Article 50.

Regulation of High-Volume Third-Party Sellers Operating on Online Marketplaces.

§ 66-490. Purpose.

The General Assembly recognizes that many of its citizens rely heavily on the purchase of goods through online commerce. In order to protect the citizens of North Carolina from purchasing counterfeit or stolen goods from certain high-volume third-party sellers selling these goods through online marketplaces, the General Assembly finds it necessary to require online marketplaces to collect and maintain identifying information for high-volume third-party sellers. (2022-30, s. 6.)

§ 66-491. Definitions.

The following definitions apply in this Article:

(1) Consumer product. – Any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes, including any property intended to be attached to or installed in real property without regard to whether it has been attached or installed.

(2) High-volume third-party seller. – A participant in an online marketplace that meets all of the following criteria:
   a. Is a third-party seller.
   b. Has, in any continuous 12-month period during the previous 24 months, entered into 200 or more separate sales or transactions of new or unused consumer products through the online marketplace to consumers in this State.
   c. Has an aggregate total of five thousand dollars ($5,000) or more in gross revenues for the sales or transactions described in sub-subdivision b. of this subdivision.
   d. Payment for the sales was processed by the online marketplace or through a third party.

(3) Online marketplace. – Any person or entity that operates a consumer-directed, electronically based or accessed platform that meets all of the following criteria:
   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 to engage in the sale, purchase, payment, storage, shipment, or delivery of a consumer product within this State.
   c. Has a contractual or similar relationship with consumers governing consumer use of the platform to purchase consumer products.

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

(5) Third-party seller. – Any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer good in this State through an online marketplace. With respect to an online marketplace, a third-party seller does not include either of the following:
   a. A seller that operates the online marketplace platform.

b. A business entity that meets all of the following requirements:
1. Makes available to the general public the entity's name, business address, and working contact information.
2. Has 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.
3. Provides to the online marketplace the identity information required under subsection (a) of G.S. 66-492 that has been verified in accordance with subsection (d) of G.S. 66-492.

(6) Verify. – 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 the 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. (2022-30, s. 6.)

§ 66-492. Verification of high-volume third-party seller information by online marketplace.

(a) No more than 10 days after a seller becomes a high-volume third-party seller on an online marketplace platform, the online marketplace shall require the high-volume third-party seller to provide all of the following information:

(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 the required information; provided, however, that the online marketplace ensures that it can obtain the required information from the third party on demand.

(2) Contact information for the high-volume third-party seller, including one of the following:
a. If the high-volume third-party seller is an individual, the individual's name.
b. If the high-volume third-party seller is not an individual, one of the following:
1. A copy of a valid government-issued identification for an individual acting on behalf of the seller that includes the individual's name.
2. A copy of a valid government-issued record or tax document that includes the business name and physical address of the 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.

(4) A current email address and telephone number for the high-volume third-party seller.

(b) An online marketplace shall do all of the following:

(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 pursuant to subsection (a) of this section.

(2) Require each high-volume third-party seller on its platform to, no later than 10 days after receiving the notice issued pursuant to subdivision (1) of this subsection, electronically certify one of the following statements regarding the information required pursuant to subsection (a) of this section:

a. That the information previously provided is current and correct.

b. That any changes to the required information have been provided.

(c) If an online marketplace provides notice to a high-volume third-party seller as required by this section and the seller does not provide the information or certification required within 10 days of the issuance of the notice, the online marketplace shall immediately suspend any future sales activity of that seller until the seller provides the required information or certification.

(d) Within 10 days of receipt of any information and documents collected pursuant to subsection (a) of this section or any changes to information or documents submitted pursuant to subsection (b) of this section, an online marketplace shall verify the information and documents received.

(e) If a high-volume third-party seller provides a copy of a valid government issued tax document, any information contained within that document shall be presumed to be verified as of the date the document was issued. (2022-30, s. 6.)

§ 66-493. Disclosure of high-volume third-party seller information to consumers.

(a) Except as provided in subsection (b) of this section, an online marketplace shall require any high-volume third-party seller with an aggregate total of twenty thousand dollars ($20,000) 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 all of the following identity information:

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

(2) Physical address of the seller.

(3) Contact information for the seller that will allow for direct, unhindered communication with the seller by consumers of the online marketplace, including at least one of the following:

a. A current telephone number.

b. A current email address.

c. Other means of direct electronic messaging, which may be provided to the seller by the online marketplace; provided, however, that nothing in this sub-subdivision shall prohibit the online marketplace from preventing actual fraud, abuse, or spam through any communication method provided by the online marketplace.

(4) Whether or not the high-volume third-party seller used a different seller to supply the product to the consumer upon purchase, and upon request of an authenticated purchaser, the information described in subdivisions (1) through (3) of this subsection for any seller that is different from the high-volume third-party seller listed on the product listing page prior to purchase. Any information required by this subdivision shall be provided on the product listing

page, directly or via hyperlink to the consumer, or after the purchase is finalized in the order confirmation message or other document provided 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 section under any of the following circumstances in the manner provided:

(1) If the seller certifies that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace shall do both of the following:

a. Disclose only the country and, if applicable, the city and state in which the seller resides.

b. Inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by telephone, email, or other means of electronic messaging provided to the seller by the online marketplace.

(2) If the seller is a business that has a physical address for product returns, the online marketplace shall disclose the seller's physical address for product returns.

(3) If the seller does not have a telephone number other than a personal telephone number, the online marketplace shall inform consumers that there is no telephone number available for the seller and that consumer inquiries should be submitted to the seller's email address or other means of electronic messaging provided to the 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 identity information pursuant to subsection (b) of this section, or that a high-volume third-party seller that has requested and received partial disclosure has not provided responsive answers within a reasonable period of time to consumer inquiries submitted to the seller by telephone, email, or other means of electronic messaging provided to the seller by the online marketplace, the online marketplace shall provide the seller with written or electronic notice of the allegation of false representation or failure to be responsive to consumers and the seller's opportunity to respond. No more than 10 days after the issuance of the notice, the online marketplace shall suspend any future sales activity of the seller unless the seller consents to the disclosure of the identity information required under subsection (a) of this section.

(d) If a high-volume third-party seller does not comply with the requirements to provide and disclose information under this section, the online marketplace shall provide the seller with written or electronic notice and an opportunity to provide or disclose the required information. If the seller does not provide or disclose the required information within 10 days of the issuance of the notice, the online marketplace shall immediately suspend any future sales activity of that seller until the seller complies with the requirements of this section.

(e) 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 suspicious marketplace activity to be reported to the online marketplace by electronic and telephonic means. (2022-30, s. 6.)

§ 66-494. Limitation on use of information; security of marketplace information.

(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. (2022-30, s. 6.)

§ 66-495. Enforcement.

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

(1) Enjoin further 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.

(4) Obtain other remedies permitted under State law.

(b) Any violation of this Article shall also be a violation of Chapter 75 of the General Statutes; provided, however, that only public remedies as administered by the Attorney General shall be available under that Chapter for violations of this Article.

(c) Nothing in this Article shall be construed to prohibit any district attorney, law enforcement officer, official, or agency of this State from initiating or continuing any proceeding in a court against an online marketplace for failure to comply with any other civil law or a violation of a criminal law of this State. (2022-30, s. 6.)