

SECOND REGULAR SESSION

HOUSE BILL NO. 2108

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROBERTS.

3230H.031

DANA RADEMAN MILLER, Chief Clerk

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.

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 that is distributed in commerce and that 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 personal 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 revenue;
- (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**
29 **pursuant to this section by the use of:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

127 require the full disclosure of the high-volume third-party seller's identity information
128 required under subsection 3 of this section upon three business days' notice to the high-
129 volume third-party seller.

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

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

139 9. (1) A violation of the provisions of this section shall be treated as a violation of
140 sections 407.010 to 407.130.

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

153 10. No political subdivision shall establish, mandate, or otherwise require online
154 marketplaces to verify information from high-volume third-party sellers on a one-time
155 or 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
3 network, 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
6 acting together with any other person or persons, commits two or more stealing offenses
7 of retail merchandise against one or more merchants either on the merchant's premises
8 or through the use of an internet or network site in the state with the intent to deprive

9 the merchant of such merchandise or return it for payment of something of value in any
10 manner 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
12 of the property involved in all thefts committed in the organized retail theft in this state
13 during a period of one hundred twenty days is no less than one thousand five hundred
14 dollars and no more than ten thousand dollars.

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

19 5. In any prosecution for a violation of this section, the violation shall be deemed
20 to have been committed and may be prosecuted in any jurisdiction in this state in which
21 any theft committed by any participant in the organized retail theft was committed
22 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
2 February 28, 2023.

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