

SENATE BILL NO. 442

BY SENATORS WARD, ABRAHAM, CONNICK, HARRIS, HENRY AND MORRIS

1 AN ACT

2 To enact Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 51:3221 through 3226, relative to an online marketplace; to provide for
4 identification of certain sellers on an online marketplace; to require disclosure of
5 certain information; to provide for certain consumer products offered for sale on an
6 online marketplace; to provide for unfair or deceptive trade practices and acts; to
7 provide for certain terms, requirements, conditions, and procedures; to provide for
8 an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Chapter 62 of Title 51 of the Louisiana Revised Statutes of 1950,
11 comprised of R.S. 51:3221 through 3226, is hereby enacted to read as follows:

12 **CHAPTER 62. ONLINE MARKETPLACE AND THIRD-PARTY SELLERS**

13 **§3221. Definitions**

14 **As used in this Chapter, the following words and phrases shall have the**
15 **following meanings:**

16 **(1) "Consumer product" means any tangible personal property that is**
17 **distributed in commerce and used for personal, family, or household purposes,**
18 **including any property intended to be attached to or installed in any real**
19 **property without regard to whether it is attached or installed.**

20 **(2) "High-volume third-party seller" means a participant on an online**
21 **marketplace's platform who is a third-party seller and who has entered into two**
22 **hundred or more discrete sales or transactions of new or unused consumer**
23 **products in any twelve-month period during the previous twenty-four months,**
24 **which result in an aggregate total of five thousand dollars or more in total gross**
25 **revenue. For purposes of calculating the number of discrete sales or**
26 **transactions or the aggregate gross revenues, an online marketplace shall be**
27 **required only to count sales or transactions made through the online**

1 marketplace and for which payment was processed by the online marketplace,
2 either directly or through its payment processor.

3 (3) "Online marketplace" means any person or entity that operates a
4 consumer-directed electronically based or accessed platform that meets all of
5 the following criteria:

6 (a) Has features that allow for, facilitate, or enable third-party sellers to
7 engage in the sale, purchase, payment, storage, shipping, or delivery of a
8 consumer product in this state.

9 (b) Is used by one or more third-party sellers for such purposes.

10 (c) Has a contractual or similar relationship with consumers governing
11 their use of the platform to purchase consumer products.

12 (4) "Seller" means a person who sells, offers to sell, or contracts to sell
13 a consumer product through an online marketplace platform.

14 (5) "Third-party seller" means any seller, independent of an online
15 marketplace, who sells, offers to sell, or contracts to sell a consumer product in
16 this state through an online marketplace. Third-party seller shall not include
17 either of the following:

18 (a) A seller who operates the online marketplace's platform.

19 (b) A business entity that has made available to the general public the
20 entity's name, business address, and working contact information; an ongoing
21 contractual relationship with the online marketplace to provide the online
22 marketplace with the manufacture, distribution, wholesaling, or fulfillment of
23 shipments of consumer products; and provided to the online marketplace
24 identifying information which has been verified in accordance with this
25 Chapter.

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

1 falsified.

2 §3222. Collection and verification of information by online marketplace

3 A.(1) An online marketplace shall require that any high-volume
4 third-party seller on the online marketplace's platform provide the online
5 marketplace with all of the following information not later than ten days after
6 qualifying as a high-volume third-party seller on the platform:

7 (a) The bank account number of the high-volume third-party seller or,
8 if the high-volume third-party seller does not have a bank account, the name of
9 the payee for payments issued by the online marketplace to the high-volume
10 third-party seller. The high-volume third-party seller shall provide the bank
11 account or payee information directly to the online marketplace or to a
12 third-party contracted by the online marketplace to maintain such information,
13 provided that the online marketplace is able to obtain the information on
14 demand from the other third-party.

15 (b) The high-volume third-party seller's contact information, including
16 but not limited to the following information:

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

19 (ii) If the high-volume third-party seller is not an individual, either a
20 copy of a valid government issued identification for an individual acting on
21 behalf of a high-volume third-party seller or a copy of a valid government
22 issued record or tax document that includes the business name and physical
23 address of the high-volume third-party seller.

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

27 (d) A current working phone number and electronic mail address for the
28 high-volume third-party seller.

29 (2)(a) Periodically, but not less than annually, an online marketplace
30 shall notify each high-volume third-party seller on the online marketplace's

1 platform of the requirement to update information collected pursuant to this
 2 Section.

3 (b) An online market place shall require any high-volume third-party
 4 seller to electronically certify whether the high-volume third-party seller has
 5 submitted updated information not later than ten days after receiving an annual
 6 notice.

7 (c) If the high-volume third-party seller does not provide the
 8 information or certification required by this Subsection, the online marketplace
 9 shall, after providing the high-volume third-party seller with written or
 10 electronic notice and an opportunity to provide the information or certification
 11 within ten days after issuance of the notice, suspend the sales activity of the
 12 high-volume third-party seller until the certification is completed by the
 13 high-volume third-party seller.

14 B.(1) Except as provided in Paragraph (2) of this Subsection, an online
 15 marketplace shall verify the information and any changes to the information
 16 collected pursuant to this Section within ten days after collecting the data.

17 (2) If a high-volume third-party seller provides a copy of a valid
 18 government issued tax document, any information contained in the document
 19 shall be presumed to be verified as of the date of issuance of the document.

20 §3223. Data; limitation; security

21 A. Any data that is collected to comply with any requirement of this
 22 Chapter may not be used for any other purpose except as required by law.

23 B. An online marketplace shall implement and maintain reasonable
 24 security procedures and practices, including administrative, physical, and
 25 technical safeguards, appropriate to the nature of the data and the purposes for
 26 which the data will be used, to protect the data collected to comply with the
 27 requirements of this Chapter from unauthorized use, disclosure, access,
 28 destruction, or modification.

29 §3224. Online marketplace; disclosure requirements of sellers; exceptions

30 A. An online marketplace shall require any high-volume third-party

1 seller that has an aggregate total of twenty thousand dollars or more in annual
2 gross revenues on the online marketplace to provide the contact information of
3 the high-volume third-party seller, including but not limited to the following
4 identifiable information:

5 (1) The full name of the high-volume third-party seller, which may
6 include the high-volume third-party seller's name or company name, or the
7 name by which the high-volume third-party seller or company operates on the
8 online marketplace.

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

10 (3) Contact information for the high-volume third-party seller to allow
11 for the direct, unhindered communication with the high-volume third-party
12 seller by users of the online marketplace, including but not limited to any of the
13 following:

14 (a) A current working phone number.

15 (b) A current working electronic mail address.

16 (c) Other means of direct electronic messaging, provided to the
17 high-volume third-party seller by the online marketplace, provided this
18 requirement shall not prevent an online marketplace from monitoring
19 communications between high-volume third-party sellers and users of the online
20 marketplace for fraud, abuse, or spam.

21 B. An online marketplace shall disclose the information required by
22 Subsection A of this Section to consumers in a conspicuous manner in an order
23 confirmation message or other document or communication made to the
24 consumer after a purchase is finalized and in the consumer's account
25 transaction history.

26 C. If the high-volume third-party seller uses a different seller to supply
27 the consumer product to the consumer, upon purchase and upon the request of
28 an authenticated purchaser, the seller who supplies the consumer product to the
29 purchaser shall disclose the information required by Subsection A of this
30 Section to the purchaser.

1 D.(1) Upon the request of a high-volume third-party seller, an online
2 marketplace may provide a partial disclosure of the information required by
3 Subsection A of this Section as follows:

4 (a) If the high-volume third-party seller demonstrates to the online
5 marketplace that the seller does not have a business address and has only a
6 residential street address, or as a combined business and residential address, the
7 online marketplace may disclose only the country and, if applicable, the state
8 where the high-volume third-party seller resides. The online marketplace may
9 inform consumers that there is no business address available for the high-
10 volume third-party seller and that consumer inquiries may be submitted to the
11 high-volume third-party seller's phone, electronic mail address, or other
12 electronic messaging provided to the seller by the online marketplace.

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

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

23 (2) If an online marketplace becomes aware that a high-volume
24 third-party seller has made a false representation to the online marketplace in
25 order to justify partial disclosure of information required pursuant to this
26 Section or that a high-volume third-party seller who has requested and has
27 received a provision for a partial disclosure has not provided responsive
28 answers within a reasonable time to consumer inquiries submitted to the high-
29 volume third-party seller's contact information, the online marketplace shall,
30 after providing the seller with written or electronic notice and an opportunity

1 to respond not later than ten days after the issuance of such notice, suspend any
 2 future sales of the seller unless the seller consents to the disclosure of the
 3 identity information required pursuant to this Chapter.

4 E. An online marketplace shall disclose to consumers in a clear and
 5 conspicuous manner on the product listing of any high-volume third-party seller
 6 a reporting mechanism that allows for electronic and telephonic reporting of
 7 suspicious marketplace activity to the online marketplace.

8 §3225. Unfair or deceptive trade practice or act; online marketplace sellers;
 9 identification; violations

10 Any violation of this Chapter shall be a deceptive and unfair trade
 11 practice and shall subject the online marketplace to any and all actions and
 12 penalties provided for in the Unfair Trade Practices and Consumer Protection
 13 Law, R.S. 51:1401 et seq., excluding private rights of action as provided in R.S.
 14 51:1409 and 1409.1.

15 §3226. Preemption

16 No political subdivision may establish, mandate, or otherwise require an
 17 online marketplace to collect or verify information from a high-volume
 18 third-party seller or disclose information to a consumer on a one-time or
 19 ongoing basis.

20 Section 2. This Act shall become effective on January 1, 2023; if vetoed by the
 21 governor and subsequently approved by the legislature, this Act shall become effective on
 22 the day following such approval by the legislature or January 1, 2023, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____