

SENATE BILL 610

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2lr2377
CF HB 295

By: **Senators Jennings and Feldman**

Introduced and read first time: February 2, 2022

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Online Marketplace Disclosure**
3 **Requirements**
4 **(INFORM Consumers Act of 2022)**

5 FOR the purpose of establishing certain requirements related to the disclosure of bank
6 account, contact, and other information by high-volume third-party sellers to and
7 on online marketplaces; prohibiting a political subdivision from requiring an online
8 marketplace to verify information from a high-volume third-party seller or disclose
9 any information to a consumer; and generally relating to online marketplaces and
10 the disclosure of information on high-volume third-party sellers of consumer
11 products.

12 BY repealing and reenacting, with amendments,
13 Article – Commercial Law
14 Section 13–301(14)(xxxiv) and (xxxv)
15 Annotated Code of Maryland
16 (2013 Replacement Volume and 2021 Supplement)

17 BY adding to
18 Article – Commercial Law
19 Section 13–301(14)(xxxvi); and 14–4401 through 14–4408 to be under the new
20 subtitle “Subtitle 44. INFORM Consumers Act”
21 Annotated Code of Maryland
22 (2013 Replacement Volume and 2021 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
24 That the Laws of Maryland read as follows:

25 **Article – Commercial Law**

26 13–301.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Unfair, abusive, or deceptive trade practices include any:

2 (14) Violation of a provision of:

3 (xxxiv) The federal Servicemembers Civil Relief Act; [or]

4 (xxxv) [§] SECTION 11–210 of the Education Article; or

5 (xxxvi) **TITLE 14, SUBTITLE 44 OF THIS ARTICLE; OR**

6 **SUBTITLE 44. INFORM CONSUMERS ACT.**

7 **14–4401.**

8 (A) **IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**
9 **INDICATED.**

10 (B) (1) **“CONSUMER PRODUCT” MEANS TANGIBLE PERSONAL PROPERTY**
11 **THAT IS DISTRIBUTED IN COMMERCE AND IS NORMALLY USED FOR PERSONAL,**
12 **FAMILY, OR HOUSEHOLD PURPOSES.**

13 (2) **“CONSUMER PRODUCT” INCLUDES TANGIBLE PERSONAL**
14 **PROPERTY INTENDED TO BE ATTACHED TO OR INSTALLED IN REAL PROPERTY.**

15 (C) **“HIGH–VOLUME THIRD–PARTY SELLER” MEANS A PARTICIPANT IN AN**
16 **ONLINE MARKETPLACE WHO:**

17 (1) **IS A THIRD–PARTY SELLER; AND**

18 (2) **IN ANY CONTINUOUS 12–MONTH PERIOD DURING THE**
19 **IMMEDIATELY PRECEDING 24 MONTHS, HAS ENTERED INTO 200 OR MORE DISCRETE**
20 **SALES OR TRANSACTIONS OF NEW OR UNUSED CONSUMER PRODUCTS RESULTING IN**
21 **THE ACCUMULATION OF AN AGGREGATE TOTAL OF \$5,000 OR MORE IN GROSS**
22 **REVENUES.**

23 (D) **“ONLINE MARKETPLACE” MEANS AN ELECTRONICALLY BASED OR**
24 **ACCESSED PLATFORM THAT:**

25 (1) **HOSTS HIGH–VOLUME THIRD–PARTY SELLERS; AND**

26 (2) **INCLUDES FEATURES THAT ALLOW FOR, FACILITATE, OR ENABLE**
27 **HIGH–VOLUME THIRD–PARTY SELLERS TO ENGAGE IN THE SALE, PURCHASE,**

1 PAYMENT, STORAGE, SHIPPING, OR DELIVERY OF CONSUMER PRODUCTS IN THE
2 UNITED STATES.

3 (E) "PRODUCT LISTING PAGE" MEANS A PAGE ON AN ONLINE
4 MARKETPLACE THAT CONTAINS DETAILS REGARDING A CONSUMER PRODUCT.

5 (F) "SELLER" MEANS A PERSON WHO SELLS, OFFERS TO SELL, OR
6 CONTRACTS TO SELL A CONSUMER PRODUCT THROUGH AN ONLINE MARKETPLACE.

7 (G) (1) "THIRD-PARTY SELLER" MEANS A SELLER WHO SELLS OR
8 CONTRACTS TO SELL A CONSUMER PRODUCT IN THE UNITED STATES THROUGH AN
9 ONLINE MARKETPLACE INDEPENDENT OF AN OPERATOR, A FACILITATOR, OR AN
10 OWNER OF AN ONLINE MARKETPLACE.

11 (2) "THIRD-PARTY SELLER" DOES NOT INCLUDE A SELLER WHO:

12 (I) HAS AN ONGOING CONTRACTUAL RELATIONSHIP WITH THE
13 ONLINE MARKETPLACE TO PROVIDE FOR THE MANUFACTURE, DISTRIBUTION,
14 WHOLESALING, OR FULFILLMENT OF THE SHIPMENT OF CONSUMER PRODUCTS;

15 (II) IS OPERATING AS A BUSINESS ENTITY THAT HAS MADE THE
16 BUSINESS ENTITY'S NAME, ADDRESS, AND CONTACT INFORMATION AVAILABLE TO
17 THE GENERAL PUBLIC; AND

18 (III) HAS PROVIDED THE ONLINE MARKETPLACE WITH VERIFIED
19 INFORMATION UNDER § 14-4402 OF THIS SUBTITLE.

20 (H) "VERIFY" MEANS TO CONFIRM INFORMATION PROVIDED TO AN ONLINE
21 MARKETPLACE THROUGH THE USE OF:

22 (1) A THIRD-PARTY OR PROPRIETARY IDENTITY VERIFICATION
23 SYSTEM THAT HAS THE CAPABILITY TO CONFIRM THE NAME, E-MAIL ADDRESS,
24 PHYSICAL ADDRESS, AND TELEPHONE NUMBER OF THE HIGH-VOLUME
25 THIRD-PARTY SELLER; OR

26 (2) A COMBINATION OF TWO-FACTOR AUTHENTICATION, A PUBLIC
27 RECORDS SEARCH, AND THE PRESENTATION OF A GOVERNMENT-ISSUED
28 IDENTIFICATION.

29 14-4402.

30 (A) (1) EACH ONLINE MARKETPLACE SHALL REQUIRE THAT A
31 HIGH-VOLUME THIRD-PARTY SELLER PROVIDE THE ONLINE MARKETPLACE WITH

1 THE FOLLOWING INFORMATION WITHIN 24 HOURS AFTER BECOMING A
2 HIGH-VOLUME THIRD-PARTY SELLER:

3 (I) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION,
4 ACCURATE BANK ACCOUNT INFORMATION THAT HAS BEEN CONFIRMED DIRECTLY
5 BY THE ONLINE MARKETPLACE, A PAYMENT PROCESSOR, OR OTHER THIRD PARTY
6 CONTRACTED BY THE ONLINE MARKETPLACE;

7 (II) CONTACT INFORMATION FOR THE HIGH-VOLUME
8 THIRD-PARTY SELLER AS SPECIFIED IN PARAGRAPH (3) OF THIS SUBSECTION;

9 (III) THE HIGH-VOLUME THIRD-PARTY SELLER'S BUSINESS TAX
10 IDENTIFICATION NUMBER OR TAXPAYER IDENTIFICATION NUMBER; AND

11 (IV) WHETHER THE HIGH-VOLUME THIRD-PARTY SELLER IS
12 EXCLUSIVELY ADVERTISING OR OFFERING THE CONSUMER PRODUCT ON THE
13 ONLINE MARKETPLACE OR CURRENTLY ADVERTISING OR OFFERING FOR SALE THE
14 SAME CONSUMER PRODUCT ON ANY OTHER WEBSITES.

15 (2) IF A HIGH-VOLUME THIRD-PARTY SELLER DOES NOT HAVE A
16 BANK ACCOUNT, THE HIGH-VOLUME THIRD-PARTY SELLER MAY PROVIDE THE
17 ONLINE MARKETPLACE WITH THE NAME OF THE PAYEE FOR PAYMENTS ISSUED BY
18 THE ONLINE MARKETPLACE TO THE HIGH-VOLUME THIRD-PARTY SELLER.

19 (3) TO SATISFY THE REQUIREMENTS OF PARAGRAPH (1)(II) OF THIS
20 SUBSECTION:

21 (I) IF A HIGH-VOLUME THIRD-PARTY SELLER IS AN
22 INDIVIDUAL, THE HIGH-VOLUME THIRD-PARTY SELLER SHALL PROVIDE THE
23 ONLINE MARKETPLACE WITH A COPY OF A GOVERNMENT-ISSUED PHOTO
24 IDENTIFICATION THAT INCLUDES THE INDIVIDUAL'S NAME AND PHYSICAL ADDRESS;
25 OR

26 (II) IF A HIGH-VOLUME THIRD-PARTY SELLER IS NOT AN
27 INDIVIDUAL, THE HIGH-VOLUME THIRD-PARTY SELLER SHALL PROVIDE THE
28 ONLINE MARKETPLACE WITH:

29 1. A COPY OF A GOVERNMENT-ISSUED PHOTO
30 IDENTIFICATION FOR AN INDIVIDUAL ACTING ON BEHALF OF THE HIGH-VOLUME
31 THIRD-PARTY SELLER THAT INCLUDES THE INDIVIDUAL'S NAME AND PHYSICAL
32 ADDRESS;

1 **2. A COPY OF A GOVERNMENT-ISSUED RECORD OR TAX**
2 **DOCUMENT THAT INCLUDES THE BUSINESS NAME AND PHYSICAL ADDRESS OF THE**
3 **HIGH-VOLUME THIRD-PARTY SELLER; AND**

4 **3. AN E-MAIL ADDRESS AND TELEPHONE NUMBER FOR**
5 **THE HIGH-VOLUME THIRD-PARTY SELLER.**

6 **(B) (1) THE INFORMATION REQUIRED UNDER SUBSECTION (A)(1)(I) AND**
7 **(2) OF THIS SECTION MAY BE MAINTAINED BY AN ONLINE MARKETPLACE, A**
8 **PAYMENT PROCESSOR, OR ANOTHER THIRD PARTY CONTRACTED BY THE ONLINE**
9 **MARKETPLACE.**

10 **(2) AN ONLINE MARKETPLACE MAY OBTAIN THE INFORMATION**
11 **REQUIRED UNDER SUBSECTION (A)(1)(I) AND (2) OF THIS SECTION ON DEMAND**
12 **FROM A PAYMENT PROCESSOR OR OTHER THIRD PARTY CONTRACTED BY THE**
13 **ONLINE MARKETPLACE.**

14 **(C) (1) AN ONLINE MARKETPLACE SHALL VERIFY THE INFORMATION**
15 **PROVIDED BY A HIGH-VOLUME THIRD-PARTY SELLER UNDER SUBSECTION (A) OF**
16 **THIS SECTION WITHIN 3 BUSINESS DAYS AFTER RECEIVING THE INFORMATION.**

17 **(2) IF A HIGH-VOLUME THIRD-PARTY SELLER PROVIDES A COPY OF A**
18 **VALID GOVERNMENT-ISSUED TAX DOCUMENT UNDER SUBSECTION (A)(3)(II)2 OF**
19 **THIS SECTION, THE INFORMATION CONTAINED WITHIN THE TAX DOCUMENT SHALL**
20 **BE PRESUMED TO BE VERIFIED AS OF THE DATE OF ISSUANCE OF THE DOCUMENT.**

21 **(D) (1) AN ONLINE MARKETPLACE SHALL, ON AT LEAST AN ANNUAL**
22 **BASIS, NOTIFY EACH HIGH-VOLUME THIRD-PARTY SELLER ON THE ONLINE**
23 **MARKETPLACE THAT A HIGH-VOLUME THIRD-PARTY SELLER MUST INFORM THE**
24 **ONLINE MARKETPLACE OF ANY CHANGES TO THE INFORMATION PROVIDED TO THE**
25 **ONLINE MARKETPLACE BY THE HIGH-VOLUME THIRD-PARTY SELLER IN**
26 **ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

27 **(2) THE NOTICE REQUIRED UNDER PARAGRAPH (1) OF THIS**
28 **SUBSECTION SHALL INSTRUCT A HIGH-VOLUME THIRD-PARTY SELLER TO**
29 **ELECTRONICALLY CERTIFY THAT THE HIGH-VOLUME THIRD-PARTY SELLER'S**
30 **INFORMATION PROVIDED IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION**
31 **IS EITHER UNCHANGED OR THAT THE HIGH-VOLUME THIRD-PARTY SELLER WILL**
32 **PROVIDE A CHANGE TO THE INFORMATION WITHIN 3 BUSINESS DAYS AFTER**
33 **RECEIVING THE NOTICE.**

34 **(3) IF AN ONLINE MARKETPLACE BECOMES AWARE THAT A**
35 **HIGH-VOLUME THIRD-PARTY SELLER HAS NOT COMPLIED WITH THIS SUBSECTION,**

1 THE ONLINE MARKETPLACE SHALL SUSPEND THE HIGH-VOLUME THIRD-PARTY
2 SELLER'S PARTICIPATION ON THE ONLINE MARKETPLACE UNTIL THE
3 HIGH-VOLUME THIRD-PARTY SELLER COMPLIES WITH THIS SUBSECTION.

4 14-4403.

5 (A) (1) EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, AN
6 ONLINE MARKETPLACE SHALL REQUIRE A HIGH-VOLUME THIRD-PARTY SELLER TO
7 DISCLOSE THE FOLLOWING INFORMATION TO CONSUMERS ON THE ONLINE
8 MARKETPLACE:

9 (I) THE FULL NAME OF THE HIGH-VOLUME THIRD-PARTY
10 SELLER;

11 (II) CONTACT INFORMATION FOR THE HIGH-VOLUME
12 THIRD-PARTY SELLER, INCLUDING A PHYSICAL ADDRESS, A TELEPHONE NUMBER,
13 AND AN E-MAIL ADDRESS;

14 (III) WHETHER THE HIGH-VOLUME THIRD-PARTY SELLER
15 ENGAGES IN THE MANUFACTURING, IMPORTING, OR RESELLING OF CONSUMER
16 PRODUCTS; AND

17 (IV) ANY OTHER INFORMATION THE ONLINE MARKETPLACE
18 DETERMINES TO BE NECESSARY TO ADDRESS THE REQUIREMENTS OF THIS
19 SUBSECTION.

20 (2) AN ONLINE MARKETPLACE MAY ESTABLISH AND PROVIDE ON THE
21 ONLINE MARKETPLACE A FUNCTIONING E-MAIL ADDRESS FOR A HIGH-VOLUME
22 THIRD-PARTY SELLER IF NECESSARY TO SATISFY THE REQUIREMENTS OF
23 PARAGRAPH (1)(II) OF THIS SUBSECTION.

24 (B) SUBJECT TO SUBSECTION (D) OF THIS SECTION, ON REQUEST OF A
25 HIGH-VOLUME THIRD-PARTY SELLER, AN ONLINE MARKETPLACE MAY ALLOW THE
26 HIGH-VOLUME THIRD-PARTY SELLER TO PARTIALLY DISCLOSE THE INFORMATION
27 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION TO A CONSUMER.

28 (C) (1) IF A HIGH-VOLUME THIRD-PARTY SELLER DOES NOT HAVE A
29 BUSINESS ADDRESS, AN ONLINE MARKETPLACE MAY:

30 (I) ALLOW THE HIGH-VOLUME THIRD-PARTY SELLER TO
31 DISCLOSE ON THE PRODUCT LISTING PAGE ONLY THE COUNTRY AND, IF
32 APPLICABLE, THE STATE WHERE THE HIGH-VOLUME THIRD-PARTY SELLER
33 RESIDES; AND

1 (II) INFORM CONSUMERS THAT THE HIGH-VOLUME
2 THIRD-PARTY SELLER DOES NOT HAVE A BUSINESS ADDRESS AND THAT CONSUMER
3 INQUIRIES SHOULD BE SUBMITTED TO THE HIGH-VOLUME THIRD-PARTY SELLER BY
4 TELEPHONE OR E-MAIL.

5 (2) IF A HIGH-VOLUME THIRD-PARTY SELLER DEMONSTRATES TO AN
6 ONLINE MARKETPLACE THAT THE HIGH-VOLUME THIRD-PARTY SELLER HAS A
7 PHYSICAL ADDRESS FOR PRODUCT RETURNS, THE ONLINE MARKETPLACE MAY
8 ALLOW THE HIGH-VOLUME THIRD-PARTY SELLER TO DISCLOSE THE HIGH-VOLUME
9 THIRD-PARTY SELLER'S PHYSICAL ADDRESS FOR PRODUCT RETURNS.

10 (3) IF A HIGH-VOLUME THIRD-PARTY SELLER DOES NOT HAVE A
11 BUSINESS TELEPHONE NUMBER, AN ONLINE MARKETPLACE SHALL INFORM
12 CONSUMERS THAT THE HIGH-VOLUME THIRD-PARTY SELLER DOES NOT HAVE A
13 BUSINESS TELEPHONE NUMBER AND THAT CONSUMER INQUIRIES SHOULD BE
14 SUBMITTED TO THE HIGH-VOLUME THIRD-PARTY SELLER BY E-MAIL.

15 (D) (1) AN ONLINE MARKETPLACE SHALL REQUIRE THE FULL
16 DISCLOSURE OF A HIGH-VOLUME THIRD-PARTY SELLER'S IDENTITY INFORMATION
17 REQUIRED UNDER SUBSECTION (A) OF THIS SECTION IF THE ONLINE MARKETPLACE
18 BECOMES AWARE THAT A HIGH-VOLUME THIRD-PARTY SELLER HAS:

19 (I) MADE A FALSE REPRESENTATION TO THE ONLINE
20 MARKETPLACE IN REGARDS TO SUBSECTION (B) OF THIS SECTION; OR

21 (II) HAS NOT PROVIDED RESPONSIVE ANSWERS WITHIN A
22 REASONABLE TIME PERIOD TO CONSUMER INQUIRIES SUBMITTED TO THE
23 HIGH-VOLUME THIRD-PARTY SELLER BY TELEPHONE OR E-MAIL.

24 (2) A HIGH-VOLUME THIRD-PARTY SELLER SHALL FULLY DISCLOSE
25 THE HIGH-VOLUME THIRD-PARTY SELLER'S IDENTITY INFORMATION TO
26 CONSUMERS ON THE ONLINE MARKETPLACE WITHIN 3 BUSINESS DAYS AFTER BEING
27 NOTIFIED BY THE ONLINE MARKETPLACE OF THE HIGH-VOLUME THIRD-PARTY
28 SELLER'S NONCOMPLIANCE WITH THIS SECTION.

29 (E) AN ONLINE MARKETPLACE SHALL POST IN A CONSPICUOUS MANNER ON
30 THE PRODUCT LISTING PAGE OF A HIGH-VOLUME THIRD-PARTY SELLER:

31 (1) A REPORTING MECHANISM THAT ALLOWS A CONSUMER TO
32 REPORT SUSPICIOUS MARKETPLACE ACTIVITY ELECTRONICALLY AND BY
33 TELEPHONE; AND

1 **(2) A MESSAGE ENCOURAGING CONSUMERS TO REPORT SUSPICIOUS**
2 **MARKETPLACE ACTIVITY TO THE ONLINE MARKETPLACE.**

3 **14-4404.**

4 **(A) THIS SECTION APPLIES ONLY TO AN ONLINE MARKETPLACE THAT**
5 **WAREHOUSES, DISTRIBUTES, OR OTHERWISE FULFILLS CONSUMER PRODUCT**
6 **ORDERS.**

7 **(B) IN ADDITION TO THE REQUIREMENTS OF §14-4403 OF THIS SUBTITLE,**
8 **IF A HIGH-VOLUME THIRD-PARTY SELLER THAT SUPPLIES A CONSUMER PRODUCT**
9 **IS DIFFERENT THAN THE SELLER LISTED ON THE PRODUCT LISTING PAGE, AN**
10 **ONLINE MARKETPLACE SHALL DISCLOSE TO THE CONSUMER THE IDENTITY OF THE**
11 **HIGH-VOLUME THIRD-PARTY SELLER.**

12 **14-4405.**

13 **A VIOLATION OF THIS SUBTITLE IS AN UNFAIR, DECEPTIVE, OR ABUSIVE**
14 **TRADE PRACTICE WITHIN THE MEANING OF TITLE 13 OF THIS ARTICLE AND IS**
15 **SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS CONTAINED IN TITLE**
16 **13 OF THIS ARTICLE.**

17 **14-4406.**

18 **A POLITICAL SUBDIVISION MAY NOT MANDATE OR OTHERWISE REQUIRE AN**
19 **ONLINE MARKETPLACE TO:**

20 **(1) VERIFY INFORMATION FROM A HIGH-VOLUME THIRD-PARTY**
21 **SELLER ON A ONE-TIME OR ONGOING BASIS; OR**

22 **(2) DISCLOSE ANY INFORMATION TO A CONSUMER.**

23 **14-4407.**

24 **THE DIVISION SHALL ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.**

25 **14-4408.**

26 **THIS SUBTITLE MAY BE CITED AS THE MARYLAND INTEGRITY, NOTIFICATION,**
27 **AND FAIRNESS IN ONLINE RETAIL MARKETPLACES FOR CONSUMERS ACT**
28 **(INFORM CONSUMERS ACT).**

29 **SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect**
30 **October 1, 2022.**

