To require online marketplaces to disclose certain verified information regarding high-volume third party sellers of consumer products to inform consumers.

IN THE SENATE OF THE UNITED STATES

MARCH 10, 2020

Mr. CASSIDY (for himself, Mr. DURBIN, and Mr. PERDUE) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To require online marketplaces to disclose certain verified information regarding high-volume third party sellers of consumer products to inform consumers.

1 Be it enacted by the Senate and House of Representa-
2 tives of the United States of America in Congress assembled,
3 SECTION 1. SHORT TITLE.
4 This Act may be cited as the “Integrity, Notification,
5 and Fairness in Online Retail Marketplaces for Con-
6 sumers Act” or the “INFORM Consumers Act”.

S. 3431
SEC. 2. DISCLOSURE OF INFORMATION BY ONLINE MARKETPLACES TO INFORM CONSUMERS.

(a) Verification Required.—Any online marketplace shall verify, on an annual basis, the identity of any high-volume third party seller on the online marketplace by requiring the high-volume third party seller to provide, on at least an annual basis, the following information:

1. Verified bank account information.
2. A government-issued photo identification for an individual representing the high-volume third party seller.
3. A government-issued record verifying the individual or business contact information.
4. A business tax identification number.

(b) Information Required.—

1. In general.—Any online marketplace shall require a high-volume third party seller on the online marketplace to provide, and shall disclose to consumers in a conspicuous manner on the product listing or through a conspicuously placed link on the product listing, the following information:

   (A) Subject to paragraph (2), the identity of the high-volume third party seller which shall include—

   (i) the full name of the seller;
(ii) the full business address of the seller;

(iii) whether the seller engages in the manufacturing, importing, retail, or reselling of consumer products; and

(iv) contact information for the seller, including a phone number and working email address.

(B) Contact information that allows for 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.

(C) Any other information that the Commission determines to be necessary to address circumvention or evasion of the requirements of this paragraph, provided that the additional information is limited to what is necessary to address such circumvention or evasion.

(2) EXCEPTION.—

(A) IN GENERAL.—Subject to subparagraph (B), upon the request of a high-volume third party seller, an online marketplace may provide for partial disclosure of the identity in-
formation required under paragraph (1)(A) in the following situations:

(i) If the high-volume third party seller demonstrates to the online marketplace that the seller does not have a business address and only has a personal street address, the online marketplace may 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 product listing, and may inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller’s email address.

(ii) If a high-volume third party seller demonstrates to the online marketplace that the seller does not have a phone number other than a personal phone number, the online marketplace may inform consumers that there is no phone number available for the seller and that consumer inquiries should be submitted to the seller’s email address.
(B) LIMITATION ON EXCEPTION.—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 subparagraph (A) or that a high-volume third party seller who has requested and received a provision for a partial disclosure under subparagraph (A) has not provided responsive answers within a reasonable timeframe to consumer inquiries submitted to the seller’s email address, the online marketplace shall withdraw its provision for partial disclosure and require the full disclosure of the high-volume third party seller’s identity information required under paragraph (1)(A) upon three business days’ notice to the high-volume third party seller.

(c) FULFILLMENT OR SHIPMENT BY DIFFERENT PARTY THAN SELLER.—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.

(d) Enforcement.—

(1) Unfair and Deceptive Acts or Practices.—A violation of subsection (a), (b), or (c) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(2) Powers of the Commission.—

(A) In General.—The Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this Act.

(B) Privileges and Immunities.—Any person that violates subsection (a), (b), or (c) shall be subject to the penalties, and entitled to the privileges and immunities, provided in the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(3) Regulations.—The Federal Trade Commission may promulgate regulations under section
553 of title 5, United States Code, as necessary with respect to collecting and verifying information under this section.

(4) AUTHORITY PRESERVED.—Nothing in this Act shall be construed to limit the authority of the Commission under any other provision of law.

(e) DEFINITIONS.—In this Act:

(1) COMMISSION.—The term “Commission” means the Federal Trade Commission.

(2) CONSUMER PRODUCT.—The term “consumer product” means any tangible personal property which is distributed in commerce and which 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 it is so attached or installed).

(3) HIGH-VOLUME THIRD PARTY SELLER.—The term “high-volume third party seller” means a user of an online marketplace who is a third party seller and who, 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 resulting in the accumulation of an aggregate total of $5,000 or more in gross revenues.
(4) **Online marketplace.**—The term “online marketplace” means 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.

(5) **Seller.**—The term “seller” means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

(6) **Third party seller.**—

(A) **In general.**—The term “third party seller” means any 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) **Exclusion.**—The term “third party seller” does not include a seller who—

(i) is a business entity that has made available to the general public the entity’s name, business address, and working contact information;
(ii) has an ongoing contractual relationship with the owner of the online marketplace to provide for the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and

(iii) has provided to the owner of the online marketplace identifying information, as described in subsection (a), that has been verified by the owner.

(7) VERIFY.—The term “verify” means to confirm a marketplace seller’s personal identifiable information by the use of an approved third party identity verification system that has the capability to confirm a seller’s name, email address, physical address, and phone number, or through the use of a combination of two-factor authentication, public records search, and the presentation of a government-issued identification.

SEC. 3. OTHER AUTHORITIES.

Nothing in this Act shall be construed to limit or otherwise affect any other Federal authority, rule, regulation, or standard that applies to consumer products, including the provisions of section 230 of the Communications Act of 1934 (47 U.S.C. 230) as such provisions apply to an online marketplace.
SEC. 4. EFFECTIVE DATE.

This Act shall take effect 180 days after the date of the enactment of this Act.

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