

## AMENDMENTS TO SENATE BILL NO. 895

Sponsor: SENATOR TOMLINSON

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1 Amend Bill, page 1, line 6, by inserting after "for"  
2 collection, verification and

3 Amend Bill, page 1, lines 13 through 19; pages 2 through 7,  
4 lines 1 through 30; page 8, lines 1 through 11; by striking out  
5 all of said lines on said pages and inserting

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

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

19 (i) The online marketplace.

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

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

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

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

31 (A) A copy of a valid government-issued identification for  
32 an individual acting on behalf of the high-volume third-party  
33 seller, including the individual's name.

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

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

4 (iv) A current working telephone number.

5 (v) A current working email address.

6 (b) An online marketplace shall have all of the following  
7 duties:

8 (1) Periodically, but not less than annually, issue a  
9 written or electronic notice to a high-volume third-party seller  
10 on the online marketplace's platform of the requirement to keep  
11 the information collected under subsection (a) current.

12 (2) Require a high-volume third-party seller on the online  
13 marketplace's platform to, not later than ten days after  
14 receiving the notice under subsection (b)(1), submit any changes  
15 to the information under subsection (a). Certify there have been  
16 no changes to the information required under subsection (a).

17 (c) Immediately following the ten days, if a high-volume  
18 third-party seller does not comply with subsection (b)(2), the  
19 online marketplace shall provide the high-volume third-party  
20 seller with a second written or an electronic notice and an  
21 opportunity to comply with subsection (b)(2).

22 (d) If a high-volume third-party seller fails to comply  
23 within ten days after the issuance of the second notice, the  
24 online marketplace shall suspend the future sales activity of  
25 the high-volume third-party seller until the high-volume third-  
26 party seller complies with subsection (b)(2).

27 (e) An online marketplace shall verify all of the following:

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

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

33 (f) If a high-volume third-party seller provides a copy of a  
34 valid government-issued record or tax document under subsection  
35 (a)(2)(ii)(B), the information contained in the record or tax  
36 document shall be presumed to be verified as of the date of  
37 issuance of the record or tax document.

38 (g) Data collected solely to comply with the requirements of  
39 this section may not be used for any other purpose unless  
40 required by Federal or State law. An online marketplace shall  
41 implement and maintain reasonable security procedures and  
42 practices, including administrative, physical and technical  
43 safeguards, appropriate to the nature of the data collected  
44 under this section and the purposes for which the data will be  
45 used, to protect the data from unauthorized use, disclosure,  
46 access, destruction or modification.

47 (h) An online marketplace shall require a high-volume third-  
48 party seller that has an aggregate total of twenty thousand  
49 dollars (\$20,000) or more in annual gross revenues on the online  
50 marketplace and uses the online marketplace's platform to do all  
51 of the following:

1 (1) Provide the information specified under subsection (i)  
2 to the online marketplace.

3 (2) Disclose the information specified under subsection (i)  
4 to a consumer in a conspicuous manner in all of the following:

5 (i) The order confirmation message or other document or  
6 communication made to the consumer after a purchase is  
7 finalized.

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

9 (i) Except as provided under subsection (j), a high-volume  
10 third-party seller specified under subsection (h) shall provide  
11 and disclose all of the following information in accordance with  
12 subsection (h):

13 (1) The identity of the high-volume third-party seller,  
14 including the full name of the high-volume third-party seller,  
15 which may include the high-volume third-party seller's name or  
16 company name or the name by which the high-volume third-party  
17 seller or company operates on the online marketplace.

18 (2) The physical address of the high-volume third-party  
19 seller.

20 (3) The contact information for the high-volume third-party  
21 seller to allow for the direct, unhindered communication with  
22 the high-volume third-party seller by a consumer on the online  
23 marketplace, including any of the following:

24 (i) A current working telephone number.

25 (ii) A current working email address.

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

28 (4) Whether the high-volume third-party seller used a  
29 different seller than listed on the product listing, prior to  
30 purchase, to supply a consumer product to a consumer and upon  
31 request, the information specified under clauses (1), (2) and  
32 (3) relating to the different seller.

33 (j) Subject to the limitations under subsection (k), upon  
34 the request of a high-volume third-party seller, an online  
35 marketplace may provide for the partial disclosure of the  
36 information specified under subsection (i) (1), (2) and (3) to a  
37 consumer in accordance with the following:

38 (1) If the high-volume third-party seller certifies to the  
39 online marketplace that the high-volume third-party seller does  
40 not have a business address and only has a residential street  
41 address, or has a combined business and residential address, the  
42 online marketplace may do any of the following:

43 (i) Disclose to the consumer only the country and, if  
44 applicable, the state where the high-volume third-party seller  
45 resides.

46 (ii) Inform the consumer that there is no business address  
47 available for the high-volume third-party seller and that  
48 consumer inquiries should be submitted to the high-volume third-  
49 party seller by telephone, email or any other means of  
50 electronic messaging provided to the high-volume third-party  
51 seller by the online marketplace.

1 (2) If the high-volume third-party seller certifies to the  
2 online marketplace that the high-volume third-party seller is a  
3 business that has a physical address for product returns, the  
4 online marketplace may disclose the high-volume third-party  
5 seller's physical address for product returns.

6 (3) If the high-volume third-party seller certifies to the  
7 online marketplace that the high-volume third-party seller does  
8 not have a telephone number other than a personal telephone  
9 number, the online marketplace shall inform the consumer that  
10 there is no telephone number available for the high-volume  
11 third-party seller and consumer inquiries should be submitted to  
12 the high-volume third-party seller's email address or other  
13 means of electronic messaging provided to such seller by the  
14 online marketplace.

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

30 (l) An online marketplace shall, in a clear and conspicuous  
31 manner, disclose to a consumer on each product listing of a  
32 high-volume third-party seller a reporting mechanism that allows  
33 for electronic and telephonic reporting of suspicious  
34 marketplace activity to the online marketplace.

35 (m) If a high-volume third party seller does not comply with  
36 the requirements to provide and disclose information on the  
37 platform under this section, the online marketplace shall, after  
38 providing the high-volume third-party seller with a written or  
39 an electronic notice and an opportunity to provide or disclose  
40 the information not later than ten days after the issuance of  
41 the notice, suspend the future sales activity of the high-volume  
42 third-party seller until the high-volume third-party seller  
43 complies with the requirements under this section.

44 (n) This section shall not prevent an online marketplace  
45 from preventing fraud, abuse or spam through any legal capacity  
46 on the online marketplace.

47 (o) The Attorney General shall enforce the provisions of  
48 this section. In addition to the relief under this act under  
49 sections 4 and 4.1, a civil penalty of up to \$1,000 may be  
50 levied against a person or entity that violates a provision of  
51 this section. A penalty may be levied for each violation.

1 (p) A political subdivision shall not establish, mandate or  
2 otherwise require an online marketplace to collect or verify  
3 information from a high-volume third-party seller or disclose  
4 information to a consumer.

5 (q) As used in this section:

6 "Consumer product" means as the term is defined under 15  
7 U.S.C. § 2301(1).

8 "High-volume third-party seller" means a participant in an  
9 online marketplace who is a third-party seller and who, for a  
10 continuous period of twelve months during the previous twenty-  
11 four months, has entered into at least two hundred discrete  
12 sales of new or unused consumer products and an aggregate total  
13 of at least five thousand dollars (\$5,000) gross revenues. For  
14 purposes of calculating the number of discrete sales or the  
15 aggregate gross revenues under this definition, an online  
16 marketplace shall only count sales made through the online  
17 marketplace and for which payment was processed by the online  
18 marketplace directly or through the online marketplace's payment  
19 processor.

20 "Online marketplace" means any person or entity that operates  
21 a consumer-directed, electronically based or accessed platform  
22 that:

23 (1) includes features that allow for, facilitate or enable a  
24 third-party seller to engage in the sale, purchase, payment,  
25 storage, shipping or delivery of a consumer product in the  
26 United States;

27 (2) is used by a third-party seller; and

28 (3) has a contractual or similar relationship with a  
29 consumer to govern the consumer's use of the platform to  
30 purchase a consumer product.

31 "Seller" means a person who sells, offers to sell or  
32 contracts to sell a consumer product through an online  
33 marketplace's platform.

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

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

39 (2) A business entity that meets all of the following  
40 criteria:

41 (i) The business entity has made the business entity's name,  
42 business address and contact information available to the  
43 public.

44 (ii) The business entity has an ongoing contractual  
45 relationship with an online marketplace to provide the online  
46 marketplace with the manufacturing, distribution, wholesaling or  
47 fulfillment of the shipment of a consumer product.

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

51 "Verify" means to confirm information provided to an online

1 marketplace under this section, including the use of a method  
2 that enables the online marketplace to reliably determine the  
3 validity of the information corresponding to a high-volume  
4 third-party seller or an individual acting on the high-volume  
5 third-party seller's behalf and confirm the information is not  
6 misappropriated or falsified.