direct electronic messaging, which may be
8 provided to such seller by the online marketplace; and

9 (b) Whether the high-volume third-party seller used a different
10 seller to supply the consumer product to the consumer upon purchase,
11 and, upon the request of an authenticated purchaser, the information
12 described in (a) of this subsection relating to any such seller that
13 supplied the consumer product to the purchaser, if such seller is
14 different than the high-volume third-party seller listed on the
15 product listing prior to purchase.

16 (10) **Exception.** Subject to subsection (9) of this section, upon
17 the request of a high-volume third-party seller, an online
18 marketplace may provide for partial disclosure of the identity
19 information required under subsection (9)(a) of this section in the
20 following situations:

21 (a) If such seller certifies to the online marketplace that the
22 seller does not have a business address and only has a residential
23 street address, or has a combined business and residential address,
24 the online marketplace may:

25 (i) Disclose only the country and, if applicable, the state in
26 which such seller resides; and

27 (ii) Inform consumers that there is no business address available
28 for the seller and that consumer inquiries should be submitted to the
29 seller by phone, email, or other means of electronic messaging
30 provided to such seller by the online marketplace;

31 (b) If such seller certifies to the online marketplace that the
32 seller is a business that has a physical address for product returns,
33 the online marketplace may disclose the seller's physical address for
34 product returns; or

35 (c) If such seller certifies to the online marketplace that the
36 seller does not have a phone number other than a personal phone
37 number, the online marketplace shall inform consumers that there is
38 no phone number available for the seller and that consumer inquiries
39 should be submitted to the seller's email address or other means of

1 electronic messaging provided to such seller by the online
2 marketplace.

3 (11) **Limitation on exception.** If an online marketplace becomes
4 aware that a high-volume third-party seller has made a false
5 representation to the online marketplace in order to justify the
6 provision of a partial disclosure under subsection (10) of this
7 section or that a high-volume third-party seller who has requested
8 and received a provision for a partial disclosure under subsection
9 (10) of this section has not provided responsive answers within a
10 reasonable time frame to consumer inquiries submitted to the seller
11 by phone, email, or other means of electronic messaging provided to
12 such seller by the online marketplace, the online marketplace shall,
13 after providing the seller with written or electronic notice and an
14 opportunity to respond not later than 10 days after the issuance of
15 such notice, suspend any future sales activity of such seller unless
16 such seller consents to the disclosure of the identity information
17 required under subsection (9)(a) of this section.

18 (12) **Reporting mechanism.** An online marketplace shall disclose to
19 consumers in a clear and conspicuous manner on the product listing of
20 any high-volume third-party seller a reporting mechanism that allows
21 for electronic and telephonic reporting of suspicious marketplace
22 activity to the online marketplace.

23 (13) **Compliance.** If a high-volume third-party seller does not
24 comply with the requirements to provide and disclose information
25 under this section, the online marketplace shall, after providing the
26 seller with written or electronic notice and an opportunity to
27 provide or disclose such information not later than 10 days after the
28 issuance of such notice, suspend any future sales activity of such
29 seller until the seller complies with such requirements.

30 (14)(a) **Enforcement.** A violation of subsections (1) through (13)
31 of this section constitutes an unfair or deceptive act or practice
32 and shall be treated as a violation of the consumer protection act,
33 chapter 19.86 RCW.

34 (b) The attorney general shall have sole authority for the
35 enforcement of this act.

36 (c) The state consumer protection division of the attorney
37 general's office may promulgate regulations with respect to
38 collecting and verifying information under this section, provided
39 that such regulations are limited to what is necessary to collect and
40 verify such information.

1 (15) **Preemption.** No political subdivision may establish, mandate,
2 or otherwise require online marketplaces to verify information from
3 high-volume third-party sellers on a one-time or ongoing basis or
4 disclose information to consumers.

5 (16)(a) **Actions by other state officials.** In addition to civil
6 actions brought by the attorney general under subsection (14) of this
7 section, any other officer of the state who is authorized by the
8 state to do so, except for any private person on behalf of the
9 attorney general, may bring a civil action under subsection (14) of
10 this section, subject to the same requirements and limitations that
11 apply under this subsection to civil actions brought by the attorney
12 general.

13 (b) Nothing in this subsection may be construed to prohibit an
14 authorized official of the state from initiating or continuing any
15 proceeding in a court of the state for a violation of any civil or
16 criminal law of the state.

17 (17) **Definitions.** The definitions in this subsection apply
18 throughout this section unless the context clearly requires
19 otherwise.

20 (a) "Consumer product" means any tangible personal property which
21 is distributed in commerce and which is normally used for personal,
22 family, or household purposes, including any such property intended
23 to be attached to, or installed in, any real property without regard
24 to whether it is so attached or installed.

25 (b)(i) "High-volume third-party seller" means a participant on an
26 online marketplace's platform who is a third-party seller and who, in
27 any continuous 12-month period during the previous 24 months, has
28 entered into 200 or more discrete sales or transactions of new or
29 unused consumer products and an aggregate total of \$5,000 or more in
30 gross revenues.

31 (ii) For purposes of calculating the number of discrete sales or
32 transactions or the aggregate gross revenues under (b)(i) of this
33 subsection, an online marketplace shall only be required to count
34 sales or transactions made through the online marketplace and for
35 which payment was processed by the online marketplace, either
36 directly or through its payment processor.

37 (c) "Online marketplace" means any person or entity that operates
38 a consumer-directed electronically based or accessed platform that:

39 (i) Includes features that allow for, facilitate, or enable
40 third-party sellers to engage in the sale, purchase, payment,

1 storage, shipping, or delivery of a consumer product in the United
2 States;

3 (ii) Is used by one or more third-party sellers for such
4 purposes; and

5 (iii) Has a contractual or similar relationship with consumers
6 governing their use of the platform to purchase consumer products.

7 (d) "Seller" means a person who sells, offers to sell, or
8 contracts to sell a consumer product through an online marketplace's
9 platform.

10 (e) "Third-party seller" means any seller, independent of an
11 online marketplace, who sells, offers to sell, or contracts to sell a
12 consumer product in the United States through such online
13 marketplace's platform. "Third-party seller" does not include, with
14 respect to an online marketplace:

15 (i) A seller who operates the online marketplace's platform; or

16 (ii) A business entity that has:

17 (A) Made available to the general public the entity's name,
18 business address, and working contact information;

19 (B) An ongoing contractual relationship with the online
20 marketplace to provide the online marketplace with the manufacture,
21 distribution, wholesaling, or fulfillment of shipments of consumer
22 products; and

23 (C) Provided to the online marketplace identifying information,
24 as described in subsections (1) through (7) of this section, that has
25 been verified in accordance with subsections (1) through (7) of this
26 section.

27 (f) "Verify" means to confirm information provided to an online
28 marketplace pursuant to this section, which may include the use of
29 one or more methods that enable the online marketplace to reliably
30 determine that any information and documents provided are valid,
31 corresponding to the seller or an individual acting on the seller's
32 behalf, not misappropriated, and not falsified.

33 NEW SECTION. **Sec. 3.** If any provision of this act or its
34 application to any person or circumstance is held invalid, the
35 remainder of the act or the application of the provision to other
36 persons or circumstances is not affected.

37 NEW SECTION. **Sec. 4.** This act is necessary for the immediate
38 preservation of the public peace, health, or safety, or support of

1 the state government and its existing public institutions, and takes
2 effect immediately.

3 NEW SECTION. **Sec. 5.** Sections 1, 2, and 4 of this act
4 constitute a new chapter in Title 19 RCW.

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