

FIRST REGULAR SESSION  
HOUSE COMMITTEE SUBSTITUTE FOR  
**HOUSE BILL NO. 290**  
**101ST GENERAL ASSEMBLY**

0585H.02C

DANA RADEMAN MILLER, Chief Clerk

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**AN ACT**

To amend chapters 407 and 570, RSMo, by adding thereto two new sections relating to retail sales, with penalty provisions and a delayed effective date for a certain section.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Chapters 407 and 570, RSMo, are amended by adding thereto two new sections, to be known as sections 407.1700 and 570.035, to read as follows:

**407.1700. 1. For the purposes of this section, the following terms shall mean:**

(1) **"Consumer product", 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 the property is so attached or installed;**

(2) **"High-volume third-party seller", a participant in an online marketplace who is a third-party seller and who, in any continuous twelve-month period during the previous twenty-four months, has entered into two hundred or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregated total of five thousand dollars or more in gross revenues;**

(3) **"Online marketplace", any electronically based or accessed platform that:**

(a) **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**

(b) **Hosts one or more third-party sellers;**

(4) **"Seller", a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace;**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18           **(5) "Third-party seller", any seller, independent of an operator, facilitator, or**  
19 **owner of an online marketplace, who sells, offers to sell, or contracts to sell a consumer**  
20 **product through an online marketplace. This term shall not include a seller who:**

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

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

26           **(c) Has provided to the online marketplace identifying information, as described**  
27 **in subsection 2 of this section, that has been verified pursuant to that subsection;**

28           **(6) "Verify", to confirm information provided to an online marketplace pursuant**  
29 **to this section by the use of:**

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

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

34           **2. Online marketplaces shall require that any high-volume third-party seller on the**  
35 **online marketplace provide the online marketplace with the following information within**  
36 **twenty-four hours of becoming a high-volume third-party seller:**

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

43           **(a) To the online marketplace; or**

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

47           **(2) Contact information, including:**

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

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

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

55           **b. A copy of a government-issued record or tax document that includes the business**  
56 **name and physical address of the high-volume third-party seller;**

57           **(3) A working email address and working phone number for the high-volume third-**  
58 **party seller;**

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

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

65           **3. (1) The online marketplace shall verify the information provided in subsection**  
66 **2 of this section within three days, and shall verify within three days any changes to such**  
67 **information that is provided to the online marketplace by a high-volume third-party seller.**  
68 **If a high-volume third-party seller provides a copy of a valid government-issued tax**  
69 **document, information contained within such tax document shall be presumed to be**  
70 **verified as of the date of issuance of such record or document.**

71           **(2) The online marketplace shall, on at least an annual basis, notify each high-**  
72 **volume third-party seller on the online marketplace that the seller shall inform the online**  
73 **marketplace of any changes to the information provided by the seller pursuant to**  
74 **subdivision (1) of this subsection within three days of receiving the notification and shall**  
75 **instruct each high-volume third-party seller, as part of the notification, to electronically**  
76 **certify either that the seller's information is unchanged or that the seller is providing**  
77 **changes to the information. If the online marketplace becomes aware that a high-volume**  
78 **third-party seller has not certified that the seller's information is unchanged or has not**  
79 **provided such changed information within three days of receiving such notification, the**  
80 **online marketplace shall suspend the high-volume third-party seller's participation on the**  
81 **marketplace until the seller has either certified that the seller's information is unchanged**  
82 **or has provided such changed information and the information has been verified.**

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

87           **(1) Subject to subsection 3 of this section, the identity of the high-volume third-**  
88 **party seller which shall include:**

89           **(a) The full name of the seller;**

90           **(b) The full physical address of the seller;**

91           **(c) Whether the seller also engages in the manufacturing, importing, or reselling**  
92 **of consumer products; and**

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

96           **(2) Any other information determined to be necessary to address circumvention or**  
97 **evasion of the requirements of this section, provided that the additional information is**  
98 **limited to what is necessary to address such circumvention or evasion.**

99           **5. Subject to subsection 2 of this section, upon request of a high-volume third-party**  
100 **seller, an online marketplace may provide for partial disclosure of the identity information**  
101 **required under subsection 4 of this section in the following situations:**

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

109           **(2) If the high-volume third-party seller demonstrates to the online marketplace**  
110 **that the seller is a business that has a physical address for product returns, the online**  
111 **marketplace may direct the high-volume third-party seller to disclose the seller's physical**  
112 **address for product returns;**

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

117           **6. If an online marketplace becomes aware that a high-volume third-party seller**  
118 **has made a false representation to the online marketplace in order to justify the provision**  
119 **of a partial disclosure under subsection 5 of this section or that a high-volume third-party**  
120 **seller who has requested and received a provision for a partial disclosure under subsection**  
121 **5 of this section has not provided responsive answers within a reasonable time frame to**  
122 **consumer inquiries submitted to the seller by phone or email address, the online**

123 marketplace shall withdraw its provision for partial disclosure and require the full  
124 disclosure of the high-volume third-party seller's identity information required under  
125 subsection 3 of this section upon three business day's notice to the high-volume third-party  
126 seller.

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

132         **8. An online marketplace that warehouses, distributes, or otherwise fulfills a**  
133 **consumer product order shall disclose to the consumer the identification of any high-**  
134 **volume third-party seller supplying the consumer product if different than the seller listed**  
135 **on the product listing page.**

136         **9. (1) A violation of the provisions of this section shall be treated as a violation of**  
137 **sections 407.010 to 407.130.**

138         **(2) The consumer protection section of the office of the attorney general may**  
139 **promulgate rules and regulations with respect to collecting and verifying information**  
140 **under this section, provided that such rules and regulations are limited to what is necessary**  
141 **to collect and verify such information. Any rule or portion of a rule, as that term is defined**  
142 **in section 536.010, that is created under the authority delegated in this section shall become**  
143 **effective only if it complies with and is subject to all of the provisions of chapter 536 and,**  
144 **if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of**  
145 **the powers vested with the general assembly pursuant to chapter 536 to review, to delay**  
146 **the effective date, or to disapprove and annul a rule are subsequently held**  
147 **unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted**  
148 **after the effective date of this section shall be invalid and void.**

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

**570.035. 1. As used in this section, the following terms mean:**

2         **(1) "Internet or network site", any identifiable site on the internet or on a network,**  
3 **or an electronic bulletin board or a similar type of site;**

4         **(2) "Merchant", as defined in section 150.010.**

5         **2. A person commits the offense of organized retail theft if he or she, alone or acting**  
6 **together with any other person or persons, commits two or more stealing offenses of retail**  
7 **merchandise against one or more merchants either on the merchant's premises or through**

8 the use of an internet or network site in the state with the intent to deprive the merchant  
9 of such merchandise or return it for payment of something of value in any manner,  
10 including but not limited to, through the use of an internet or network site.

11 3. The offense of organized retail theft is a class C felony if the aggregated value of  
12 the property or services involved in all thefts committed in the organized retail theft in this  
13 state during a period of one hundred twenty days is more than three thousand dollars.

14 4. The offense of organized retail theft is a class B felony if the aggregated value of  
15 the property or services involved in all thefts committed in the organized retail theft in this  
16 state during a period of one hundred twenty days is more than twenty-five thousand  
17 dollars.

18 5. In any prosecution for a violation of this section, the violation shall be deemed  
19 to have been committed and may be prosecuted in any jurisdiction in this state in which  
20 any theft committed by any participant in the organized retail theft was committed  
21 regardless of whether the defendant was ever physically present in such jurisdiction.

Section B. Section 407.1700 of section A of this act shall become effective on February  
2 28, 2022.

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