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**HOUSE BILL 1543**

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**State of Washington 67th Legislature 2021 Regular Session**

**By** Representatives Kirby and Ryu

AN ACT Relating to the adoption of the consumer product theft and safety protection act; adding a new chapter to Title 19 RCW; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) **Verification required.** Online marketplaces shall require that any high-volume third-party seller on the online marketplace provide the online marketplace with the following information within 24 hours of becoming a high-volume third-party seller:

(a) Bank account information, the accuracy of which has been confirmed directly by the online marketplace or by a payment processor or other third party contracted by the online marketplace, or, if the high-volume third-party seller does not have a bank account, the name of the payee for payments issued by the online marketplace to the high-volume third-party seller. Such bank account or payee information may be provided by the seller either:

(i) To the online marketplace; or

(ii) To a payment processor or other third party contracted by the online marketplace to maintain such information, provided that the online marketplace may obtain such information on demand from such payment processor or other third party;

(b) Contact information, including:

(i) If the high-volume third-party seller is an individual, a copy of a government-issued photo identification for the individual that includes the individual's name and physical address; or

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

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

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

(iii) A working email address and working phone number for the high-volume third-party seller;

(c) A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number;

(d) Whether the high-volume third-party seller is exclusively advertising or offering the consumer product or products on the online marketplace, or if the high-volume third-party seller is currently advertising or offering for sale the same consumer product or products on any other internet websites other than the online marketplace.

(2) **Ongoing verification required.** (a) The online marketplace shall verify the information provided in subsection (1) of this section within three days, and shall verify within three days any changes to such information that is provided to the online marketplace by a high-volume third-party seller. If a high-volume third-party seller provides a copy of a valid government-issued tax document, information contained within such tax document shall be presumed to be verified as of the date of issuance of such record or document.

(b) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that the seller must inform the online marketplace of any changes to the information provided by the seller pursuant to subsection (1) of this section within three days of receiving the notification, and shall instruct each high-volume third-party seller, as part of the notification, to electronically certify either that the seller's information is unchanged or that the seller is providing changes to the information. If the online marketplace becomes aware that a high-volume third-party seller has neither certified that the seller's information is unchanged nor has not provided such changed information within three days of receiving such notification, the online marketplace shall suspend the high-volume third-party seller's participation on the online marketplace until the seller has either certified that the seller's information is unchanged or has provided such changed information and the information has been verified.

(3) **Disclosure required.** (a) Any online marketplace shall require a high-volume third-party seller in such online marketplace to provide, and shall disclose to consumers in a conspicuous manner either on the product listing or, for information other than the seller's full name, through a conspicuously placed link on the product listing, the following information:

(i) Subject to (b) of this subsection, the identity of the high-volume third-party seller, which shall include:

(A) The full name of the seller;

(B) The full physical address of the seller;

(C) Whether the seller also engages in the manufacturing, importing, or reselling of consumer products; and

(D) Contact information for the seller, including a working phone number and working email address. Such working email address may be provided to the high-volume third-party seller by the online marketplace.

(ii) Any other information determined to be necessary to address circumvention or evasion of the requirements of this subsection (3)(a), provided that the additional information is limited to what is necessary to address such circumvention or evasion.

(b) **Exceptions.** (i) Subject to (b)(ii) of this subsection, upon the request of a high-volume third-party seller, an online marketplace may provide for partial disclosure of the identity information required under (a)(i) of this subsection in the following situations:

(A) If the high-volume third-party seller demonstrates to the online marketplace that the seller does not have a business address and only has a residential street address, the online marketplace may direct the high-volume third-party seller to disclose only the country and, if applicable, the state in which the high-volume third-party seller resides on the product listing, and may inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by phone or email.

(B) If the high-volume third-party seller demonstrates to the online marketplace that the seller is a business that has a physical address for consumer product returns, the online marketplace may direct the high-volume third-party seller to disclose the seller's physical address for consumer product returns.

(C) If a high-volume third-party seller demonstrates to the online marketplace that the seller does not have a phone number other than a personal phone number, the online marketplace shall inform consumers that there is no phone number available for the seller and that consumer inquiries should be submitted to the seller's email address.

(ii) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under (b)(i) of this subsection or that a high-volume third-party seller who has requested and received a provision for a partial disclosure under (b)(i) of this subsection has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the seller by phone or email address, the online marketplace shall withdraw its provision for partial disclosure and require the full disclosure of the high-volume third-party seller's identity information required under (a)(i) of this subsection upon three business days' notice to the high-volume third-party seller.

(c) **Reporting mechanism.** An online marketplace shall disclose to consumers, in a conspicuous manner on the product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious online marketplace activity to the online marketplace and a message encouraging individuals seeking goods for purchase to report suspicious activity to the online marketplace.

(4) **Fulfillment or shipment by different party than seller.** In addition to the requirements of subsection (3) of this subsection, an online marketplace that warehouses, distributes, or otherwise fulfills a consumer product order shall disclose to the consumer the identification of any high-volume third-party seller supplying the consumer product if different than the seller listed on the product listing page.

(5) **Enforcement.** (a) A violation of subsections (1) through (4) of this section constitutes an unfair or deceptive act or practice and shall be treated as a violation of the consumer protection act, chapter 19.86 RCW.

(b) The attorney general shall enforce this act.

(c) The state consumer protection division of the attorney general's office may promulgate regulations with respect to collecting and verifying information under this section, provided that such regulations are limited to what is necessary to collect and verify such information.

(6) **Preemption.** No political subdivision may establish, mandate, or otherwise require online marketplaces to verify information from high-volume third-party sellers on a one-time or ongoing basis or disclose information to consumers.

(7) **Definitions.** The definitions in this subsection apply throughout this section unless the context clearly requires otherwise.

(a) "Consumer product" means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes, including any such property intended to be attached to, or installed in, any real property without regard to whether it is so attached or installed.

(b) "High-volume third-party seller" means a participant in an online marketplace who is a third-party seller and who, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of $5,000 or more in gross revenues.

(c) "Online marketplace" means any electronically based or accessed platform that:

(i) Includes 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 the United States; and

(ii) hosts one or more third-party sellers.

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

(e) "Third-party seller" means any seller, independent of an operator, facilitator, or owner of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace. "Third-party seller" does not include a seller who:

(i) Is a business entity that has made available to the general public the entity's name, business address, and working contact information;

(ii) Has an ongoing contractual relationship with the owner of the online marketplace to provide for the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and

(iii) Has provided to the online marketplace identifying information, as described in subsections (1) and (2) of this section, that has been verified pursuant to those subsections.

(f) "Verify" means to confirm information provided to an online marketplace pursuant to this section by the use of:

(i) A third-party or proprietary identity verification system that has the capability to confirm a seller's name, email address, physical address, and phone number; or

(ii) A combination of two-factor authentication, public records search, and the presentation of a government-issued identification.

NEW SECTION. **Sec.**  This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

NEW SECTION. **Sec.**  Sections 1 and 2 of this act constitute a new chapter in Title 19 RCW.

**--- END ---**