

FIRST REGULAR SESSION

HOUSE BILL NO. 548

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS.

1328H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapter 407, RSMo, by adding thereto one new section relating to retail sales.

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

Section A. Chapter 407, RSMo, is amended by adding thereto one new section, to be
2 known as section 407.1700, to read as follows:

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

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

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

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

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.

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

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

21 (c) Has a contractual or similar relationship with consumers, governing the use
22 of the platform to purchase consumer products;

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

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

28 (a) Operates the online marketplace; or

29 (b) Is a business entity that has:

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

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

35 c. Provided to the online marketplace identifying information, as described in
36 subsection 2 of this section, that has been verified pursuant to that subsection;

37 (6) "Verify", to confirm information provided to an online marketplace
38 pursuant to this section by the use of one or more methods that enable the online
39 marketplace to reliably determine that any information and documents provided are
40 valid, corresponding to the seller or an individual acting on the seller's behalf; are not
41 misappropriated; and are not falsified.

42 2. An online marketplace shall require that any high-volume third-party seller
43 on the online marketplace to provide the online marketplace with the following
44 information within ten days of qualifying as a high-volume third-party seller:

45 (1) Bank account information, including a bank account number or, if the high-
46 volume third-party seller does not have a bank account, the name of the payee for
47 payments issued by the online marketplace to the high-volume third-party seller. The
48 bank account or payee information may be provided by the seller either:

49 (a) To the online marketplace; or

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

- 54 **(2) Contact information of the seller, including:**
55 **(a) If the high-volume third-party seller is an individual, the individual's name;**
56 **or**
57 **(b) If the high-volume third-party seller is not an individual, either:**
58 **a. A copy of a valid government-issued identification for an individual acting on**
59 **behalf of the high-volume third-party seller that includes the individual's name; or**
60 **b. A copy of a valid government-issued record or tax document that includes the**
61 **business name and physical address of the high-volume third-party seller;**
62 **(3) A current working email address and phone number for the high-volume**
63 **third-party seller; and**
64 **(4) A business tax identification number or, if the high-volume third-party seller**
65 **does not have a business tax identification number, a taxpayer identification number.**
66 **3. An online marketplace shall:**
67 **(1) Periodically, but no less than annually, notify any high-volume third-party**
68 **seller on the online marketplace of the requirement to keep any information collected**
69 **under subsection 2 of this section current; and**
70 **(2) Require any high-volume third-party seller on the online marketplace to**
71 **electronically certify no later than ten days after receiving the notice under subdivision**
72 **(1) of this subsection that:**
73 **(a) The seller has notified the online marketplace of any changes to the**
74 **information described under subsection 2 of this section; or**
75 **(b) No changes to the seller's information have occurred.**
76 **4. If a high-volume third-party seller does not provide the information or**
77 **certification required under subsections 2 and 3 of this section, the online marketplace**
78 **shall, after providing the seller with written or electronic notice and an opportunity to**
79 **provide such information or certification no later than ten days after the issuance of**
80 **such notice, suspend any future sales activity of such seller until such seller provides**
81 **such information or certification.**
82 **5. (1) An online marketplace shall verify the information described under**
83 **subsection 2 of this section no later than ten days after the receiving the information and**
84 **verify any change to such information no later than ten days after receiving notice of a**
85 **change under subsection 3 of this section.**
86 **(2) If a high-volume third-party seller provides a copy of a valid government-**
87 **issued tax document, any information contained therein shall be presumed to be verified**
88 **as of the date of issuance of such document.**
89 **(3) Data collected to comply solely with the requirements of this section shall not**
90 **be used for any other purpose unless required by law.**

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

96 **6. (1) An online marketplace shall:**

97 **(a) Require any high-volume third-party seller with an aggregate total of twenty**
98 **thousand dollars or more in annual gross revenues on such online marketplace and that**
99 **uses the online marketplace to provide the information described in subdivision (2) of**
100 **this subsection to the online marketplace; and**

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

105 **(2) The information shall include:**

106 **(a) Subject to subsection 5 of this section, the identity of the high-volume third-**
107 **party seller, including:**

108 **a. The full name of the seller, which may include the seller's name or seller's**
109 **company name, or the name by which the seller or company operates on the online**
110 **marketplace;**

111 **b. The physical address of the seller; and**

112 **c. The contact information for the seller to allow for the direct, unhindered**
113 **communication with the sellers by users of the online marketplace, including:**

114 **(i) A current working phone number;**

115 **(ii) A current working email address; or**

116 **(iii) Other means of direct electronic messaging, which may include means**
117 **provided to such seller by the online marketplace; and**

118 **(b) Whether the high-volume third-party seller used a different seller to supply**
119 **the consumer product to the consumer upon purchase and, upon the request of an**
120 **authenticated purchaser, the information described in paragraph (a) of this subdivision**
121 **of the seller who supplied the consumer product to the purchaser if such seller is**
122 **different than the high-volume third-party seller listed on the product listing prior to**
123 **purchase.**

124 **7. Subject to subsection 2 of this section, upon request of a high-volume third-**
125 **party seller, an online marketplace may provide for partial disclosure of the identity**
126 **information required under subsection 6 of this section in the following situations:**

127 **(1) If the high-volume third-party seller certifies to the online marketplace that**
128 **the seller does not have a business address and has only a residential street address or**
129 **has a combined business and residential address, the online marketplace may:**

130 **(a) Disclose only the country and, if applicable, the state in which the high-**
131 **volume third-party seller resides; and**

132 **(b) Inform consumers that there is no business address available for the seller**
133 **and that consumer inquiries should be submitted to the seller by phone, email, or other**
134 **means of electronic messaging provided to such seller by the online marketplace;**

135 **(2) If the high-volume third-party seller certifies to the online marketplace that**
136 **the seller is a business that has a physical address for product returns, the online**
137 **marketplace may disclose the seller's physical address for product returns; and**

138 **(3) If a high-volume third-party seller certifies to the online marketplace that the**
139 **seller does not have a phone number other than a personal phone number, the online**
140 **marketplace shall inform consumers that there is no phone number available for the**
141 **seller and that consumer inquiries should be submitted to the seller's email address or**
142 **other means of electronic messaging provided to such seller by the online marketplace.**

143 **8. If an online marketplace becomes aware that a high-volume third-party seller**
144 **has made a false representation to the online marketplace in order to justify the**
145 **provision of a partial disclosure under subsection 7 of this section or that a high-volume**
146 **third-party seller who has requested and received a provision for a partial disclosure**
147 **under subsection 7 of this section has not provided responsive answers within a**
148 **reasonable time frame to consumer inquiries submitted to the seller by phone, email**
149 **address, or other means of electronic messaging provided to such seller by the online**
150 **marketplace, the online marketplace shall, after providing the seller with written or**
151 **electronic notice and an opportunity to respond no later than ten days after the issuance**
152 **of such notice, suspend any future sales activity of such seller unless such seller consents**
153 **to the disclosure of the identity information.**

154 **9. An online marketplace shall disclose to consumers, in a clear and conspicuous**
155 **manner on the product listing of any high-volume third-party seller, a reporting**
156 **mechanism that allows for electronic and telephonic reporting of suspicious**
157 **marketplace activity to the online marketplace.**

158 **10. If a high-volume third-party seller does not comply with the requirements to**
159 **provide and disclose information under this section, the online marketplace shall, after**
160 **providing the seller with written or electronic notice and an opportunity to provide or**
161 **disclose such information no later than ten days after the issuance of such notice,**
162 **suspend any future sales activity of such seller until the seller complies with such**
163 **requirements.**

164 **11. (1) A violation of the provisions of this section shall be treated as a violation**
165 **of sections 407.010 to 407.130 and shall be enforced solely by the attorney general.**
166 **Nothing in this section shall be construed as providing the basis for, or subjecting a**
167 **party to, a private civil action.**

168 **(2) The attorney general may promulgate rules and regulations with respect to**
169 **collecting, verifying, and disclosing information under this section, provided that such**
170 **rules and regulations are limited to what is necessary to collect, verify, or disclose such**
171 **information. Any rule or portion of a rule, as that term is defined in section 536.010,**
172 **that is created under the authority delegated in this section shall become effective only if**
173 **it complies with and is subject to all of the provisions of chapter 536 and, if applicable,**
174 **section 536.028. This section and chapter 536 are nonseverable, and if any of the powers**
175 **vested with the general assembly pursuant to chapter 536 to review, to delay the**
176 **effective date, or to disapprove and annul a rule are subsequently held unconstitutional,**
177 **then the grant of rulemaking authority and any rule proposed or adopted after the**
178 **effective date of this section shall be invalid and void.**