

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1594 Session of 2021

INTRODUCED BY TOMLINSON, SANKEY, THOMAS, MILLARD, TOPPER, SCHROEDER, FARRY, STAATS, POLINCHOCK, KAIL, MOUL, BURNS, QUINN, DELOZIER, NEILSON, HELM AND LABS, JUNE 10, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 25, 2022

AN ACT

1 Amending the act of December 17, 1968 (P.L.1224, No.387),
2 entitled "An act prohibiting unfair methods of competition
3 and unfair or deceptive acts or practices in the conduct of
4 any trade or commerce, giving the Attorney General and
5 District Attorneys certain powers and duties and providing
6 penalties," providing for collection, verification and
7 disclosure of information by online marketplaces to inform
8 consumers.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 Section 1. The act of December 17, 1968 (P.L.1224, No.387),
12 known as the Unfair Trade Practices and Consumer Protection Law,
13 is amended by adding a section to read:

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

1 (1) A bank account number or, if the high-volume third-party  
2 seller does not have a bank account, the name of the payee for  
3 payments issued by the online marketplace to the high-volume  
4 third-party seller. The required bank account or payee  
5 information may be provided by the high-volume third-party  
6 seller to any of the following:

7 (i) The online marketplace.

8 (ii) A payment processor or other third party contracted by  
9 the online marketplace to maintain the information if the online  
10 marketplace ensures that the online marketplace can obtain the  
11 information on demand from the payment processor or other third  
12 party.

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

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

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

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

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

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

28 (iv) A current working telephone number.

29 (v) A current working email address.

30 (b) An online marketplace shall have all of the following

1 duties:

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

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

10 (i) The high-volume third-party seller has provided a change  
11 to the information under subsection (a) to the online  
12 marketplace.

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

15 (c) If a high-volume third-party seller does not comply with  
16 subsection (b), the online marketplace shall, after providing  
17 the high-volume third-party seller with a written or an  
18 electronic notice and an opportunity to comply with subsection  
19 (b) not later than ten days after the issuance of the SECOND <--  
20 notice, suspend the future sales activity of the high-volume  
21 third-party seller until the high-volume third-party seller  
22 complies with subsection (b).

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

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

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

29 (e) If a high-volume third-party seller provides a copy of a  
30 valid government-issued record or tax document under subsection

1 (a)(2)(ii)(B), the information contained in the record or tax  
2 document shall be presumed to be verified as of the date of  
3 issuance of the record or tax document.

4 (f) Data collected solely to comply with the requirements of  
5 this section may not be used for any other purpose unless  
6 required by Federal or State law. An online marketplace shall  
7 implement and maintain reasonable security procedures and  
8 practices, including administrative, physical and technical  
9 safeguards, appropriate to the nature of the data collected  
10 under this section and the purposes for which the data will be  
11 used, to protect the data from unauthorized use, disclosure,  
12 access, destruction or modification.

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

18 (1) Provide the information specified under subsection (h)  
19 to the online marketplace.

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

22 (i) The order confirmation message or other document or  
23 communication made to the consumer after a purchase is  
24 finalized.

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

26 (h) Except as provided under subsection (i), a high-volume  
27 third-party specified under subsection (g) shall provide and  
28 disclose all of the following information in accordance with  
29 subsection (g):

30 (1) The identity of the high-volume third-party seller,

1 including the full name of the high-volume third-party seller,  
2 which may include the high-volume third-party seller's name or  
3 company name or the name by which the high-volume third-party  
4 seller or company operates on the online marketplace.

5 (2) The physical address of the high-volume third-party  
6 seller.

7 (3) The contact information for the high-volume third-party  
8 seller to allow for the direct, unhindered communication with  
9 the high-volume third-party sellers by a user of the online  
10 marketplace; PROVIDED, THE REQUIREMENTS OF THIS SUBSECTION <--  
11 SHALL NOT PREVENT AN ONLINE MARKETPLACE FROM PREVENTING FRAUD,  
12 ABUSE OR SPAM THROUGH SUCH COMMUNICATION, including any of the  
13 following:

14 (i) A current working telephone number.

15 (ii) A current working email address.

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

18 (4) Whether the high-volume third-party seller used a  
19 different seller than listed on the product listing, prior to  
20 purchase, to supply a consumer product to a consumer and, upon  
21 the request of an authenticated purchaser, the information  
22 specified under clauses (1), (2) and (3) relating to the  
23 different seller.

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

29 (1) If the high-volume third-party seller certifies to the  
30 online marketplace that the high-volume third-party seller does

1 not have a business address and only has a residential street  
2 address, or has a combined business and residential address, the  
3 online marketplace may do any of the following:

4 (i) Disclose to the consumer only the country and, if  
5 applicable, the state where the high-volume third-party seller  
6 resides.

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

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

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

27 (2) (Reserved).

28 (j) If an online marketplace becomes aware that a high-  
29 volume third-party seller has made a false representation to the  
30 online marketplace to justify a partial disclosure under

1 subsection (i) or the high-volume third-party seller has  
2 requested and received an authorization for a partial disclosure  
3 under subsection (i) and has not provided responsive answers  
4 within a reasonable time frame to a consumer inquiry submitted  
5 to the high-volume third-party in accordance with subsection  
6 (i), the online marketplace shall, after providing the high-  
7 volume third-party seller with a written or an electronic notice  
8 and an opportunity to respond not later than ten days after the  
9 issuance of the notice, suspend the future sales activity of the  
10 high-volume third-party seller unless the high-volume third-  
11 party seller consents to the disclosure of the identity  
12 information required under subsection (h) (1), (2) and (3).

13 (k) An online marketplace shall, in a clear and conspicuous  
14 manner, disclose to a consumer on product listing of a high-  
15 volume third-party seller a reporting mechanism that allows for  
16 electronic and telephonic reporting of suspicious marketplace  
17 activity to the online marketplace.

18 (l) If a high-volume third party seller does not comply with  
19 the requirements to provide and disclose information under this  
20 section, the online marketplace shall, after providing the  
21 seller with a written or an electronic notice and an opportunity  
22 to provide or disclose the information not later than ten days  
23 after the issuance of the notice, suspend the future sales  
24 activity of the high-volume third-party seller until the high-  
25 volume third-party seller complies with the requirements under  
26 this section.

27 (m) The following shall apply:

28 (1) If the Attorney General has a reason to believe that an  
29 online marketplace has violated or is violating this section or  
30 regulations promulgated under clause (3) that affect a resident

1 of this Commonwealth, the Attorney General may bring a civil  
2 action to do any of the following:

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

4 (ii) Enforce compliance with this section or regulations  
5 promulgated under clause (3).

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

8 (iv) Obtain other damages, restitution, compensation or  
9 other remedies as authorized under the laws of this  
10 Commonwealth.

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

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

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

22 (o) As used in this section:

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

29 "High-volume third-party seller" means a participant in an  
30 online marketplace who is a third-party seller and who, for a



1 continuous period of twelve months during the previous twenty-  
2 four months, has entered into at least two hundred discrete  
3 sales or transactions of new or unused consumer products and an  
4 aggregate total of at least five thousand dollars (\$5,000) gross  
5 revenues. For purposes of calculating the number of discrete  
6 sales or transactions or the aggregate gross revenues under this  
7 definition, an online marketplace shall only count sales or  
8 transactions made through the online marketplace and for which  
9 payment was processed by the online marketplace directly or  
10 through the online marketplace's payment processor.

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

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

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

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

23 "Seller" means a person who sells, offers to sell or  
24 contracts to sell a consumer product through an online  
25 marketplace's platform.

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

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

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

3 (i) The business entity has made the business entity's name,  
4 business address and contact information available to the  
5 public.

6 (ii) The business entity has an ongoing contractual  
7 relationship with an online marketplace to provide the online  
8 marketplace with the manufacturing, distribution, wholesaling or  
9 fulfillment of the shipment of a consumer product.

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

13 "Verify" means to confirm information provided to an online  
14 marketplace under this section, including the use of a method  
15 that enables the online marketplace to reliably determine the  
16 validity of the information corresponding to a seller or an  
17 individual acting on the seller's behalf and confirm the  
18 information is not misappropriated or falsified.

19 Section 2. This act shall take effect in 180 days.