

1 SB194  
2 216991-1  
3 By Senator Waggoner  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 08-FEB-22

8 SYNOPSIS: This bill would require high-volume  
9 third-party sellers of certain consumer products on  
10 online marketplaces to make certain disclosures.

11 This bill would also provide the Attorney  
12 General with authority to obtain certain civil  
13 remedies for violations.

14  
15 A BILL  
16 TO BE ENTITLED  
17 AN ACT

18  
19 Relating to online marketplaces; to require certain  
20 disclosures to be made by high-volume third-party sellers of  
21 certain consumer products on online marketplaces; and to  
22 provide for civil remedies.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. As used in this act, the following terms  
25 shall have the following meanings:

26 (1) CONSUMER PRODUCT. Any tangible personal property  
27 that is distributed in commerce and that is normally used for

1 personal, family, or household purposes, including, but not  
2 limited to, any property intended to be attached to or  
3 installed in any real property without regard to whether it is  
4 attached or installed.

5 (2) HIGH-VOLUME THIRD-PARTY SELLER. A participant in  
6 an online marketplace that is a third-party seller and, in any  
7 continuous 12-month period during the previous 24 months, that  
8 has entered into 200 or more discrete sales or transactions of  
9 new or unused consumer products of an aggregate total of five  
10 thousand dollars (\$5,000) or more in gross revenue in this  
11 state made through the online marketplace and for which  
12 payment was processed by the online marketplace or through a  
13 third party.

14 (3) ONLINE MARKETPLACE. Any person or entity that  
15 operates a consumer-directed electronically based or accessed  
16 platform that does all of the following:

17 a. Includes features that allow for, facilitate, or  
18 enable third-party sellers to engage in the sale, purchase,  
19 payment, storage, shipment, or delivery of a consumer product  
20 within this state.

21 b. Is used by one or more third-party sellers.

22 c. Has a contractual or similar relationship with  
23 consumers governing their use of the platform to purchase  
24 consumer products.

25 (4) SELLER. A person who sells, offers to sell, or  
26 contracts to sell a consumer product through an online  
27 marketplace's platform.

1           (5) THIRD-PARTY SELLER. Any seller, independent of  
2 an online marketplace, that sells, offers to sell, or  
3 contracts to sell a consumer product in this state through an  
4 online marketplace. The term does not include, with respect to  
5 an online marketplace, any of the following:

6           a. A seller that operates the online marketplace's  
7 platform.

8           b. A business entity that has all of the following:

9           1. Made available to the general public the entity's  
10 name, business address, and working contact information.

11           2. An ongoing contractual relationship with the  
12 online marketplace to provide the online marketplace with the  
13 manufacture, distribution, wholesaling, or fulfillment of  
14 shipments of consumer products.

15           3. Provided to the online marketplace the identity  
16 information required under Section 2(a) that has been verified  
17 in accordance with Section 2(d).

18           (6) VERIFY. To confirm information and documents  
19 provided to an online marketplace, pursuant to this act,  
20 through the use of one or more methods that enable an online  
21 marketplace to reliably determine that any information and  
22 documents provided are valid, correspond to the seller or an  
23 individual acting on the seller's behalf, are not  
24 misappropriated, and are not falsified.

25           Section 2. (a) An online marketplace shall require  
26 any high-volume third-party seller on its platform, not later

1 than 10 days after qualifying as such, to provide all of the  
2 following information to the online marketplace:

3 (1) A bank account number or, if the high-volume  
4 third-party seller does not have a bank account, the name of  
5 the payee for payments issued by the online marketplace to the  
6 high-volume third-party seller. This information may be  
7 provided by the high-volume third-party seller to the online  
8 marketplace or to a third party contracted by the online  
9 marketplace to maintain the information; provided, however,  
10 that the online marketplace ensures that it can obtain the  
11 information on demand from the third party.

12 (2) Contact information, which shall include either  
13 of the following:

14 a. If the high-volume third-party seller is an  
15 individual, the individual's name.

16 b. If the high-volume third-party seller is not an  
17 individual, either of the following:

18 1. A copy of a valid government issued  
19 identification for an individual acting on behalf of a seller  
20 that includes the individual's name.

21 2. A copy of a valid government issued record or tax  
22 document that includes the business name and physical address  
23 of the high-volume third-party seller.

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

1           (4) A current working email address and telephone  
2 number for the high-volume third-party seller.

3           (b) An online marketplace shall do both of the  
4 following for each high-volume third-party seller on its  
5 platform:

6           (1) Periodically, but not less than annually,  
7 provide notification of the requirement to keep current the  
8 information required under subsection (a).

9           (2) Require the high-volume third-party seller, not  
10 later than 10 days after receiving the notice provided under  
11 subdivision (1), to submit electronic certification of either  
12 of the following:

13           a. That there have been changes to the information  
14 required to be provided under subsection (a). If there have  
15 been changes to the information required to be provided, the  
16 high-volume third-party seller shall update the information in  
17 its certified response.

18           b. That there have been no changes to the  
19 information required to be provided under subsection (a).

20           (c) In the event that a high-volume third-party  
21 seller does not provide the information or certification  
22 required under subsection (a) or (b), the online marketplace,  
23 after providing the seller with written or electronic notice  
24 and an opportunity to provide the information or certification  
25 not later than 10 days after the issuance of the notice, shall  
26 suspend any future sales activity of the seller until the  
27 seller provides the required information or certification.

1 (d) (1) An online marketplace shall verify both of  
2 the following:

3 a. The information and documents required to be  
4 provided under subsection (a) have been received not later  
5 than 10 days after receipt of notification under subdivision  
6 (b) (1).

7 b. Any change in the information or to the documents  
8 have been received not later than 10 days after being notified  
9 of the change by a high-volume third-party seller under  
10 subsection (b).

11 (2) If a high-volume third-party seller provides a  
12 copy of a valid government issued tax document, any  
13 information contained within the tax document shall be  
14 presumed to be verified as of the date the document was  
15 issued.

16 Section 3. (a) Except as provided in subsection (b),  
17 an online marketplace shall require any high-volume  
18 third-party seller with an aggregate total of twenty thousand  
19 dollars (\$20,000) or more in annual gross revenues on its  
20 platform to provide to the online marketplace and disclose to  
21 consumers in a clear and conspicuous manner all of the  
22 following identity information:

23 (1) The full name of the high-volume third-party  
24 seller, including the company name or the name by which the  
25 seller or company operates on the online marketplace.

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

1           (3) Contact information for the high-volume  
2 third-party seller that will allow for direct unhindered  
3 communication with the seller by consumers of the online  
4 marketplace, including one or more of the following:

- 5           a. A current working telephone number.
- 6           b. A current working email address.
- 7           c. Other means of direct electronic messaging.

8           (4) Whether the high-volume third-party seller used  
9 a different seller to supply the product to the consumer upon  
10 purchase and, upon the request of an authenticated purchaser,  
11 the information described in subdivisions (1) through (3)  
12 relating to the different seller that is different than the  
13 high-volume third-party seller listed on the product listing  
14 page prior to purchase. The identity information of the  
15 different seller shall be provided on the product listing  
16 page, directly, via hyperlink, or, after the purchase is  
17 finalized, in the order confirmation message or other document  
18 or communication made to a consumer and in the consumer's  
19 account transaction history.

20           (b) Upon the request of a high-volume third-party  
21 seller, an online marketplace may provide for partial  
22 disclosure of the identity information required under  
23 subsection (a) if the high-volume third-party seller certifies  
24 to the online marketplace that any of the following apply:

25           (1) The seller does not have a business address and  
26 only has a residential street address, or has a combined  
27 business and residential address. If this subdivision is



1 applicable, the online marketplace shall do both of the  
2 following:

3 a. Disclose only the country and, if applicable, the  
4 city and state in which the seller resides.

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

10 (2) The seller is a business that has a physical  
11 address for product returns. If this subdivision is  
12 applicable, the online marketplace shall disclose the seller's  
13 physical address for product returns.

14 (3) The seller does not have a telephone number  
15 other than a personal telephone number. If this subdivision is  
16 applicable, the online marketplace shall inform consumers that  
17 there is no telephone number available for the seller and that  
18 consumer inquiries should be submitted to the seller's email  
19 address or other means of electronic messaging provided to the  
20 seller by the online marketplace.

21 (c) (1) Subject to subdivision (3), an online  
22 marketplace shall suspend any future sales activity of a  
23 high-volume third-party seller if the online marketplace  
24 becomes aware of either of the following:

25 a. That the high-volume third-party seller has made  
26 a false representation to the online marketplace in order to

1 justify the provision of a partial disclosure of the identity  
2 information under subsection (b).

3 b. That the high-volume third-party seller that has  
4 requested and received a provision for a partial disclosure  
5 has not provided responsive answers within a reasonable time  
6 frame to consumer inquiries submitted to the seller by  
7 telephone, email, or other means of electronic messaging  
8 provided to the seller by the online marketplace.

9 (2) Prior to any suspension under this subsection,  
10 the online marketplace shall provide the high-volume  
11 third-party seller with written or electronic notice and an  
12 opportunity to respond not later than 10 days after the  
13 issuance of the notice.

14 (3) A high-volume third-party seller may avoid  
15 suspension under this subsection by consenting to the  
16 disclosure of the identity information required under  
17 subsection (a).

18 (d) If a high-volume third-party seller does not  
19 comply with the requirements to provide and disclose  
20 information under this section, then, after providing the  
21 seller with written or electronic notice and an opportunity to  
22 provide or disclose the information not later than 10 days  
23 after the issuance of the notice, the online marketplace shall  
24 suspend any future sales activities of the seller until the  
25 seller complies with the requirements.

26 Section 4. An online marketplace shall disclose to  
27 consumers in a clear and conspicuous manner, on the product

1 listing of any high-volume third-party seller, a reporting  
2 mechanism that allows for electronic and telephonic reporting  
3 of suspicious marketplace activity to the online marketplace.

4 Section 5. (a) Information or documents collected  
5 solely to comply with the requirements this act shall not be  
6 used for any other purpose unless required by law.

7 (b) An online marketplace shall implement and  
8 maintain reasonable security procedures and practices,  
9 including administrative, physical, and technical safeguards,  
10 appropriate to the nature of the data and the purposes for  
11 which the data will be used, to protect the information or  
12 documents collected to comply with the requirements of this  
13 article from unauthorized use, disclosure, access,  
14 destruction, or modification.

15 Section 6. (a) If the Attorney General has reason to  
16 believe that any online marketplace has violated or is  
17 violating this act and the violation affects one or more  
18 residents of this state, the Attorney General may bring a  
19 civil action in any appropriate court to do any of the  
20 following:

21 (1) Enjoin the violation by the defendant.

22 (2) Enforce compliance with this act.

23 (3) Obtain damages, restitution, or other  
24 compensation on behalf of the residents of this state.

25 (4) Obtain other remedies permitted under state law.

26 (b) Nothing in this act shall be construed to  
27 prohibit any district attorney, law enforcement officer,

1       official, or agency of this state from initiating or  
2       continuing any proceeding in a court against an online  
3       marketplace for a violation of any other civil law or a  
4       criminal law of this state.

5                   Section 7. This act shall become effective on the  
6       first day of the third month following its passage and  
7       approval by the Governor, or its otherwise becoming law.