

The House Committee on Judiciary offers the following substitute to SB 332:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide for certain disclosures by third-party high-volume
3 sellers of consumer products on online marketplaces; to provide for definitions; to require
4 online marketplaces to provide certain notifications and a consumer reporting mechanism;
5 to provide remedies for violations; to provide for a short title; to provide for related matters;
6 to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 This Act shall be known and may be cited as the "Inform Consumers Act."

10 **SECTION 2.**

11 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
12 trade practices, is amended by adding a new article to read as follows:

S. B. 332 (SUB)

- 1 -

"ARTICLE 35

10-1-930.

(a) As used in this article, the term:

(1) 'Consumer product' means any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes, including, but not limited to, any such 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 that is a third-party seller and that, in any continuous 12 month period during the previous 24 months, has entered into 200 or more discrete sales or transactions of new or unused consumer products of an aggregate total of \$5,000.00 or more in gross revenues in this state made through the online marketplace and for which payment was processed by the online marketplace or through a third party.

(3) 'Online marketplace' means any person or entity that operates a consumer-directed, 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, shipment, or delivery of a consumer product within this state;

(B) Is used by one or more third-party sellers for such purpose; and

(C) Has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products.

(4) 'Seller' means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace's platform.

(5) 'Third-party seller' means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in this state through an online

marketplace. The term 'third-party seller' does not include, with respect to an online marketplace:

(A) A seller that operates the online marketplace's platform; or

(B) A business entity that has:

(i) Made available to the general public the entity's name, business address, and working contact information;

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

(iii) Provided to the online marketplace the identity information required under subsection (a) of Code Section 10-1-931 that has been verified in accordance with subsection (d) of Code Section 10-1-931.

(6) 'Verify' means to confirm information and documents provided to an online marketplace pursuant to this article through the use of one or more methods that enable an online marketplace to reliably determine that any such information and documents provided are valid, correspond to the seller or an individual acting on the seller's behalf, are not misappropriated, and are not falsified.

10-1-931.

(a) An online marketplace shall require any high-volume third-party seller on its platform to provide, not later than ten days after qualifying as such, the following information to the online marketplace:

(1) A bank account number or, if the high-volume third-party seller does not have a bank account, the name of the payee for payments issued by the online marketplace to the high-volume third-party seller. This information may be provided by the high-volume third-party seller to the online marketplace or to a third party contracted by the online

marketplace to maintain such information; provided, however, that the online marketplace ensures that it can obtain such information on demand from the third party;

(2) Contact information, which shall include:

(A) If the high-volume third-party seller is an individual, such individual's name; or

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

(i) A copy of a valid government issued identification for an individual acting on behalf of such seller that includes the individual's name; or

(ii) A copy of a valid government issued record or tax document that includes the business name and physical address of 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) A current working email address and telephone number for the high-volume third-party seller.

(b) An online marketplace shall:

(1) Periodically, but not less than annually, notify each high-volume third-party seller on its platform of the requirement to keep current the information required under subsection (a) of this Code section; and

(2) Require each high-volume third-party seller on its platform to, not later than ten days after receiving the notice under paragraph (1) of this subsection, electronically certify as to the information required under subsection (a) of this Code section that:

(A) The high-volume third-party seller has provided any changes to such information, if any such changes have occurred;

(B) There have been no changes to such information; or

(C) The high volume third-party seller has previously provided any changes to such information to the online marketplace.

(c) In the event that a high-volume third-party seller does not provide the information or certification required under this Code section, the online marketplace shall, after providing

such seller with written or electronic notice and an opportunity to provide such information or certification not later than ten days after the issuance of such notice, suspend any future sales activity of such seller until such seller provides such information or certification.

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

(A) The information and documents collected under subsection (a) of this Code section not later than ten days after such collection; and

(B) Any change in such information or to such documents not later than ten days after being notified of such change by a high-volume third-party seller under subsection (b) of this Code section.

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

10-1-932.

(a) Except as provided in subsection (b) of this Code section, an online marketplace shall require any high-volume third-party seller with an aggregate total of \$20,000.00 or more in annual gross revenues on its platform to provide to the online marketplace and disclose to consumers in a clear and conspicuous manner the following identity information:

(1) Full name of the high-volume third-party seller, including the high-volume third-party seller's name or company name or the name by which such seller or company operates on the online marketplace;

(2) Physical address of the high-volume third-party seller;

(3) Contact information for the high-volume third-party seller that will allow for direct, unhindered communication with such seller by consumers of the online marketplace, including:

(A) A current working telephone number;

(B) A current working email address; or

(C) Other means of direct electronic messaging, which may be provided to such high-volume third-party seller by the online marketplace;

provided, however, that the requirements of this paragraph shall not prohibit the online marketplace from preventing actual fraud, abuse, or spam through such communication; and

(4) Whether the high-volume third-party seller used a different seller to supply the product to the consumer upon purchase, and, upon the request of an authenticated purchaser, the information described in paragraphs (1) through (3) of this subsection relating to any such seller that is different than the high-volume third-party seller listed on the product listing page prior to purchase.

Such identity information shall be provided on the product listing page, directly or via hyperlink or, after the purchase is finalized, in the order confirmation message or other document or communication made to a consumer and in the consumer's account transaction history.

(b) Upon the request of a high-volume third-party seller, an online marketplace may provide for partial disclosure of the identity information required under subsection (a) of this Code section if the high-volume third-party seller certifies to the online marketplace that such seller:

(1) Does not have a business address and only has a residential street address, or has a combined business and residential address, then the online marketplace:

(A) Shall disclose only the country and, if applicable, the city and state in which such seller resides; and

(B) Shall inform consumers that there is no business address available for the high-volume third-party seller and that consumer inquiries should be submitted to such seller by telephone, email, or other means of electronic messaging provided to such seller by the online marketplace;

(2) Is a business that has a physical address for product returns, then the online marketplace shall disclose such seller's physical address for product returns; or

(3) Does not have a telephone number other than a personal telephone number, then the online marketplace shall inform consumers that there is no telephone number available for such seller and that consumer inquiries should be submitted to such seller's email address or other means of electronic messaging provided to such seller by the online marketplace.

(c) 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 of the identity information under subsection (b) of this Code section, or that a high-volume third-party seller that has requested and received such a provision for a partial disclosure has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the seller by telephone, email, or other means of electronic messaging provided to such seller by the online marketplace, then, after providing the high-volume third-party seller with written or electronic notice and an opportunity to respond not later than ten days after the issuance of such notice, the online marketplace shall suspend any future sales activity of the high-volume third-party seller unless such seller consents to the disclosure of the identity information required under subsection (a) of this Code section.

(d) If a high-volume third-party seller does not comply with the requirements to provide and disclose information under this Code section, then, after providing such seller with written or electronic notice and an opportunity to provide or disclose such information not later than ten days after the issuance of such notice, the online marketplace shall suspend any future sales activities of such seller until the seller complies with such requirements.

10-1-933.

An online marketplace shall disclose to consumers in a clear and conspicuous manner on the 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.

10-1-934.

(a) Information or documents collected solely to comply with the requirements of this article shall not be used for any other purpose unless required by law.

(b) An online marketplace shall implement and maintain reasonable security procedures and practices, including administrative, physical, and technical safeguards, appropriate to the nature of the data and the purposes for which the data will be used, to protect the information or documents collected to comply with the requirements of this article from unauthorized use, disclosure, access, destruction, or modification.

10-1-935.

(a) If the Attorney General has reason to believe that any online marketplace has violated or is violating this article and such violation affects one or more residents of this state, the Attorney General may bring a civil action in any appropriate court to:

(1) Enjoin further such violation by the defendant;

(2) Enforce compliance with this article;

(3) Obtain damages, restitution, or other compensation on behalf of the residents of this state; and

(4) Obtain other remedies permitted under state law.

(b) Any violation of this article shall additionally be a violation of Part 2 of Article 15 of this chapter, the 'Fair Business Practices Act of 1975'; provided, however, that only public remedies as administered by the Attorney General shall be available under such part for violations of this article.

192 (c) Nothing in this article shall be construed to prohibit any district attorney, law
193 enforcement officer, official, or agency of this state from initiating or continuing any
194 proceeding in a court against an online marketplace for a violation of any other civil law
195 or a criminal law of this state."

196 **SECTION 3.**

197 This Act shall become effective on January 1, 2023.

198 **SECTION 4.**

199 All laws and parts of laws in conflict with this Act are repealed.