

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

# A Bill

SENATE BILL 470

5 By: Senator J. Dismang  
6 By: Representative Evans  
7

## For An Act To Be Entitled

9 AN ACT TO ESTABLISH THE ONLINE MARKETPLACE CONSUMER  
10 INFORM ACT; TO REQUIRE THE DISCLOSURE OF INFORMATION  
11 BY ONLINE MARKETPLACES TO BETTER INFORM CONSUMERS; TO  
12 REGULATE ONLINE MARKETPLACES TO STOP ORGANIZED RETAIL  
13 CRIME; AND FOR OTHER PURPOSES.  
14  
15

## Subtitle

16 TO ESTABLISH THE ONLINE MARKETPLACE  
17 CONSUMER INFORM ACT; TO REQUIRE THE  
18 DISCLOSURE OF INFORMATION BY ONLINE  
19 MARKETPLACES TO BETTER INFORM CONSUMERS;  
20 TO REGULATE ONLINE MARKETPLACES TO STOP  
21 ORGANIZED RETAIL CRIME.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
26

27 SECTION 1. Arkansas Code Title 4 is amended to add an additional  
28 chapter to read as follows:

### CHAPTER 119

### ONLINE MARKETPLACE CONSUMER INFORM ACT

#### 4-119-101. Title.

31  
32 This chapter shall be known and may be cited as the "Online Marketplace  
33 Consumer Inform Act".  
34

#### 4-119-102. Definitions.

  
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1 As used in this chapter:

2 (1)(A) "Consumer product" means any tangible personal property  
3 that:

4 (i) Is distributed in commerce; and

5 (ii) Is normally used for personal, family, or  
6 household purposes.

7 (B) "Consumer product" includes property intended to be  
8 attached to or installed in any real property without regard to whether it is  
9 so attached or installed;

10 (2) "High-volume third-party seller" means a participant in an  
11 online marketplace who is a third-party seller and who, in any continuous  
12 twelve-month period during the previous twenty-four (24) months, has entered  
13 into two hundred (200) or more discrete sales or transactions of new or  
14 unused consumer products resulting in the accumulation of an aggregate total  
15 of five thousand dollars (\$5,000) or more in gross revenues;

16 (3) "Online marketplace" means any electronically based or  
17 electronically accessed platform that:

18 (A) Includes features that allow for, facilitate, or  
19 enable third-party sellers to engage in the sale, purchase, payment, storage,  
20 shipping, or delivery of a consumer product in the United States; and

21 (B) Hosts one (1) or more third-party sellers;

22 (4) "Seller" means a person who sells, offers to sell, or  
23 contracts to sell a consumer product through an online marketplace;

24 (5)(A) "Third-party seller" means a seller, independent of an  
25 operator, facilitator, or owner of an online marketplace, who sells, offers  
26 to sell, or contracts to sell a consumer product in the United States through  
27 an online marketplace.

28 (B) "Third-party seller" does not include a seller that:

29 (i) Is a business entity that has made available to  
30 the general public the business entity's name, business address, and business  
31 contact information;

32 (ii) Has an ongoing contractual relationship with  
33 the owner of an online marketplace to provide for the manufacture,  
34 distribution, wholesaling, or fulfillment of shipments of consumer products;  
35 and

36 (iii) Has provided to the online marketplace

1 identifying information, as described in § 4-119-103, that has been verified  
2 according to § 4-119-103(a); and

3 (6) "Verify" means to confirm information provided to an online  
4 marketplace under § 4-119-103 by the use of:

5 (A) A third-party or proprietary identity verification  
6 system that has the capability to confirm a seller's name, email address,  
7 physical address, and telephone number; or

8 (B) A combination of two-factor authentication, public  
9 records search, and the presentation of a government-issued identification.

10  
11 4-119-103. Online marketplace – Verification required.

12 (a) An online marketplace shall require a high-volume third-party  
13 seller to provide to the online marketplace within twenty-four (24) hours of  
14 becoming a high-volume third-party seller:

15 (1)(A)(i) Bank account information, the accuracy of which has  
16 been confirmed directly by the online marketplace, a payment processor, or  
17 other third-party contracted by the online marketplace.

18 (ii) If the high-volume third-party seller does not  
19 have a bank account, then the name of the payee for payments issued by the  
20 online marketplace to the high-volume third-party seller.

21 (B) The bank account information or payee information  
22 described in subdivision (a)(1)(A)(i) or (a)(1)(A)(ii) of this section may be  
23 provided by the high-volume third-party seller:

24 (i) To the online marketplace; or

25 (ii) To a payment processor or other third-party  
26 contracted by the online marketplace to maintain the information, provided  
27 that the online marketplace may obtain the information on demand from the  
28 payment processor or other third-party contracted by the online marketplace;

29 (2)(A) Contact information for the high-volume third-party  
30 seller.

31 (B) As used in subdivision (a)(2)(A) of this section,  
32 "contact information" includes:

33 (i) If the high-volume third-party seller is an  
34 individual, a copy of a government-issued photo identification for the  
35 individual high-volume third-party seller that includes the high-volume  
36 third-party seller's name and physical address;

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

3                   (a) A copy of a government-issued photo  
4 identification for an individual acting on behalf of the high-volume third-  
5 party seller that includes the individual's name and physical address; or

6                   (b) A copy of a government-issued record or  
7 tax document that includes the business name and physical address of the  
8 high-volume third-party seller; and

9                   (iii) A working email address and working telephone  
10 number for the high-volume third-party seller;

11                   (3) A business tax identification number or, if the high-volume  
12 third-party seller does not have a business tax identification number, a  
13 taxpayer identification number; and

14                   (4) Whether or not the high-volume third-party seller:

15                   (A) Is exclusively advertising or offering a consumer  
16 product on the online marketplace; and

17                   (B) Is currently advertising or offering for sale the same  
18 consumer product or products on any other internet websites other than the  
19 online marketplace.

20                   (b)(1) An online marketplace shall verify:

21                   (A) The information provided in subsection (a) of this  
22 section within three (3) days; and

23                   (B) Any changes to the information described in subsection  
24 (a) of this section within three (3) days of receipt of any changes to the  
25 information that is provided to the online marketplace by a high-volume  
26 third-party seller.

27                   (2) If a high-volume third-party seller provides a copy of a  
28 valid government-issued tax document, then the information contained within  
29 the tax document shall be presumed to be verified as of the date of issuance  
30 of the record or document.

31                   (3)(A) An online marketplace shall, at least annually:

32                   (i) Notify each high-volume third-party seller  
33 operating on the online marketplace that the high-volume third-party seller  
34 shall inform the online marketplace of any changes to the information  
35 provided by the high-volume third-party seller under subsection (a) of this  
36 section within three (3) days of receiving the notification; and

1                   (ii) Instruct each high-volume third-party seller,  
2 as part of the notification, to electronically certify either that the high-  
3 volume third-party seller's information is unchanged or that the high-volume  
4 third-party seller is providing changes to the information described in  
5 subsection (a) of this section.

6                   (B) If the online marketplace becomes aware that a high-  
7 volume third-party seller has not certified that the high-volume third-party  
8 seller's information is unchanged or has not provided the changed information  
9 within three (3) days of receiving the notification, then the online  
10 marketplace shall suspend the high-volume third-party seller's participation  
11 on the online marketplace until the high-volume third-party seller either  
12 certifies that the high-volume third-party seller's information is unchanged  
13 or provides the information that has changed and the information is verified.

14                  (c) An online marketplace shall require a high-volume third-party  
15 seller in the online marketplace to provide and disclose to consumers in a  
16 conspicuous manner and in bold print on the product listing or, for  
17 information other than the high-volume third-party seller's full name,  
18 through a conspicuously placed link on the listing of the consumer product  
19 listing:

20                  (1) The identity of the high-volume third-party seller that  
21 shall include:

22                                 (A) The full name of the high-volume third-party seller;

23                                 (B) The full physical address of the high-volume third-  
24 party seller;

25                                 (C) Whether the high-volume third-party seller also  
26 engages in the manufacturing, importing, or reselling of consumer products;  
27 and

28                                 (D)(i) Contact information for the high-volume third-party  
29 seller, including a working telephone number and working email address.

30   (ii) The working email address required under  
31 subdivision (c)(1)(D)(i) of this section may be provided to the high-volume  
32 third-party seller through the online marketplace if assigned to the high-  
33 volume third-party seller; and

34                  (2) Any other information determined to be necessary to address  
35 circumvention or evasion of the requirements of this subchapter if the  
36 additional information is limited to what is necessary to address such

1 circumvention or evasion.

2 (d) Except as provided in subsection (b) of this section, upon the  
3 request of a high-volume third-party seller, an online marketplace may  
4 provide for partial disclosure of the identifying information required under  
5 subsection (c) of this section if:

6 (1) The high-volume third-party seller demonstrates to the  
7 online marketplace that the high-volume third-party seller does not have a  
8 business address and only has a residential street address, the online  
9 marketplace may:

10 (A) Direct the high-volume third-party seller to disclose  
11 only the country and, if applicable, the state in which the high-volume  
12 third-party seller resides on the listing of the consumer product;

13 (B) Inform a consumer that there is no business address  
14 available for the high-volume third-party seller; and

15 (C) Inform a consumer that any consumer inquiries should  
16 be submitted to the high-volume third-party seller by telephone or email;

17 (2) The high-volume third-party seller demonstrates to the  
18 online marketplace that the seller is a business that has a physical address  
19 for consumer product returns, then the online marketplace may direct the  
20 high-volume third-party seller to disclose the high-volume third-party  
21 seller's physical address for consumer product returns; or

22 (3) A high-volume third-party seller demonstrates to the online  
23 marketplace that the high-volume third-party seller only has a personal  
24 telephone number, the online marketplace shall inform consumers that there is  
25 no telephone number available for the high-volume third-party seller and that  
26 any consumer inquiries should be submitted to the high-volume third-party  
27 seller's email address.

28 (e) If an online marketplace becomes aware that a high-volume third-  
29 party seller has made a false representation to the online marketplace in  
30 order to justify the provision of a partial disclosure under subsection (b)  
31 of this section or that a high-volume third-party seller who has requested  
32 and received a provision for a partial disclosure under subsection (c) of  
33 this section has not provided responsive answers within a reasonable time  
34 frame to consumer inquiries submitted to the high-volume third-party seller  
35 by telephone or email address, then the online marketplace shall withdraw its  
36 provision for partial disclosure and require full disclosure of the high-

1 volume third-party seller’s identity information required under subsection  
2 (b) of this section within three (3) business days’ notice to the high-volume  
3 third-party seller.

4 (f) An online marketplace shall disclose to a consumer, in a  
5 conspicuous manner and in bold print on the consumer product listing of any  
6 high-volume third-party seller, a reporting mechanism that allows for  
7 electronic and telephonic reporting of suspicious marketplace activity to the  
8 online marketplace and a message encouraging individuals seeking goods for  
9 purchase to report suspicious activity to the online marketplace.

10 (g) In addition to the requirements of subsection (b), an online  
11 marketplace that warehouses, distributes, or otherwise fulfills a consumer  
12 product order shall disclose to the consumer the identification of any high-  
13 volume third-party seller supplying the consumer product if different than  
14 the seller listed on the product listing page.

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16 4-119-104. Violation of Deceptive Trade Practices Act – Enforcement.

17 (a) A violation of this subchapter is an unfair and deceptive act or  
18 practice, as defined by the Deceptive Trade Practices Act, § 4-88-101 et seq.

19 (b) All remedies, penalties, and authority granted to the Attorney  
20 General under the Deceptive Trade Practices Act, § 4-88-101 et seq., shall be  
21 available to the Attorney General for the enforcement of this subchapter.

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23 4-119-105. Conflicts.

24 A local government or any political subdivision of the state shall not  
25 establish, mandate, or otherwise require an online marketplace to verify  
26 information from a high-volume third-party seller on a one-time or ongoing  
27 basis or disclose information to consumers about a high-volume third-party  
28 seller.

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31 **APPROVED: 4/5/21**  
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