

SENATE SUMMARY OF HOUSE AMENDMENTS

SB 442

2022 Regular Session

Ward

KEYWORD AND SUMMARY AS RETURNED TO THE SENATE

CONSUMERS/PROTECTION. Provides for certain third-party sellers on the online marketplace. (1/1/23)

SUMMARY OF HOUSE AMENDMENTS TO THE SENATE BILL

- 1. Makes technical changes.

DIGEST OF THE SENATE BILL AS RETURNED TO THE SENATE

DIGEST

SB 442 Reengrossed

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Proposed law defines the following terms:

- (1) "Consumer product" means any tangible personal property that is distributed in commerce and used for personal, family, or household purposes, including any property intended to be attached to or installed in any real property without regard to whether it is attached or installed.
- (2) "High-volume third-party seller" means a participant in an online marketplace's platform who is a third-party seller and who has entered into 200 or more discrete sales or transactions of new or unused consumer products in any 12-month period during the previous 24 months, which results in an aggregate total of \$5,000 or more in total gross revenue. For purpose of calculating the number of discrete sales or transactions or the aggregate gross revenues, an online marketplace shall only be required to count sales or transactions made through the online marketplace and for which payment was processed by the online marketplace, either directly or through its payment processor.
- (3) "Online marketplace" means any person or entity that operates a consumer-directed electronically based or accessed platform that:
 - (a) Has features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer product in this state;
 - (b) Is used by one or more third-party sellers for such purposes; and
 - (c) Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.
- (4) "Seller" means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace platform.
- (5) "Third-party seller" means any seller, independent of an online marketplace, who sells or contracts to sell a consumer product in Louisiana through an online marketplace. Third-party seller does not include the following:
 - (a) A seller who operates the online marketplace's platform; or
 - (b) A business entity that has:
 - (I) Made available to the general public the entity's name, business address, and working contact information;

- (ii) An ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and
 - (iii) Provided to the online marketplace identifying information which has been verified in accordance with proposed law.
- (6) "Verify" means to confirm information provided to an online marketplace pursuant to proposed law, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided are valid, corresponding to the seller or an individual acting on the seller's behalf, not misappropriated, and not falsified.

Proposed law provides that an online market place shall require a high-volume third-party seller to provide the following information no later than 10 days:

- (1) A bank account number, in the absence of a bank account, the name of payee for payments issued by the online marketplace. The bank account or payee information may be provided directly to the online marketplace or to a third-party contracted by the online marketplace.
- (2) Contact information for high-volume third-party sellers, including the following:
 - (a) The individual's name if the high-volume third-party seller is an individual.
 - (b) If the individual is not a high-volume third-party seller, the following shall be provided:
 - (I) Copy of a valid government issued identification; or
 - (ii) A copy of a valid government issued record or tax document.
- (3) A current working phone number and email address.

Proposed law provides that periodically, but not less than annually, an online marketplace shall notify a high-volume third-party seller on its platform to keep all required information current.

Proposed law provides that an online market place shall require a high-volume third-party seller to electronically certify whether the high-volume third-party seller has changed information no later than 10 days after receiving an annual notice.

Proposed law provides that if the high-volume third-party seller does not provide the information or certification required, the online marketplace shall, after first providing the seller with written notice, suspend any further sales activity of the seller.

Proposed law provides that within 10 days of receiving the information from sellers the marketplace shall verify the information collected.

Proposed law provides for data security requirements and limitations.

Proposed law provides that an online marketplace shall require a high-volume third-party seller with an aggregate total of \$20,000 or more in annual revenue to provide the following information in the consumer's order confirmation message and account history:

- (1) The name and physical address of the seller; and
- (2) Phone number, email address, or direct electronic messaging contact information of the seller.

Proposed law provides that if a high-volume third-party seller uses a different seller to supply the consumer product to the consumer that seller must disclose information required by proposed law to the purchaser, if requested by the purchaser to do so.

Proposed law allows a high-volume third-party seller to request a partial disclosure of identifying information if the seller demonstrates he does not have a physical address or a business phone number.

Proposed law authorizes an online marketplace to suspend any future sales of the seller, if the seller has made a false representation to justify partial disclosure of identifying information, unless the seller consents to the disclosure of the identity required by proposed law.

Proposed law provides relative to violations for deceptive and unfair trade practice.

Effective January 1, 2023.

(Adds R.S. 51:3221-3226)

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