

SUBSTITUTE FOR
HOUSE BILL NO. 5487

A bill to amend 1976 PA 331, entitled
"Michigan consumer protection act,"
(MCL 445.901 to 445.922) by amending the title and by adding
sections 3n and 3o.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE
2 An act to prohibit certain methods, acts, and practices in
3 trade or commerce; **to require the disclosure, maintenance, and**
4 **verification of certain information for consumer protection;** to
5 prescribe certain powers and duties; to provide for certain
6 remedies, damages, and penalties; to provide for the promulgation
7 of rules; to provide for certain investigations; and to prescribe
8 penalties.

1 Sec. 3n. As used in section 3o:

2 (a) "Consumer product" means any tangible personal property
3 that is distributed in trade or commerce and that is normally used
4 for personal, family, or household purposes regardless of whether
5 the property is attached to or installed in, or intended to be
6 attached to or installed in, real property.

7 (b) "High-volume third-party seller" means a participant on an
8 online marketplace's platform that is a third-party seller and
9 that, in any continuous 12-month period during the previous 24
10 months, has entered into 200 or more discrete sales or transactions
11 of new or unused consumer products through the online marketplace,
12 and for which payment was processed by the online marketplace,
13 either directly or through its payment processor, with an aggregate
14 total of \$5,000.00 or more in gross revenues.

15 (c) "Online marketplace" means a person that operates a
16 consumer-directed electronically based or accessed platform that
17 meets all of the following criteria:

18 (i) It includes features that allow for, facilitate, or enable
19 third-party sellers to engage in the sale, purchase, payment,
20 storage, shipping, or delivery of a consumer product in this state.

21 (ii) It is used by 1 or more third-party sellers for the
22 purposes in subparagraph (i).

23 (iii) It has a contractual or similar relationship with
24 consumers governing their use of the platform to purchase consumer
25 products.

26 (d) "Political subdivision" means a county, city, village,
27 township, or other political subdivision, public corporation,
28 authority, or district in this state.

29 (e) "Seller" means a person that sells, offers to sell, or

1 contracts to sell a consumer product through an online marketplace
2 platform. Seller does not include a new motor vehicle dealer
3 licensed under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to
4 257.923.

5 (f) "Third-party seller" means a seller that is independent of
6 an online marketplace and that sells, offers to sell, or contracts
7 to sell a consumer product in this state through an online
8 marketplace's platform. Third-party seller does not include either
9 of the following:

10 (i) A seller that operates the online marketplace's platform.

11 (ii) A business entity to which all of the following apply:

12 (A) It has made available to the general public the entity's
13 name, business address, and working contact information.

14 (B) It has an ongoing contractual relationship with the online
15 marketplace to provide the online marketplace with the manufacture,
16 distribution, wholesaling, or fulfillment of shipments of consumer
17 products.

18 (C) It has provided to the online marketplace identifying
19 information, as described in section 3o(1), that has been verified
20 in accordance with section 3o(4).

21 (g) "Verify" means to confirm information provided to an
22 online marketplace under section 3o(1). Verify may include the use
23 of 1 or more methods that enable the online marketplace to reliably
24 determine that any information and documents provided are valid,
25 correspond to the seller or an individual acting on the seller's
26 behalf, are not misappropriated, and are not falsified.

27 Sec. 3o. (1) An online marketplace shall require a high-volume
28 third-party seller on the online marketplace's platform to provide,
29 not later than 10 days after qualifying as a high-volume third-

1 party seller on the platform, all of the following information to
2 the online marketplace:

3 (a) A bank account number, or if the high-volume third-party
4 seller does not have a bank account, the name of the payee for
5 payments issued by the online marketplace to the high-volume third-
6 party seller. The bank account or payee information required under
7 this subdivision may be provided by the high-volume third-party
8 seller in either of the following ways:

9 (i) To the online marketplace.

10 (ii) To a payment processor or other third party contracted by
11 the online marketplace to maintain the bank account or payee
12 information, if the online marketplace ensures that it can obtain
13 that information on demand from the payment processor or other
14 third party.

15 (b) Contact information for the high-volume third-party seller
16 that includes all of the following, as applicable:

17 (i) If the high-volume third-party seller is an individual, the
18 individual's name.

19 (ii) If the high-volume third-party seller is not an
20 individual, 1 of the following:

21 (A) A copy of a valid government-issued identification for an
22 individual acting on behalf of the high-volume third-party seller
23 that includes the individual's name.

24 (B) A copy of a valid government-issued record or tax document
25 that includes the business name and physical address of the high-
26 volume third-party seller.

27 (iii) A business tax identification number, or, if the high-
28 volume third-party seller does not have a business tax
29 identification number, a taxpayer identification number.

1 (iv) A current working email address and telephone number of
2 the high-volume third-party seller.

3 (2) An online marketplace shall do both of the following:

4 (a) Periodically, but not less than annually, notify any high-
5 volume third-party seller on the online marketplace's platform of
6 the requirement to keep any information collected under subsection
7 (1) current.

8 (b) Require any high-volume third-party seller on the online
9 marketplace's platform to, not later than 10 days after receiving
10 the notice under subdivision (a), electronically certify 1 of the
11 following:

12 (i) The high-volume third-party seller has provided any changes
13 to the information in subsection (1) to the online marketplace, if
14 any changes have occurred.

15 (ii) There have been no changes to the high-volume third-party
16 seller's information.

17 (3) If a high-volume third-party seller does not provide the
18 information under subsection (1) or certification required under
19 subsection (2), the online marketplace shall, after providing the
20 high-volume third-party seller with written or electronic notice
21 and an opportunity to provide that information or certification not
22 later than 10 days after the issuance of the notice described in
23 this subsection, suspend any future sales activity of the high-
24 volume third-party seller until the high-volume third-party seller
25 provides the required information or certification.

26 (4) An online marketplace shall do both of the following:

27 (a) Verify the information collected under subsection (1) not
28 later than 10 days after the information was collected.

29 (b) Verify any change to the information under subsection (1)

1 not later than 10 days after being notified of a change in that
2 information by a high-volume third-party seller under subsection
3 (2).

4 (5) If a high-volume third-party seller provides a copy of a
5 valid government-issued tax document under this section, any
6 information contained in that document is presumed to be verified
7 as of the date of issuance of that document.

8 (6) Information collected solely to comply with the
9 requirements of this section must not be used for any other purpose
10 unless required by law.

11 (7) An online marketplace shall implement and maintain
12 reasonable security procedures and practices, including
13 administrative, physical, and technical safeguards that are
14 appropriate to the nature of the information and the purposes for
15 which the information will be used, to protect the information
16 collected to comply with the requirements of this section from
17 unauthorized use, disclosure, access, destruction, or modification.

18 (8) An online marketplace shall do both of the following:

19 (a) Require any high-volume third-party seller described in
20 subsection (9) to provide the information described in subsection
21 (9) to the online marketplace.

22 (b) Disclose the information described in subsection (9) to
23 consumers in a clear and conspicuous manner in the order
24 confirmation message or other document or communication made to a
25 consumer after a purchase is finalized and in the consumer's
26 account transaction history.

27 (9) A high-volume third-party seller that uses an online
28 marketplace's platform and that has an aggregate total of
29 \$20,000.00 or more in annual gross revenues on the online

1 marketplace shall provide and disclose both of the following to the
2 online marketplace:

3 (a) Except as provided in subsection (10), the identity of the
4 high-volume third-party seller, including all of the following:

5 (i) The full name of the high-volume third-party seller that
6 may include the high-volume third-party seller name or company
7 name, or the name by which the high-volume third-party seller or
8 company operates on the online marketplace.

9 (ii) The physical address of the high-volume third-party
10 seller.

11 (iii) The contact information of the high-volume third-party
12 seller, to allow for the direct, unhindered communication with the
13 high-volume third-party seller by users of the online marketplace,
14 including any of the following:

15 (A) A current working telephone number.

16 (B) A current working email address.

17 (C) Other means of direct electronic messaging that may be
18 provided to the high-volume third-party seller by the online
19 marketplace.

20 (b) Whether the high-volume third-party seller used a
21 different seller to supply the consumer product to the consumer
22 upon purchase, and, upon the request of an authenticated purchaser,
23 the information described in subdivision (a) relating to any seller
24 that supplied the consumer product to the purchaser, if that seller
25 is different from the high-volume third-party seller listed on the
26 product listing prior to purchase.

27 (10) Subject to subsection (11), on the request of a high-
28 volume third-party seller described in subsection (9), an online
29 marketplace may provide for partial disclosure of the identity

1 information required under subsection (9) (a) in the following
2 situations:

3 (a) If the high-volume third-party seller certifies to the
4 online marketplace that it does not have a business address and has
5 only a residential street address, or has a combined business and
6 residential address, the online marketplace may do both of the
7 following:

8 (i) Disclose only the country, and if applicable, the state in
9 which the high-volume third-party seller resides.

10 (ii) Inform consumers that there is no business address
11 available for the high-volume third-party seller and that consumer
12 inquiries should be submitted to the high-volume third-party seller
13 by telephone, email, or other means of electronic messaging
14 provided to the high-volume third-party seller by the online
15 marketplace.

16 (b) If the high-volume third-party seller certifies to the
17 online marketplace that it is a business that has a physical
18 address for product returns, the online marketplace may disclose
19 the high-volume third-party seller's physical address for product
20 returns.

21 (c) If the high-volume third-party seller certifies to the
22 online marketplace that it does not have a telephone number other
23 than a personal telephone number, the online marketplace shall
24 inform consumers that there is no telephone number available for
25 the high-volume third-party seller and that consumer inquiries
26 should be submitted to the high-volume third-party seller by email
27 or other means of electronic messaging provided to the high-volume
28 third-party seller by the online marketplace.

29 (11) If an online marketplace becomes aware that a high-volume

1 third-party seller described in subsection (9) has made a false
2 representation to the online marketplace to justify the provision
3 for partial disclosure under subsection (10) or that a high-volume
4 third-party seller that has requested and received a provision for
5 partial disclosure under subsection (10) has not provided
6 responsive answers within a reasonable time frame to consumer
7 inquiries submitted to the high-volume third-party seller by
8 telephone, email, or other means of electronic messaging provided
9 to the high-volume third-party seller by the online marketplace,
10 the online marketplace shall, after providing the high-volume
11 third-party seller with written or electronic notice and an
12 opportunity to respond not later than 10 days after the issuance of
13 the notice described in this subsection, suspend any future sales
14 activity of the high-volume third-party seller unless the high-
15 volume third-party seller consents to the disclosure of the
16 identity information required under subsection (9) (a).

17 (12) An online marketplace shall disclose to consumers in a
18 clear and conspicuous manner on the product listing of a high-
19 volume third-party seller a reporting mechanism that allows for
20 electronic and telephone reporting of suspicious marketplace
21 activity to the online marketplace.

22 (13) If a high-volume third-party seller does not comply with
23 the requirements to provide and disclose information under
24 subsections (9) and (10), the online marketplace shall, after
25 providing the high-volume third-party seller with written or
26 electronic notice and an opportunity to provide or disclose that
27 information not later than 10 days after the issuance of the notice
28 described in this subsection, suspend any future sales activity of
29 the high-volume third-party seller until the seller complies with

1 the requirements under subsections (9) and (10).

2 (14) Notwithstanding anything in this act to the contrary,
3 this section may be enforced only by the attorney general. A person
4 other than the attorney general, including, but not limited, to a
5 prosecuting attorney, shall not bring an action under section 11 or
6 15 in relation to a violation of this section.

7 (15) A political subdivision shall not establish, mandate, or
8 otherwise require an online marketplace or seller to undertake
9 different or additional measures to verify or disclose the same
10 information or information that is similar to the information that
11 is subject to this section.

12 Enacting section 1. This amendatory act takes effect January
13 1, 2023.