

House \_\_\_\_\_ Amendment NO. \_\_\_\_\_

Offered By

1 AMEND House Committee Substitute for Senate Substitute for Senate Committee Substitute for  
2 Senate Bill No. 834, Page 12, Section 217.947, Line 9, by inserting after all of said section and line  
3 the following:  
4

5 "407.1700. 1. For the purposes of this section, the following terms shall mean:

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

10 (2) "High-volume third-party seller", a participant in an online marketplace who is a third-  
11 party seller and who, in any continuous twelve-month period during the previous twenty-four  
12 months, has entered into two hundred or more discrete sales or transactions of new or unused  
13 consumer products with an aggregate total of five thousand dollars or more in gross revenue. For  
14 purposes of calculating the number of discrete sales or transactions or the aggregate gross revenues  
15 under this subdivision, an online marketplace shall be required to count only sales or transactions  
16 made through the online marketplace and for which payment was processed by the online  
17 marketplace, either directly or through its payment processor;

18 (3) "Online marketplace", any person or entity that operates a consumer-directed,  
19 electronically-based or accessed platform that:

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

22 (b) Is used by one or more third-party sellers for such purposes; and

23 (c) Has a contractual or similar relationship with consumers governing its use of the  
24 platform to purchase consumer products;

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

27 (5) "Third-party seller", any seller, independent of an online marketplace, who sells, offers  
28 to sell, or contracts to sell a consumer product through an online marketplace. This term shall not  
29 include a seller who:

30 (a) Operates the online marketplace's platform; or

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1       (b) Is a business entity that has:

2       a. Made available to the general public the entity's name, business address, and working  
3 contact information;

4       b. An ongoing contractual relationship with the online marketplace to provide the online  
5 marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of  
6 consumer products; and

7       c. Provided to the online marketplace identifying information, as described in subparagraph  
8 a. of this paragraph, that has been verified under subsection 2 of this section;

9       (6) "Verify", to confirm information provided to an online marketplace under this section,  
10 which may include the use of one or more methods that enable the online marketplace to reliably  
11 determine that any information and documents provided are valid, corresponding to the seller or an  
12 individual acting on the seller's behalf; not misappropriated; and not falsified.

13       2. An online marketplace shall require any high-volume third-party seller on the online  
14 marketplace to provide, no later than ten days after qualifying as a high-volume third-party seller,  
15 the following information:

16       (1) Bank account information, including a bank account number or, if such seller does not  
17 have a bank account, the name of the payee for payments issued by the online marketplace to such  
18 seller. The bank account or payee information required under this subdivision may be provided by  
19 the seller in the following ways:

20       (a) To the online marketplace; or

21       (b) To a payment processor or other third-party contracted by the online marketplace to  
22 maintain such information, provided that the online marketplace ensures that it may obtain such  
23 information on demand from such payment processor or other third-party;

24       (2) Contact information for such seller, including the following:

25       (a) With respect to a high-volume third-party seller who is an individual, the individual's  
26 name; or

27       (b) With respect to a high-volume third-party seller who is not an individual, one of the  
28 following forms of contact information:

29       a. A copy of a valid government-issued identification for an individual acting on behalf of  
30 such seller that includes the individual's name; or

31       b. A copy of a valid government-issued record or tax document that includes the business  
32 name and physical address of such seller;

33       (3) A current working email address and phone number for such seller; and

34       (4) A business tax identification number or, if such seller does not have a business tax  
35 identification number, a taxpayer identification number.

36       3. An online marketplace shall:

37       (1) Periodically, but no less than annually, notify any high-volume third-party seller on such  
38 online marketplace's platform of the requirement to keep any information collected under subsection  
39 2 of this section current; and

1       (2) Require any high-volume third-party seller on such online marketplace's platform to, no  
2 later than ten days after receiving the notice under subdivision (1) of this subsection, electronically  
3 certify that:

4       (a) The seller has provided any changes to such information to the online marketplace if any  
5 such changes have occurred;

6       (b) There have been no changes to such seller's information; or

7       (c) Such seller has provided any changes to such information to the online marketplace.

8       4. In the event that a high-volume third-party seller does not provide the information or  
9 certification required under subsections 2 and 3 of this section, the online marketplace shall, after  
10 providing the seller with written or electronic notice and an opportunity to provide such information  
11 or certification no later than ten days after the issuance of such notice, suspend any future sales  
12 activity of such seller until such seller provides such information or certification.

13       5. (1) An online marketplace shall:

14       (a) Verify the information collected in subsection 2 of this section no later than ten days  
15 after such collection; and

16       (b) Verify any change to such information no later than ten days after being notified of such  
17 change by a high-volume third-party seller under subsection 3 of this section.

18       (2) In the case of a high-volume third-party seller who provides a copy of a valid  
19 government-issued tax document, any information contained in such tax document shall be  
20 presumed to be verified as of the date of issuance of such document.

21       (3) Data collected to comply solely with the requirements of this section shall not be used  
22 for any other purpose unless required by law.

23       (4) An online marketplace shall implement and maintain reasonable security procedures and  
24 practices, including administrative, physical, and technical safeguards, appropriate to the nature of  
25 the data and the purposes for which the data will be used, to protect the data collected to comply  
26 with the requirements of this section from unauthorized use, disclosure, access, destruction, or  
27 modification.

28       6. (1) An online marketplace shall:

29       (a) Require any high-volume third-party seller with an aggregate total of twenty thousand  
30 dollars or more in annual gross revenues on such online marketplace, and that uses such online  
31 marketplace's platform, to provide the information described in subdivision (2) of this subsection to  
32 the online marketplace; and

33       (b) Disclose the information described in subdivision (2) of this subsection to consumers in  
34 a clear and conspicuous manner in the order confirmation message or other document or  
35 communication made to a consumer after a purchase is finalized and in the consumer's account  
36 transaction history.

37       (2) The information required shall be the following:

38       (a) Subject to subdivision (3) of this subsection, the identity of the high-volume third-party  
39 seller, including:

- 1        a. The full name of the seller, which may include the seller's name or seller's company  
2 name, or the name by which the seller or company operates on the online marketplace;  
3        b. The physical address of the seller; and  
4        c. Contact information for the seller, to allow for the direct, unhindered communication with  
5 high-volume third-party sellers by users of the online marketplace, including:  
6            (i) A current working phone number;  
7            (ii) A current working email address; or  
8            (iii) Other means of direct electronic messaging, which may be provided to such seller by  
9 the online marketplace; and  
10        (b) Whether the high-volume third-party seller used a different seller to supply the consumer  
11 product to the consumer upon purchase and, upon the request of an authenticated purchaser, the  
12 information described in paragraph (a) of this subdivision relating to any such seller who supplied  
13 the consumer product to the purchaser if such seller is different than the high-volume third-party  
14 seller listed on the product listing prior to purchase.  
15        (3) Subject to subdivision (2) of this subsection, upon the request of a high-volume third-  
16 party seller, an online marketplace may provide for partial disclosure of the identity information  
17 required under paragraph (a) of subdivision (2) of this subsection in the following situations:  
18            (a) If such seller certifies to the online marketplace that the seller does not have a business  
19 address and only has a residential street address, or has a combined business and residential address,  
20 the online marketplace may:  
21                a. Disclose only the country and, if applicable, the state in which such seller resides; and  
22                b. Inform consumers that there is no business address available for the seller and that  
23 consumer inquiries should be submitted to the seller by phone, email, or other means of electronic  
24 messaging provided to such seller by the online marketplace;  
25            (b) If such seller certifies to the online marketplace that the seller is a business that has a  
26 physical address for product returns, the online marketplace may disclose the seller's physical  
27 address for product returns; and  
28            (c) If such seller certifies to the online marketplace that the seller does not have a phone  
29 number other than a personal phone number, the online marketplace shall inform consumers that  
30 there is no phone number available for the seller and that consumer inquiries should be submitted to  
31 the seller's email address or other means of electronic messaging provided to such seller by the  
32 online marketplace.  
33        (4) If an online marketplace becomes aware that a high-volume third-party seller has made a  
34 false representation to the online marketplace in order to justify the provision of a partial disclosure  
35 under subdivision (1) of this subsection or that a high-volume third-party seller who has requested  
36 and received a provision for a partial disclosure under subdivision (1) of this subsection has not  
37 provided responsive answers within a reasonable time frame to consumer inquiries submitted to the  
38 seller by phone, email, or other means of electronic messaging provided to such seller by the online  
39 marketplace, the online marketplace shall, after providing the seller with written or electronic notice

1 and an opportunity to respond no later than ten days after the issuance of such notice, suspend any  
 2 future sales activity of such seller unless such seller consents to the disclosure of the identity  
 3 information required under paragraph (a) of subdivision (2) of this subsection.

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

7 (6) If a high-volume third-party seller does not comply with the requirements to provide and  
 8 disclose information under this subsection, the online marketplace shall, after providing the seller  
 9 with written or electronic notice and an opportunity to provide or disclose such information no later  
 10 than ten days after the issuance of such notice, suspend any future sales activity of such seller until  
 11 the seller complies with such requirements.

12 7. (1) A violation of the provisions of this section shall be treated as a violation of sections  
 13 407.010 to 407.130 and shall be enforced solely by the attorney general. Nothing in this section  
 14 shall be construed as providing the basis for, or subjecting a party to, a private civil action.

15 (2) The attorney general may promulgate rules and regulations with respect to collecting,  
 16 verifying, and disclosing information under this section, provided that such rules and regulations are  
 17 limited to what is necessary to collect, verify, or disclose such information. Any rule or portion of a  
 18 rule, as that term is defined in section 536.010, that is created under the authority delegated in this  
 19 section shall become effective only if it complies with and is subject to all of the provisions of  
 20 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and  
 21 if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
 22 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
 23 grant of rulemaking authority and any rule proposed or adopted after the effective date of this  
 24 section shall be invalid and void.

25 8. If the attorney general has reason to believe that any online marketplace has violated or is  
 26 violating this section or a rule or regulation promulgated under this section that affects one or more  
 27 residents of Missouri, the attorney general may bring a civil action in any appropriate circuit court  
 28 to:

- 29 (1) Enjoin further such violation by the defendant;
- 30 (2) Enforce compliance with this section or such rule or regulation;
- 31 (3) Obtain civil penalties in the amount provided for under subsection 6 of this section;
- 32 (4) Obtain other remedies permitted under state law; and
- 33 (5) Obtain damages, restitution, or other compensation on behalf of residents of this state.";

34 and

35  
 36 Further amend said bill, Page 18, Section 559.115, Line 77, by inserting after all of said section and  
 37 line the following:

38  
 39 "559.115. 1. Neither probation nor parole shall be granted by the circuit court between the  
 40 time the transcript on appeal from the offender's conviction has been filed in appellate court and the

1 disposition of the appeal by such court.

2 2. Unless otherwise prohibited by subsection 8 of this section, a circuit court only upon its  
3 own motion and not that of the state or the offender shall have the power to grant probation to an  
4 offender anytime up to one hundred twenty days after such offender has been delivered to the  
5 department of corrections but not thereafter. The court may request information and a  
6 recommendation from the department concerning the offender and such offender's behavior during  
7 the period of incarceration. Except as provided in this section, the court may place the offender on  
8 probation in a program created pursuant to section 217.777, or may place the offender on probation  
9 with any other conditions authorized by law.

10 3. The court may recommend placement of an offender in a department of corrections one  
11 hundred twenty-day program under this subsection ~~[or order such placement under subsection 4 of~~  
12 ~~section 559.036]. [Upon the recommendation or order of the court,]~~ The department of corrections  
13 shall assess each offender to determine the appropriate one hundred twenty-day program in which to  
14 place the offender, which may include placement in the ~~[shock incarceration]~~ structured cognitive  
15 behavioral intervention program or institutional treatment program. The placement of an offender in  
16 the structured cognitive behavioral intervention program or institutional treatment program shall be  
17 at the sole discretion of the department based on the assessment of the offender and available bed  
18 space. When the court recommends and receives placement of an offender in a department of  
19 corrections one hundred twenty-day program, the offender shall be released on probation if the  
20 department of corrections determines that the offender has successfully completed the program  
21 except as follows. Upon successful completion of a program under this subsection, the division of  
22 probation and parole shall advise the sentencing court of an offender's probationary release date  
23 thirty days prior to release. The court shall follow the recommendation of the department unless the  
24 court determines that probation is not appropriate. If the court determines that probation is not  
25 appropriate, the court may order the execution of the offender's sentence only after conducting a  
26 hearing on the matter within ninety to one hundred twenty days from the date the offender was  
27 delivered to the department of corrections. If the department determines the offender has not  
28 successfully completed a one hundred twenty-day program under this subsection, the ~~[offender shall~~  
29 ~~be removed from the program and the court shall be advised of the removal]~~ division of probation  
30 and parole shall advise the prosecuting attorney and the sentencing court of the defendant's  
31 unsuccessful program exit and the defendant shall be removed from the program. The department  
32 shall report on the offender's participation in the program and may provide recommendations for  
33 terms and conditions of an offender's probation. The court shall then have the power to grant  
34 probation or order the execution of the offender's sentence.

35 4. If the court is advised that an offender is not eligible for placement in a one hundred  
36 twenty-day program under subsection 3 of this section, the court shall consider other authorized  
37 dispositions. If the department of corrections one hundred twenty-day program under subsection 3  
38 of this section is full, the court may place the offender in a private program approved by the  
39 department of corrections or the court, the expenses of such program to be paid by the offender, or

1 in an available program offered by another organization. If the offender is convicted of a class C,  
2 class D, or class E nonviolent felony, the court may order probation while awaiting appointment to  
3 treatment.

4 5. Except when the offender has been found to be a predatory sexual offender pursuant to  
5 section 566.125, the court shall request the department of corrections to conduct a sexual offender  
6 assessment if the defendant has been found guilty of sexual abuse when classified as a class B  
7 felony. Upon completion of the assessment, the department shall provide to the court a report on the  
8 offender and may provide recommendations for terms and conditions of an offender's probation.  
9 The assessment shall not be considered a one hundred twenty-day program as provided under  
10 subsection 3 of this section. The process for granting probation to an offender who has completed  
11 the assessment shall be as provided under subsections 2 and 6 of this section.

12 6. Unless the offender is being granted probation pursuant to successful completion of a one  
13 hundred twenty-day program the circuit court shall notify the state in writing when the court intends  
14 to grant probation to the offender pursuant to the provisions of this section. The state may, in  
15 writing, request a hearing within ten days of receipt of the court's notification that the court intends  
16 to grant probation. Upon the state's request for a hearing, the court shall grant a hearing as soon as  
17 reasonably possible. If the state does not respond to the court's notice in writing within ten days, the  
18 court may proceed upon its own motion to grant probation.

19 7. An offender's first incarceration under this section prior to release on probation shall not  
20 be considered a previous prison commitment for the purpose of determining a minimum prison term  
21 under the provisions of section 558.019.

22 8. Notwithstanding any other provision of law, probation may not be granted pursuant to  
23 this section to offenders who have been convicted of murder in the second degree pursuant to  
24 section 565.021; forcible rape pursuant to section 566.030 as it existed prior to August 28, 2013;  
25 rape in the first degree under section 566.030; forcible sodomy pursuant to section 566.060 as it  
26 existed prior to August 28, 2013; sodomy in the first degree under section 566.060; statutory rape in  
27 the first degree pursuant to section 566.032; statutory sodomy in the first degree pursuant to section  
28 566.062; child molestation in the first degree pursuant to section 566.067 when classified as a class  
29 A felony; abuse of a child pursuant to section 568.060 when classified as a class A felony; or an  
30 offender who has been found to be a predatory sexual offender pursuant to section 566.125; any  
31 offense under section 557.045; or any offense in which there exists a statutory prohibition against  
32 either probation or parole."; and  
33

34 Further amend said bill by amending the title, enacting clause, and intersectional references  
35 accordingly.