



Senate

General Assembly

File No. 364

February Session, 2022

Substitute Senate Bill No. 257

Senate, April 7, 2022

The Committee on Public Safety and Security reported through SEN. OSTEN of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING HIGH VOLUME THIRD-PARTY SELLERS ON ONLINE MARKETPLACES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2023*) For the purposes of this
2 section and section 2 of this act:

3 (1) "Consumer product" means any tangible personal property that is
4 distributed in commerce and that is normally used for personal, family
5 or household purposes, including any such property intended to be
6 attached to or installed in any real property without regard to whether
7 it is so attached or installed;

8 (2) "High volume third-party seller" means a participant in an online
9 marketplace who is a third-party seller and who, in any continuous
10 twelve-month period during the previous twenty-four months, has
11 entered into two hundred or more discrete sales or transactions of new
12 or unused consumer products and an aggregate total of five thousand
13 dollars or more in gross revenues. For purposes of calculating the

14 number of discrete sales or transactions or aggregate gross revenues, an
15 online marketplace shall only be required to count sales or transactions
16 made through the online marketplace and for which payment was
17 processed by the online marketplace, either directly or through its
18 payment processor;

19 (3) "Online marketplace" means any person or entity that operates a
20 consumer-directed electronically based or accessed platform that: (A)
21 Includes features that allow for, facilitate or enable third-party sellers to
22 engage in the sale, purchase, payment, storage, shipping or delivery of
23 a consumer product in this state; (B) is used by one or more third-party
24 sellers for such purposes; and (C) has a contractual or similar
25 relationship with consumers governing their use of the platform to
26 purchase consumer products;

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

29 (5) "Third-party seller" means any seller, independent of an online
30 marketplace, who sells, offers to sell or contracts to sell a consumer
31 product in this state through an online marketplace, provided "third-
32 party seller" does not include, with respect to an online marketplace:

33 (A) A seller who operates the online marketplace's platform, or

34 (B) A business entity that has: (i) Made available to the general public
35 the entity's name, business address and working contact information;
36 (ii) an ongoing contractual relationship with the online marketplace to
37 provide the online marketplace with the manufacture, distribution,
38 wholesaling or fulfillment of shipments of consumer products; and (iii)
39 provided to the online marketplace identifying information, as
40 described in subsection (a) of section 2 of this act, that has been verified
41 in accordance with subsection (d) of section 2 of this act; and

42 (6) "Verify" means to confirm information provided to an online
43 marketplace, which may include the use of one or more methods that
44 enable the online marketplace to reliably determine that any

45 information and documents provided are valid, corresponding to the
46 seller or an individual acting on the seller's behalf, not misappropriated
47 and not falsified.

48 Sec. 2. (NEW) (*Effective January 1, 2023*) (a) Each online marketplace
49 shall require any high volume third-party seller that is using the online
50 marketplace's platform to provide the online marketplace, not later than
51 ten days after qualifying as a high volume third-party seller on the
52 platform, with the following:

53 (1) A bank account number or, if such seller does not have a bank
54 account, the name of the payee for payments issued by the online
55 marketplace to such seller, which may be provided either (A) to the
56 online marketplace, or (B) to other third parties contracted by the online
57 marketplace to maintain such information, provided the online
58 marketplace ensures that it can obtain such information on demand
59 from such other third parties;

60 (2) (A) If such seller is an individual, the individual's name, or (B) if
61 such seller is not an individual, either (i) a copy of a valid government-
62 issued identification for an individual acting on behalf of such seller that
63 includes the individual's name, or (ii) a copy of a valid government-
64 issued record or tax document that includes the business name and
65 physical address of such seller;

66 (3) A business tax identification number or, if such seller does not
67 have such a number, a taxpayer identification number; and

68 (4) A current working electronic mail address and telephone number
69 for such seller.

70 (b) An online marketplace shall:

71 (1) Not less than annually, notify each high volume third-party seller
72 on such online marketplace's platform of the requirement to keep any
73 information collected under subsection (a) of this section current, and

74 (2) Require each such seller to electronically certify, not later than ten

75 days after receiving the notice under subdivision (1) of this subsection,
76 that such seller has provided the online marketplace with any changes
77 to the information required under subsection (a) of this section or that
78 there have been no changes to such information.

79 (c) If a high volume third-party seller fails to provide the information
80 required by subsection (a) of this section or the certification required by
81 subsection (b) of this section, the online marketplace shall provide such
82 seller with written or electronic notice of such failure. If such seller does
83 not provide the required information or certification, as applicable,
84 within ten days of the issuance of such notice, the online marketplace
85 shall suspend any future sales by such seller until such seller provides
86 the required information or certification.

87 (d) An online marketplace shall verify (1) the information collected
88 under subsection (a) of this section not later than ten days after such
89 collection, and (2) any change to such information not later than ten days
90 after being notified of such change by a high volume third-party seller.
91 Any information contained in a copy of a valid government-issued tax
92 document shall be presumed to be verified as of the date of issuance of
93 such document.

94 (e) Data collected solely to comply with the requirements of
95 subsection (a) of this section may not be used for any purpose other than
96 as provided in this section, unless otherwise required by law.

97 (f) An online marketplace shall implement and maintain reasonable
98 security procedures and practices, including administrative, physical
99 and technical safeguards, that are appropriate for the nature of the data
100 collected pursuant to this section and the purposes for which such data
101 will be used, in order to protect such data from unauthorized use,
102 disclosure, access, destruction or modification.

103 (g) An online marketplace shall require any high volume third-party
104 seller that uses such online marketplace's platform and has an aggregate
105 total of twenty thousand dollars or more in annual gross revenues on
106 such online marketplace, to provide to the online marketplace, and to

107 consumers in a conspicuous manner in the order confirmation message
108 or other document or communication made to a consumer after a
109 purchase is finalized and in the consumer's account transaction history,
110 the following information:

111 (1) Except as provided in subsection (h) of this section, the identity of
112 the high volume third-party seller, including:

113 (A) The full name of such seller, which may include such seller's
114 name or such seller's company name, or the name by which such seller
115 or company operates on the online marketplace;

116 (B) The physical address of such seller; and

117 (C) Contact information for such seller, to allow for the direct,
118 unhindered communication with such seller by users of the online
119 marketplace, including a current working phone number, a current
120 working electronic mail address or other means of direct electronic
121 messaging, which may be provided to such seller by the online
122 marketplace; and

123 (2) Whether the high volume third-party seller used a different seller
124 to supply the consumer product to the consumer upon purchase, and,
125 upon the request of a consumer who is an authenticated purchaser, the
126 information described in subparagraph (A) of this subdivision relating
127 to the seller that supplied the consumer product to the consumer, if such
128 seller is different than the high volume third-party seller listed on the
129 product listing prior to purchase.

130 (h) (1) Except as provided in subdivision (2) of this subsection, an
131 online marketplace may limit the disclosure of the information required
132 under subdivision (1) of subsection (g) of this section when the high
133 volume third-party seller certifies to the online marketplace that:

134 (A) Such seller does not have a business address and only has a
135 residential street address, or has a combined business and residential
136 street address, the online marketplace may: (i) Disclose only the country
137 and, if applicable, the state in which the high volume third-party seller

138 resides, and (ii) inform consumers that there is no business address
139 available for such seller and that consumer inquiries should be
140 submitted to such seller by phone, electronic mail or other means of
141 electronic messaging provided to such seller by the online marketplace;

142 (B) Such seller is a business that has a physical address for product
143 returns, the online marketplace may disclose such seller's physical
144 address for product returns; or

145 (C) Such seller does not have a phone number other than a personal
146 phone number, the online marketplace shall inform consumers that
147 there is no phone number available for the seller and that consumer
148 inquiries should be submitted to the seller's electronic mail address or
149 other means of electronic messaging provided to such seller by the
150 online marketplace.

151 (2) If an online marketplace becomes aware that a high volume third-
152 party seller has made a false representation to the online marketplace in
153 order to justify the limitation on disclosure under subdivision (1) of this
154 subsection or that a high volume third-party seller who has requested
155 and received a limitation on disclosure under subdivision (1) of this
156 subsection has not provided responsive answers within a reasonable
157 timeframe to consumer inquiries submitted to such seller by phone,
158 electronic mail or other means of electronic messaging provided to such
159 seller by the online marketplace, the online marketplace shall provide
160 such seller with written or electronic notice regarding such false
161 representation or nonresponsiveness and an opportunity to respond not
162 later than ten days after the issuance of the notice. If, after such period,
163 such seller does not justify to such online marketplace the continued
164 limitation on the disclosure of information under subdivision (1) of this
165 subsection or consent to the disclosure of the information required
166 under subdivision (1) of subsection (g) of this section, the online
167 marketplace shall suspend any future sales activity of such seller until
168 such seller consents to the disclosure of the information required under
169 subdivision (1) of subsection (g) of this section.

170 (i) An online marketplace shall disclose to consumers in a clear and

171 conspicuous manner on the product listing of any high volume third-
172 party seller a reporting mechanism that allows for electronic and
173 telephonic reporting of suspicious marketplace activity to the online
174 marketplace.

175 (j) If a high volume third-party seller does not comply with the
176 requirements to provide and disclose information under the provisions
177 of subsections (g) and (h) of this section, the online marketplace shall
178 provide such seller with written or electronic notice of such
179 noncompliance. If such seller does not provide or disclose such
180 information not later than ten days after the issuance of such notice, the
181 online marketplace shall suspend any future sales activity of such seller
182 until such seller complies with the requirements of subsections (g) and
183 (h) of this section.

184 (k) A violation by any online marketplace of a provision of this
185 section shall constitute an unfair trade practice pursuant to subsection
186 (a) of section 42-110b of the general statutes.

187 (l) No political subdivision of the state may establish, mandate or
188 otherwise require online marketplaces to collect or verify information
189 from high volume third-party sellers on a one-time or ongoing basis or
190 disclose information to consumers.

| | | |
|---|-----------------|-------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | January 1, 2023 | New section |
| Sec. 2 | January 1, 2023 | New section |

PS Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various changes concerning online high volume third-party sellers resulting in no fiscal impact to the state or municipalities.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sSB 257*****AN ACT CONCERNING HIGH VOLUME THIRD-PARTY SELLERS ON ONLINE MARKETPLACES.*****SUMMARY**

This bill requires online marketplaces to collect and verify identifying information from high volume third-party sellers using their platforms. Among other things, the bill requires these high volume third-party sellers (generally vendors who made at least 200 discrete sales and earned at least \$5,000 on the marketplace in a 12-month period) to report their names, contact information, and bank account numbers or payee information to the marketplaces. It also requires the marketplaces to subsequently verify the information they collect.

The bill also requires online marketplaces to (1) direct high volume third-party sellers that earned at least \$20,000 on the marketplace to disclose their names and contact information to consumers, with certain exceptions, and (2) provide a reporting mechanism for consumers to report suspicious marketplace activity.

The bill deems violations of the bill's requirements by online marketplaces an unfair trade practice under the Connecticut Unfair Trade Practices Act (CUTPA, see BACKGROUND).

Lastly, the bill prohibits political subdivisions from imposing similar requirements on online marketplaces.

EFFECTIVE DATE: January 1, 2023

DEFINITIONS***Online Marketplaces***

Under the bill, an "online marketplace" is a person or entity operating

a consumer-directed electronically based or accessed platform that:

1. allows or facilitates third-party sellers to engage in the sale, purchase, payments, storage, shipping, and delivery of consumer products in Connecticut;
2. one or more third-party sellers uses for these purposes; and
3. has a contractual or similar relationship with consumers on their use of the platform to purchase consumer products.

A “consumer product” is any commercially distributed tangible personal property typically used for personal, family, or household purposes. It includes property that is intended to be attached to, or installed in, real property, regardless of whether it is attached or installed.

Third-Party Sellers

The bill defines a “third-party seller” as a seller that (1) is independent of an online marketplace and (2) sells, or offers or contracts to sell, a consumer product in Connecticut through an online marketplace. With respect to online marketplaces, it excludes any seller operating the marketplace’s platform or any business that has done the following:

1. made its business name, address, and working contact information available to the general public;
2. entered into an ongoing contractual relationship with the marketplace for consumer product manufacturing, distribution, wholesaling, or shipment fulfillment; and
3. provided the marketplace with the identifying information described below that the marketplace has verified in accordance with the bill.

High Volume Third-Party Sellers

A “high volume third-party seller” is a third-party seller

participating in an online marketplace that entered into at least 200 discrete sales and had aggregate gross revenues of at least \$5,000 in any continuous 12-month period during the prior 24 months. Discrete sales include only those made through the online marketplace for which payment was processed by the marketplace, either directly or through its payment processor.

REPORTING REQUIREMENTS

Identifying Information

Under the bill, online marketplaces must require the high-volume third-party sellers using their platforms to provide certain identifying information within 10 days after qualifying as a high-volume seller. Specifically, each seller must provide the following:

1. a bank account number or, if does not have one, the name of its payee for payments issued by the marketplace;
2. the individual's name, if the seller is an individual, or a copy of a valid government-issued (a) identification for an individual acting on the seller's behalf that includes this individual's name or (b) record or tax document that includes the seller's business name and physical address;
3. a business tax identification number, if it has one, or taxpayer identification number; and
4. a current working email address and telephone number.

The bill allows the sellers to provide the required bank account or payee information to (1) the online marketplace or (2) other third parties contracted by the marketplace to maintain this information, so long as the marketplace ensures that it can get this information on demand from these third parties.

Notice to Sellers

The bill requires each online marketplace to, at least annually, notify each high volume third-party seller on its platform that it must keep the

identifying information described above current. Within 10 days of receiving this notice, each seller must electronically certify that (1) the information has not changed or (2) it has provided the marketplace with any changes.

The online marketplace must provide written or electronic notice to each seller that fails to keep the information current or provide the certification. If the seller does not provide the information or certification within 10 days after the notice's issuance, the marketplace must suspend the seller's future sales until it does so.

Verification Requirement

Online marketplaces must, within 10 days after receiving this identifying information, verify the information and any changes sellers made to it. Under the bill, "verify" means to confirm the information provided, including using one or more methods that allow the marketplace to reliably determine that the information and documents provided (1) are valid, (2) correspond to the seller or an individual acting on the seller's behalf, and (3) are not misappropriated or falsified.

The bill provides that any information contained in a copy of a valid government-issued tax document is presumed to be verified as of its issuance date.

Data Restrictions and Security

the bill prohibits the data collected under the bill's requirements from being used for any purpose other than those the bill provides, unless required by law. It also requires online marketplaces to implement and maintain reasonable security procedures and practices to protect the data from unauthorized use, disclosure, access, destruction, or modification. This must include administrative, physical, and technical safeguards appropriate for the nature of the data collected and the purposes for which it will be used.

CONSUMER DISCLOSURE REQUIREMENTS

Identity Disclosure

Under the bill, online marketplaces must require their high volume third-party sellers with aggregate annual gross revenues of \$20,000 or more to disclose certain identifying information to the marketplace and consumers. This consumer disclosure must be conspicuous and appear in the (1) order confirmation message or other document or communication made to a consumer after a purchase is finalized and (2) consumer's account transaction history.

With certain exceptions, each of these high volume third-party sellers must disclose its identity, including its:

1. full name (or company's name) or the name by which it operates on the marketplace;
2. physical address; and
3. contact information that allows for the direct, unhindered communication with the seller by marketplace users, including a current working phone number, email address, or other direct electronic messaging method.

The sellers must also identify whether they used a different seller to supply the consumer product to the consumer. If a consumer who is an authenticated purchaser requests it, the seller must also provide, prior to purchase, the different seller's name or company name, or the name by which it operates on the marketplace.

Disclosure Limitations

The online marketplace may limit the disclosure of the seller's identity, under the following specified conditions, if certified by the seller:

1. If the seller does not have a business address and only has a residential street address or combined business and residential address, the marketplace may (a) disclose only the country and, if applicable, state in which the seller resides and (b) inform consumers that there is no business address available for the

seller and that they should submit their inquiries to the seller by phone, email, or other electronic messaging method the marketplace provides to the seller.

2. If the seller is a business with a physical address for product returns, the marketplace may disclose that address.
3. If the seller does not have a phone number other than a personal one, the marketplace must inform consumers that there is no phone number available for the seller and that they should submit their inquiries to the seller's email address or other electronic messaging means the marketplace provides to the seller.

Penalty for False Representations

If an online marketplace becomes aware that a high volume third-party seller (1) made a false representation to justify a disclosure limitation or (2) has not been responsive to consumer inquiries within a reasonable timeframe, it must provide the seller a notice regarding this false representation or unresponsiveness. The marketplace must provide this notice electronically or in writing and give the seller the opportunity to respond within 10 days. After this 10-day period, if the seller does not justify the continued disclosure limitation or consent to the required information disclosures, the marketplace must suspend the seller's future sales activity until the seller consents.

Noncompliance Notice

If a high volume third-party seller does not comply with the bill's consumer disclosure requirements, the marketplace must provide the seller with a written or electronic noncompliance notice. If the seller does not comply within 10 days after the notice's issuance, the marketplace must suspend its future sales activity until it does so.

REPORTING SUSPICIOUS MARKETPLACE ACTIVITY

The bill requires online marketplaces to disclose to consumers a reporting mechanism that allows them to report suspicious marketplace activity to the marketplace by email or phone. It must provide this

disclosure, in a clear and conspicuous manner, on any high volume third-party seller's product listing.

LIMITATIONS ON LOCAL REGULATION OF HIGH VOLUME THIRD-PARTY SELLERS

The bill prohibits political subdivisions from establishing, mandating, or otherwise requiring online marketplaces to collect or verify information from high volume third-party sellers or disclose information to consumers.

BACKGROUND

CUTPA

The law prohibits businesses from engaging in unfair and deceptive acts or practices. CUTPA allows the consumer protection commissioner to issue regulations defining what constitutes an unfair trade practice, investigate complaints, issue cease and desist orders, order restitution in cases involving less than \$10,000, enter into consent agreements, ask the attorney general to seek injunctive relief, and accept voluntary statements of compliance. It also allows individuals to sue. Courts may issue restraining orders; award actual and punitive damages, costs, and reasonable attorney's fees; and impose civil penalties of up to \$5,000 for willful violations and \$25,000 for violation of a restraining order.

COMMITTEE ACTION

Public Safety and Security Committee

Joint Favorable Substitute

Yea 14 Nay 9 (03/22/2022)