

## AMENDMENTS TO HOUSE BILL NO. 1594

Sponsor: REPRESENTATIVE SANKEY

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1 Amend Bill, page 1, lines 6 and 7, by striking out  
2 "disclosure of information by online marketplaces to inform  
3 customers" and inserting  
4 collection, verification and disclosure of information by  
5 online marketplaces to inform consumers  
6 Amend Bill, page 1, lines 13 through 20; pages 2 through 7,  
7 lines 1 through 30; page 8, lines 1 through 10; by striking out  
8 all of said lines on said pages and inserting

9 Section 9.4. Collection, Verification and Disclosure of  
10 Information by Online Marketplaces to Inform Consumers.--(a) An  
11 online marketplace shall require that a high-volume third-party  
12 seller on the online marketplace's platform provide the online  
13 marketplace with the following information not later than ten  
14 days after qualifying as a high-volume third-party seller on the  
15 platform:

16 (1) A bank account number or, if the high-volume third-party  
17 seller does not have a bank account, the name of the payee for  
18 payments issued by the online marketplace to the high-volume  
19 third-party seller. The required bank account or payee  
20 information may be provided by the high-volume third-party  
21 seller to any of the following:

22 (i) The online marketplace.

23 (ii) A payment processor or other third party contracted by  
24 the online marketplace to maintain the information if the online  
25 marketplace ensures that the online marketplace can obtain the  
26 information on demand from the payment processor or other third  
27 party.

28 (2) Contact information for the high-volume third-party  
29 sellers as follows:

30 (i) If the high-volume third-party seller is an individual,  
31 the individual's name.

32 (ii) If the high-volume third-party seller is not an  
33 individual, one of the following forms of contact information:

34 (A) A copy of a valid government-issued identification for

1 an individual acting on behalf of the high-volume third-party  
2 seller, including the individual's name.

3 (B) A copy of a valid government-issued record or tax  
4 document, including the business name and physical address of  
5 the high-volume third-party seller.

6 (iii) A business tax identification number or, if the high-  
7 volume third-party seller does not have a business tax  
8 identification number, a taxpayer identification number.

9 (iv) A current working telephone number.

10 (v) A current working email address.

11 (b) An online marketplace shall have all of the following  
12 duties:

13 (1) Periodically, but not less than annually, notify a high-  
14 volume third-party seller on the online marketplace's platform  
15 of the requirement to keep the information collected under  
16 subsection (a) current.

17 (2) Require a high-volume third-party seller on the online  
18 marketplace's platform to, not later than ten days after  
19 receiving the notice under clause (1), electronically certify  
20 any of the following:

21 (i) The high-volume third-party seller has provided a change  
22 to the information under subsection (a) to the online  
23 marketplace.

24 (ii) There have been no changes to the high-volume third-  
25 party seller's information under subsection (a).

26 (c) If a high-volume third-party seller does not comply with  
27 subsection (b), the online marketplace shall, after providing  
28 the high-volume third-party seller with a written or an  
29 electronic notice and an opportunity to comply with subsection  
30 (b) not later than ten days after the issuance of the notice,  
31 suspend the future sales activity of the high-volume third-party  
32 seller until the high-volume third-party seller complies with  
33 subsection (b).

34 (d) An online marketplace shall verify all of the following:

35 (1) The information collected under subsection (a) not later  
36 than ten days after the collection.

37 (2) A change to the information under subsection (a) not  
38 later than ten days after being notified of the change by a  
39 high-volume third party seller under subsection (b) (2) (i).

40 (e) If a high-volume third-party seller provides a copy of a  
41 valid government-issued record or tax document under subsection  
42 (a) (2) (ii) (B), the information contained in the record or tax  
43 document shall be presumed to be verified as of the date of  
44 issuance of the record or tax document.

45 (f) Data collected solely to comply with the requirements of  
46 this section may not be used for any other purpose unless  
47 required by Federal or State law. An online marketplace shall  
48 implement and maintain reasonable security procedures and  
49 practices, including administrative, physical and technical  
50 safeguards, appropriate to the nature of the data collected  
51 under this section and the purposes for which the data will be

1 used, to protect the data from unauthorized use, disclosure,  
2 access, destruction or modification.

3 (g) An online marketplace shall require a high-volume third-  
4 party seller that has an aggregate total of twenty thousand  
5 dollars (\$20,000) or more in annual gross revenues on the online  
6 marketplace and uses the online marketplace's platform to do all  
7 of the following:

8 (1) Provide the information specified under subsection (h)  
9 to the online marketplace.

10 (2) Disclose the information specified under subsection (h)  
11 to a consumer in a conspicuous manner in all of the following:

12 (i) The order confirmation message or other document or  
13 communication made to the consumer after a purchase is  
14 finalized.

15 (ii) The consumer's account transaction history.

16 (h) Except as provided under subsection (i), a high-volume  
17 third-party specified under subsection (g) shall provide and  
18 disclose all of the following information in accordance with  
19 subsection (g):

20 (1) The identity of the high-volume third-party seller,  
21 including the full name of the high-volume third-party seller,  
22 which may include the high-volume third-party seller's name or  
23 company name or the name by which the high-volume third-party  
24 seller or company operates on the online marketplace.

25 (2) The physical address of the high-volume third-party  
26 seller.

27 (3) The contact information for the high-volume third-party  
28 seller to allow for the direct, unhindered communication with  
29 the high-volume third-party sellers by a user of the online  
30 marketplace, including any of the following:

31 (i) A current working telephone number.

32 (ii) A current working email address.

33 (iii) Any other means of direct electronic messaging,  
34 including messaging provided by the online marketplace.

35 (4) Whether the high-volume third-party seller used a  
36 different seller than listed on the product listing, prior to  
37 purchase, to supply a consumer product to a consumer and, upon  
38 the request of an authenticated purchaser, the information  
39 specified under clauses (1), (2) and (3) relating to the  
40 different seller.

41 (i) Subject to the limitations under subsection (j), upon  
42 the request of a high-volume third-party seller, an online  
43 marketplace may provide for the partial disclosure of the  
44 information specified under subsection (h)(1), (2) and (3) to a  
45 consumer in accordance with the following:

46 (1) If the high-volume third-party seller certifies to the  
47 online marketplace that the high-volume third-party seller does  
48 not have a business address and only has a residential street  
49 address, or has a combined business and residential address, the  
50 online marketplace may do any of the following:

51 (i) Disclose to the consumer only the country and, if

1 applicable, the state where the high-volume third-party seller  
2 resides.

3 (ii) Inform the consumer that there is no business address  
4 available for the high-volume third-party seller and that  
5 consumer inquiries should be submitted to the high-volume third-  
6 party seller by telephone, email or any other means of  
7 electronic messaging provided to the high-volume third-party  
8 seller by the online marketplace.

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

14 (iv) If the high-volume third-party seller certifies to the  
15 online marketplace that the high-volume third-party seller does  
16 not have a telephone number other than a personal telephone  
17 number, the online marketplace shall inform the consumer that  
18 there is no telephone number available for the high-volume  
19 third-party seller and consumer inquiries should be submitted to  
20 the high-volume third-party seller's email address or other  
21 means of electronic messaging provided to such seller by the  
22 online marketplace.

23 (j) If an online marketplace becomes aware that a high-  
24 volume third-party seller has made a false representation to the  
25 online marketplace to justify a partial disclosure under  
26 subsection (i) or the high-volume third-party seller has  
27 requested and received an authorization for a partial disclosure  
28 under subsection (i) and has not provided responsive answers  
29 within a reasonable time frame to a consumer inquiry submitted  
30 to the high-volume third-party in accordance with subsection  
31 (i), the online marketplace shall, after providing the high-  
32 volume third-party seller with a written or an electronic notice  
33 and an opportunity to respond not later than ten days after the  
34 issuance of the notice, suspend the future sales activity of the  
35 high-volume third-party seller unless the high-volume third-  
36 party seller consents to the disclosure of the identity  
37 information required under subsection (h)(1), (2) and (3).

38 (k) An online marketplace shall, in a clear and conspicuous  
39 manner, disclose to a consumer on product listing of a high-  
40 volume third-party seller a reporting mechanism that allows for  
41 electronic and telephonic reporting of suspicious marketplace  
42 activity to the online marketplace.

43 (l) If a high-volume third party seller does not comply with  
44 the requirements to provide and disclose information under this  
45 section, the online marketplace shall, after providing the  
46 seller with a written or an electronic notice and an opportunity  
47 to provide or disclose the information not later than ten days  
48 after the issuance of the notice, suspend the future sales  
49 activity of the high-volume third-party seller until the high-  
50 volume third-party seller complies with the requirements under  
51 this section.

1 (m) The following shall apply:

2 (1) If the Attorney General has a reason to believe that an  
3 online marketplace has violated or is violating this section or  
4 regulations promulgated under clause (3) that affect a resident  
5 of this Commonwealth, the Attorney General may bring a civil  
6 action to do any of the following:

7 (i) Enjoin an additional violation by the defendant.

8 (ii) Enforce compliance with this section or regulations  
9 promulgated under clause (3).

10 (iii) Obtain civil penalties in an amount specified in the  
11 regulations promulgated under clause (3).

12 (iv) Obtain other damages, restitution, compensation or  
13 other remedies as authorized under the laws of this  
14 Commonwealth.

15 (2) Nothing in clause (1) shall be construed to prevent the  
16 Attorney General from exercising the powers conferred by the  
17 laws of this Commonwealth to conduct investigations, administer  
18 oaths or affirmations or compel the attendance of witnesses or  
19 the production of documentary and other evidence.

20 (3) The Attorney General shall promulgate regulations as  
21 necessary to enforce the provisions of this section.

22 (n) A political subdivision may not establish, mandate or  
23 otherwise require an online marketplace to collect or verify  
24 information from a high-volume third-party seller or disclose  
25 information to a consumer.

26 (o) As used in this section:

27 "Consumer product" means tangible personal property that is  
28 distributed in commerce and is normally used for personal,  
29 family or household purposes, including a personal property  
30 intended to be attached to or installed in a real property  
31 without regard to whether the personal property is attached or  
32 installed.

33 "High-volume third-party seller" means a participant in an  
34 online marketplace who is a third-party seller and who, for a  
35 continuous period of twelve months during the previous twenty-  
36 four months, has entered into at least two hundred discrete  
37 sales or transactions of new or unused consumer products and an  
38 aggregate total of at least five thousand dollars (\$5,000) gross  
39 revenues. For purposes of calculating the number of discrete  
40 sales or transactions or the aggregate gross revenues under this  
41 definition, an online marketplace shall only count sales or  
42 transactions made through the online marketplace and for which  
43 payment was processed by the online marketplace directly or  
44 through the online marketplace's payment processor.

45 "Online marketplace" means any person or entity that operates  
46 a consumer-directed, electronically based or accessed platform  
47 that meets all of the following criteria:

48 (1) The platform includes features that allow for,  
49 facilitate or enable a third-party seller to engage in the sale,  
50 purchase, payment, storage, shipping or delivery of a consumer  
51 product in the United States.

1     (2) The platform is used by a third-party seller for  
2 purposes specified under clause (1).

3     (3) The platform has a contractual or similar relationship  
4 with a consumer to govern the consumer's use of the platform to  
5 purchase a consumer product.

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

9     "Third-party seller" means a seller, independent of an online  
10 marketplace, who sells, offers to sell or contracts to sell a  
11 consumer product in the United States through an online  
12 marketplace. The term does not include any of the following:

13         (1) A seller who operates an online marketplace's platform.

14         (2) A business entity that meets all of the following  
15 criteria:

16             (i) The business entity has made the business entity's name,  
17 business address and contact information available to the  
18 public.

19             (ii) The business entity has an ongoing contractual  
20 relationship with an online marketplace to provide the online  
21 marketplace with the manufacturing, distribution, wholesaling or  
22 fulfillment of the shipment of a consumer product.

23             (iii) The business entity had provided the information  
24 described under subsection (a) to an online marketplace, which  
25 has been verified in accordance with this section.

26     "Verify" means to confirm information provided to an online  
27 marketplace under this section, including the use of a method  
28 that enables the online marketplace to reliably determine the  
29 validity of the information corresponding to a seller or an  
30 individual acting on the seller's behalf and confirm the  
31 information is not misappropriated or falsified.