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**Consumer Protection & Business  
Committee**

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**HB 1543**

**Brief Description:** Concerning the adoption of the consumer product theft and safety protection act.

**Sponsors:** Representatives Kirby and Ryu.

**Brief Summary of Bill**

- Requires online marketplaces to obtain and verify banking, contact, and tax information from high-volume third-party sellers; disclose to consumers certain contact and business information for such sellers; and provide a mechanism for consumers to report suspicious activity.
- Provides for enforcement through the Consumer Protection Act, requires the Attorney General to enforce the requirements of this act, and authorizes the Attorney General to develop certain implementing regulations.
- Preempts local requirements for online marketplaces to verify or disclose information from high-volume third-party sellers.

**Hearing Date:** 3/24/21

**Staff:** John Burzynski (786-7133).

**Background:**

Washington regulates business practices and requirements pursuant to Title 19 RCW.

The Consumer Protection Act (CPA) prohibits unfair or deceptive practices in trade or

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commerce, and the formation of contracts, combinations, and conspiracies in restraint of trade or commerce, and monopolies. Persons injured by violations of the CPA may bring a civil action to enjoin further violations and recover actual damages, costs, and attorney's fees.

The Attorney General may also bring an action against any person to enjoin violations of the CPA and obtain restitution. The prevailing party may, in the discretion of the court, recover costs and attorney's fees. The Attorney General may also seek civil penalties up to the statutorily authorized maximums against any person who violates the CPA. Civil penalties are paid to the state.

### **Summary of Bill:**

House Bill 1543 establishes several requirements for online marketplaces.

#### Information Requirements.

Online marketplaces are required to obtain certain information from high-volume third-party sellers within 24 hours of such entities becoming high-volume third-party sellers, including bank account or payee information, contact information, tax identification number, and whether the seller is advertising or offering the same products on any other websites or marketplaces.

#### Verification Requirements.

Online marketplaces are required to verify within three days the information obtained from high-volume third-party sellers, and any changes to such information; to notify each high-volume third-party seller on at least an annual basis of its reporting obligations and obtain a certification from the seller that its information is unchanged or is being updated; and to suspend non-responsive sellers from the marketplace.

#### Disclosure Requirements.

Online marketplaces must require each high-volume third-party seller to disclose to consumers the seller's full name; physical address; contact information; whether the seller also manufactures, imports, or resells consumer products; and any other information determined to be necessary to address circumvention or evasion of the requirements of the act.

The marketplace may provide for a partial disclosure of this information if the seller demonstrates they do not have a business address and only have a residential address; they maintain a physical address for consumer returns; or they do not have a phone number other than a personal phone number. The marketplace must require complete disclosure if it becomes aware the seller has made a false representation to justify a partial disclosure or has not provided responsive answers to consumer inquiries within a reasonable time frame.

Additionally, online marketplaces that warehouse, distribute, or otherwise fulfill a consumer product order must disclose to the consumer the identification of any high-volume third-party seller supplying the product if different than the listed seller.

### Reporting Requirement.

Online marketplaces must encourage consumers to report suspicious activity and must provide consumers with an electronic and telephonic mechanism to do so.

### Enforcement.

A violation of the information, verification, disclosure, or reporting requirements of this act constitutes an unfair or deceptive act or practice and violation of the CPA.

The Attorney General is required to enforce this act.

The Consumer Protection Division of the Office of the Attorney General may issue regulations regarding collecting and verifying information required by this act.

### Preemption.

No political subdivision may establish, mandate, or otherwise require online marketplaces to verify or disclose information from high-volume third-party sellers.

### Defined Terms.

An "online marketplace" is an electronic platform that: (1) allows third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery of consumer products in the United States; and (2) hosts one or more third-party sellers.

A "third-party seller" is 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. However, "third-party seller" does not include a seller who: (1) is a business entity that has made available to the general public the entity's name, business address, and working contact information; (2) 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 (3) has provided to the online marketplace verified identifying information as required by this act.

A "high-volume third-party seller" is an online marketplace participant 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.

**Appropriation:** None.

**Fiscal Note:** Requested on March 23, 2021.

**Effective Date:** The bill contains an emergency clause and takes effect immediately.