

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
93rd General Assembly  
Regular Session, 2021

# A Bill

SENATE BILL 470

By: Senator J. Dismang  
By: Representative Evans

## For An Act To Be Entitled

AN ACT TO ESTABLISH THE ONLINE MARKETPLACE CONSUMER  
INFORM ACT; TO REQUIRE THE DISCLOSURE OF INFORMATION  
BY ONLINE MARKETPLACES TO BETTER INFORM CONSUMERS; TO  
REGULATE ONLINE MARKETPLACES TO STOP ORGANIZED RETAIL  
CRIME; AND FOR OTHER PURPOSES.

## Subtitle

TO ESTABLISH THE ONLINE MARKETPLACE  
CONSUMER INFORM ACT; TO REQUIRE THE  
DISCLOSURE OF INFORMATION BY ONLINE  
MARKETPLACES TO BETTER INFORM CONSUMERS;  
TO REGULATE ONLINE MARKETPLACES TO STOP  
ORGANIZED RETAIL CRIME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 4 is amended to add an additional  
chapter to read as follows:

### CHAPTER 119

### ONLINE MARKETPLACE CONSUMER INFORM ACT

#### 4-119-101. Title.

This chapter shall be known and may be cited as the "Online Marketplace  
Consumer Inform Act".

#### 4-119-102. Definitions.



As used in this chapter:

(1)(A) "Consumer product" means any tangible personal property that:

(i) Is distributed in commerce; and

(ii) Is normally used for personal, family, or household purposes.

(B) "Consumer product" includes property intended to be attached to or installed in any real property without regard to whether it is so attached or installed;

(2) "High-volume third-party seller" means 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 (24) months, has entered into two hundred (200) or more discrete sales or transactions of new or unused consumer products resulting in the accumulation of an aggregate total of five thousand dollars (\$5,000) or more in gross revenues;

(3) "Online marketplace" means any electronically based or electronically 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 (1) or more third-party sellers;

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

(5)(A) "Third-party seller" means a seller, independent of an operator, facilitator, or owner of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States through an online marketplace.

(B) "Third-party seller" does not include a seller that:

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

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

(iii) Has provided to the online marketplace

identifying information, as described in § 4-119-103, that has been verified according to § 4-119-103(a); and

(6) "Verify" means to confirm information provided to an online marketplace under § 4-119-103 by the use of:

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

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

4-119-103. Online marketplace – Verification required.

(a) An online marketplace shall require a high-volume third-party seller to provide to the online marketplace within twenty-four (24) hours of becoming a high-volume third-party seller:

(1)(A)(i) Bank account information, the accuracy of which has been confirmed directly by the online marketplace, a payment processor, or other third-party contracted by the online marketplace.

(ii) If the high-volume third-party seller does not have a bank account, then the name of the payee for payments issued by the online marketplace to the high-volume third-party seller.

(B) The bank account information or payee information described in subdivision (a)(1)(A)(i) or (a)(1)(A)(ii) of this section may be provided by the high-volume third-party seller:

(i) To the online marketplace; or

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

(2)(A) Contact information for the high-volume third-party seller.

(B) As used in subdivision (a)(2)(A) of this section, "contact information" includes:

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

(ii) If the high-volume third-party seller is not an individual, then:

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

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

(iii) A working email address and working telephone number for the high-volume third-party seller;

(3) A business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number; and

(4) Whether or not the high-volume third-party seller:

(A) Is exclusively advertising or offering a consumer product on the online marketplace; and

(B) Is currently advertising or offering for sale the same consumer product or products on any other internet websites other than the online marketplace.

(b)(1) An online marketplace shall verify:

(A) The information provided in subsection (a) of this section within three (3) days; and

(B) Any changes to the information described in subsection (a) of this section within three (3) days of receipt of any changes to the information that is provided to the online marketplace by a high-volume third-party seller.

(2) If a high-volume third-party seller provides a copy of a valid government-issued tax document, then the information contained within the tax document shall be presumed to be verified as of the date of issuance of the record or document.

(3)(A) An online marketplace shall, at least annually:

(i) Notify each high-volume third-party seller operating on the online marketplace that the high-volume third-party seller shall inform the online marketplace of any changes to the information provided by the high-volume third-party seller under subsection (a) of this section within three (3) days of receiving the notification; and

(ii) Instruct each high-volume third-party seller, as part of the notification, to electronically certify either that the high-volume third-party seller's information is unchanged or that the high-volume third-party seller is providing changes to the information described in subsection (a) of this section.

(B) If the online marketplace becomes aware that a high-volume third-party seller has not certified that the high-volume third-party seller's information is unchanged or has not provided the changed information within three (3) days of receiving the notification, then the online marketplace shall suspend the high-volume third-party seller's participation on the online marketplace until the high-volume third-party seller either certifies that the high-volume third-party seller's information is unchanged or provides the information that has changed and the information is verified.

(c) An online marketplace shall require a high-volume third-party seller in the online marketplace to provide and disclose to consumers in a conspicuous manner and in bold print on the product listing or, for information other than the high-volume third-party seller's full name, through a conspicuously placed link on the listing of the consumer product listing:

(1) The identity of the high-volume third-party seller that shall include:

(A) The full name of the high-volume third-party seller;

(B) The full physical address of the high-volume third-party seller;

(C) Whether the high-volume third-party seller also engages in the manufacturing, importing, or reselling of consumer products; and

(D)(i) Contact information for the high-volume third-party seller, including a working telephone number and working email address.

(ii) The working email address required under subdivision (c)(1)(D)(i) of this section may be provided to the high-volume third-party seller through the online marketplace if assigned to the high-volume third-party seller; and

(2) Any other information determined to be necessary to address circumvention or evasion of the requirements of this subchapter if the additional information is limited to what is necessary to address such

circumvention or evasion.

(d) Except as provided in subsection (b) of this section, upon the request of a high-volume third-party seller, an online marketplace may provide for partial disclosure of the identifying information required under subsection (c) of this section if:

(1) The high-volume third-party seller demonstrates to the online marketplace that the high-volume third-party seller does not have a business address and only has a residential street address, the online marketplace may:

(A) Direct the high-volume third-party seller to disclose only the country and, if applicable, the state in which the high-volume third-party seller resides on the listing of the consumer product;

(B) Inform a consumer that there is no business address available for the high-volume third-party seller; and

(C) Inform a consumer that any consumer inquiries should be submitted to the high-volume third-party seller by telephone or email;

(2) The high-volume third-party seller demonstrates to the online marketplace that the seller is a business that has a physical address for consumer product returns, then the online marketplace may direct the high-volume third-party seller to disclose the high-volume third-party seller's physical address for consumer product returns; or

(3) A high-volume third-party seller demonstrates to the online marketplace that the high-volume third-party seller only has a personal telephone number, the online marketplace shall inform consumers that there is no telephone number available for the high-volume third-party seller and that any consumer inquiries should be submitted to the high-volume third-party seller's email address.

(e) If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under subsection (b) of this section or that a high-volume third-party seller who has requested and received a provision for a partial disclosure under subsection (c) of this section has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the high-volume third-party seller by telephone or email address, then the online marketplace shall withdraw its provision for partial disclosure and require full disclosure of the high-

volume third-party seller's identity information required under subsection (b) of this section within three (3) business days' notice to the high-volume third-party seller.

(f) An online marketplace shall disclose to a consumer, in a conspicuous manner and in bold print on the consumer product listing of any high-volume third-party seller, a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity to the online marketplace and a message encouraging individuals seeking goods for purchase to report suspicious activity to the online marketplace.

(g) In addition to the requirements of subsection (b), an online marketplace that warehouses, distributes, or otherwise fulfills a consumer product order shall disclose to the consumer the identification of any high-volume third-party seller supplying the consumer product if different than the seller listed on the product listing page.

#### 4-119-104. Violation of Deceptive Trade Practices Act – Enforcement.

(a) A violation of this subchapter is an unfair and deceptive act or practice, as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

(b) All remedies, penalties, and authority granted to the Attorney General under the Deceptive Trade Practices Act, § 4-88-101 et seq., shall be available to the Attorney General for the enforcement of this subchapter.

#### 4-119-105. Conflicts.

A local government or any political subdivision of the state shall not establish, mandate, or otherwise require an online marketplace to verify information from a high-volume third-party seller on a one-time or ongoing basis or disclose information to consumers about a high-volume third-party seller.