

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO ONLINE
5 MARKETPLACES; REQUIRING DISCLOSURE OF INFORMATION BY HIGH-VOLUME THIRD-PARTY
6 SELLERS TO CERTAIN ONLINE MARKETPLACES; REQUIRING SUSPENSION OF SALES IF CERTAIN
7 SELLERS FAIL TO PROVIDE REQUIRED INFORMATION; AND PROVIDING AN APPLICABILITY DATE."

8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

10
11 NEW SECTION. **Section 1. Definitions.** As used in [sections 1 through 4], unless context otherwise
12 requires, the following definitions apply:

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

16 (2) "High-volume third-party seller" means a third-party seller that in any continuous 12-month
17 period during the previous 24 months has entered into 200 or more discrete sales or transactions of new or
18 unused consumer products for which the third-party seller has earned aggregate total gross revenues of \$5,000
19 or more. For purposes of calculating the number of discrete sales or transactions or the aggregate gross
20 revenues under [sections 1 through 4], an online marketplace is only required to count sales or transactions
21 made through the online marketplace and for which payment was processed by the online marketplace, either
22 directly or through its payment processor.

23 (3) "Online marketplace" means any person that operates a consumer-directed electronically
24 based or accessed platform that:

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

27 (b) is used by one or more third-party sellers for the sale, purchase, payment, storage, shipping, or
28 delivery of a consumer product; and

1 (c) has a contractual or similar relationship with consumers governing their use of the platform to
2 purchase consumer products.

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

5 (5) (a) "Third-party seller" means any seller, independent of an operator, facilitator, or owner of an
6 online marketplace, that sells, offers to sell, or contracts to sell a consumer product in the United States through
7 an online marketplace.

8 (b) The term does not include a seller that:

9 (i) operates the online marketplace's platform;

10 (ii) is a business entity that has made available to the general public the entity's name, business
11 address, and working contact information;

12 (iii) is a business entity that has an ongoing contractual relationship with the online marketplace to
13 provide the online marketplace with the manufacture, distribution, wholesale distribution, or fulfillment of
14 shipments of consumer products; or

15 (iv) is a business entity that has provided to the online marketplace identifying information, as
16 provided in [section 2(1)], that has been verified pursuant to [section 2].

17 (6) "Verify" means to confirm information provided to an online marketplace pursuant to [sections 1
18 through 4], which may include the use of one or more methods that enable the online marketplace to reliably
19 determine that any information and documents provided:

20 (a) are valid;

21 (b) correspond to the seller or an individual acting on the seller's behalf;

22 (c) are not misappropriated; and

23 (d) are not falsified.

24

25 **NEW SECTION. Section 2. Disclosure of information by online marketplaces to inform**

26 **consumers.** (1) An online marketplace shall require a high-volume third-party seller participating in the online
27 marketplace to provide the online marketplace with the following information within 10 days after qualifying as a
28 high-volume third-party seller:

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

4 (i) to the online marketplace; or

5 (ii) to a payment processor or other third-party contracted by the online marketplace to maintain
6 the information, if the online marketplace ensures that it can obtain the information on demand from the
7 payment processor or other third-party.

8 (b) contact information, including:

9 (i) if the high-volume third-party seller is an individual, the individual's name; or

10 (ii) if the high-volume third-party seller is not an individual, either:

11 (A) a copy of a valid government-issued photo identification document for an individual acting on
12 behalf of the high-volume third-party seller that includes the individual's name; or

13 (B) a copy of a valid government-issued record or tax document that includes the business name
14 and physical address of the high-volume third-party seller;

15 (c) a business tax identification number or, if the high-volume third-party seller does not have a
16 business tax identification number, an individual taxpayer identification number; and

17 (d) a current working e-mail address and phone number for the high-volume third-party seller.

18 (2) An online marketplace shall:

19 (a) periodically, but not less than annually, notify any high-volume third-party seller on the online
20 marketplace's platform of the requirement to keep any information collected under subsection (1) current;

21 (b) require any high-volume third-party seller on the online marketplace's platform, not later than
22 10 days after receiving the notice under subsection (2)(a), to electronically certify that:

23 (i) the high-volume third-party seller has provided any changes to the information to the online
24 marketplace, if changes have occurred; or

25 (ii) there have been no changes to the high-volume third-party seller's information; and

26 (c) if a high-volume third-party seller does not provide the information required under subsection
27 (1) or certification required under this subsection (2), and after the online marketplace provides the seller with
28 written or electronic notice and an opportunity to provide the information or certification not later than 10 days

1 after the issuance of the notice, suspend any future sales activity of the seller on the online marketplace until
2 the seller provides the information or certification.

3 (3) (a) The online marketplace shall:

4 (i) verify the information collected under subsection (1) not later than 10 days after the collection;
5 and

6 (ii) verify any change to the information not later than 10 days after being notified of the change by
7 a high-volume third-party seller in response to the notice required by subsection (2)(a).

8 (b) In the case of a high-volume third-party seller that provides a copy of a valid government-
9 issued tax document, any information contained in the document is presumed to be verified as of the date of
10 issuance of the document.

11 (c) Data collected solely to comply with the requirements of this section may not be used for any
12 other purpose unless required by law.

13 (d) To protect data that has been collected in compliance with this section from unauthorized use,
14 disclosure, access, destruction, or modification, an online marketplace shall implement and maintain
15 reasonable security procedures and practices, including administrative, physical, and technical safeguards,
16 appropriate to the nature of the data and the purposes for which the data will be used.

17 (4) (a) An online marketplace shall require a high-volume third-party seller with an aggregate total
18 of \$20,000 or more in annual gross revenues on the online marketplace that uses the online marketplace's
19 platform to provide and, except as provided in subsection (4)(b), disclose to consumers in a conspicuous
20 manner in the order confirmation message or other document or communication made to a consumer after a
21 purchase is finalized and in the consumer's account transaction history:

22 (i) the full name of the seller, which may include the seller's name or the seller's company name,
23 or the name by which the seller or company operates on the online marketplace;

24 (ii) the physical address of the seller;

25 (iii) contact information for the seller, to allow users of the online marketplace to engage in direct,
26 unhindered communication with the high-volume third-party seller, including a current working phone number, a
27 current working e-mail address, or other means of direct electronic messaging that the online marketplace may
28 provide for the high-volume third-party seller;

1 (iv) whether the high-volume third-party seller used a different seller to supply the consumer
2 product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information
3 described in subsections (4)(a)(i) through (4)(a)(iii) relating to the seller that supplied the consumer product to
4 the purchaser, if the seller is different than the high-volume third-party seller listed on the product listing prior to
5 purchase.

6 (b) (i) Subject to subsection (4)(b)(ii), upon the request of a high-volume third-party seller, an
7 online marketplace may allow for the seller to provide partial disclosure of the identity information required
8 pursuant to subsection (4)(a) in the following situations:

9 (A) If the high-volume third-party seller certifies to the online marketplace that the seller does not
10 have a business address and only has a residential street address, or has a combined business and residential
11 address, the online marketplace may disclose only the country and, if applicable, the state in which the high-
12 volume third-party seller resides and may inform consumers that there is no business address available for the
13 high-volume third-party seller and that consumer inquiries should be submitted to the high-volume third-party
14 seller by telephone, e-mail address, or other means of electronic messaging that the online marketplace
15 provides the seller.

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

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

24 (ii) If an online marketplace becomes aware that a high-volume third-party seller has made a false
25 representation to the online marketplace in order to justify the provision of a partial disclosure pursuant to
26 subsection (4)(b)(i) or that a high-volume third-party seller that has requested and received an allowance for a
27 partial disclosure pursuant to subsection (4)(b)(i) has not provided responsive answers within a reasonable
28 timeframe to consumer inquiries submitted to the seller by telephone, e-mail address, or other means of

1 electronic messaging that the online marketplace provides the seller, the online marketplace shall, after
2 providing the seller with written or electronic notice and an opportunity to respond not later than 10 days after
3 the issuance of the notice, suspend any future sales activity of the seller unless the seller consents to the
4 disclosure of the identity information required under subsection (4)(b)(i)(A).

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

8 (6) If a high-volume third-party seller does not comply with the requirements to provide and
9 disclose information under this section, the online marketplace shall, after providing the seller with written or
10 electronic notice and an opportunity to provide or disclose the information not later than 10 days after the
11 issuance of the notice, suspend any future sales activity of the seller until the seller complies with the
12 requirements.

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14 **NEW SECTION. Section 3. Enforcement.** (1) (a) The attorney general and county attorneys have
15 exclusive authority to enforce [sections 1 through 4] by bringing an action in the name of the state on behalf of
16 persons residing in the state to enforce [sections 1 through 4].

17 (b) Nothing in [sections 1 through 4] shall be construed as providing the basis for, or subjecting a
18 party to, a private right of action for violations of [sections 1 through 4] or any other law.

19 (2) A violation of [sections 1 through 4] constitutes an unfair or deceptive trade practice and is a
20 violation of 30-14-103.

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22 **NEW SECTION. Section 4. Preemption.** A political subdivision may not establish, mandate, or
23 otherwise require online marketplaces to:

- 24 (1) verify information from high-volume third-party sellers on a one-time or ongoing basis; or
25 (2) disclose or require the disclosure of information to consumers.

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27 **NEW SECTION. Section 5. Codification instruction.** [Sections 1 through 4] are intended to be
28 codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1

1 through 4].

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3 NEW SECTION. **Section 6. Applicability.** [This act] applies to conduct occurring on or after October

4 1, 2024.

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