

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

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 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 "570.036. 1. A person commits the offense of organized retail theft if he or she, while alone
 40 or with any other person or persons, commits a series of thefts of retail merchandise against one or

1 more persons either on the premises of a merchant or through the use of an internet or network site
2 in this state with the intent to:

3 (1) Return the merchandise to the merchant for value; or

4 (2) Resell, trade, or barter the merchandise for value in any manner including, but not
5 limited to, through the use of an internet or network site.

6 2. The offense of organized retail theft is a class D felony if the aggregated value of the
7 property or services involved in all thefts committed in this state during a period of one hundred
8 twenty days is no less than one thousand five hundred dollars and no more than ten thousand dollars.

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

12 4. In addition to any other penalty, the court shall order a person who violates this section to
13 pay restitution.

14 5. For the purposes of this section, in determining the aggregated value of the property or
15 services involved in all thefts committed in this state during a period of one hundred twenty days:

16 (1) The amount involved in a single theft shall be deemed to be the highest value, by any
17 reasonable standard, of the property or services that are obtained; and

18 (2) The amounts involved in all thefts committed by all participants in the organized retail
19 theft shall be aggregated.

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

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