

AMENDMENTS TO SENATE BILL NO. 301

Amendment 1

In the title, in line 1, after “act” insert:

to add Title 1.4D (commencing with Section 1749.8) to Part 4 of Division 3 of the Civil Code,

Amendment 2

On page 1, before line 1, insert:

SECTION 1. Title 1.4D (commencing with Section 1749.8) is added to Part 4 of Division 3 of the Civil Code, to read:

TITLE 1.4D. ONLINE MARKETPLACES

1749.8. For purposes of this chapter, the following definitions shall apply:

(a) “High-volume third-party seller” means a participant in 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 five thousand dollars (\$5,000) or more in gross revenues.

(b) “Illegitimate product” means a product about which either of the following is shown to be true by clear and convincing evidence:

- (1) The product is counterfeit.
- (2) The product has been stolen.

(c) “Online marketplace” means any electronically based or accessed platform that does both of the following:

(1) 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 state.

(2) Hosts one or more third-party sellers.

(d) “Regulated product” means a product subject to regulation by a federal or state government agency.

(e) “Retailer” includes the following:

(1) Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.

(2) Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(f) “Seller” means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.

(g) “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 state through an online marketplace. "Third-party seller" does not include a seller that meets all of the following requirements:

(1) The seller is a business entity that has made available to the general public the entity's name, business address, and working contact information.

(2) The seller 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.

(3) The seller has provided to the online marketplace identifying information pursuant to subdivision (a) of Section 1749.8.1, that has been verified pursuant to subdivision (b) of Section 1749.8.1.

1749.8.1. (a) Online marketplaces shall require the responsible officer of a business operating as a high-volume third-party seller, or the individual if it's an individual seller, on the online marketplace to provide the online marketplace with the following information within 24 hours of becoming a high-volume third-party seller:

(1) The name of the business if applicable, and the first and last name of the responsible officer or individual.

(2) The street address of the business or individual.

(3) The phone number of the business or individual.

(4) The email address of the business or individual.

(5) The business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.

(b) The online marketplace shall verify the information provided in subdivision (a) within three days, and shall verify within three days any changes to the information that is provided to the marketplace by a high-volume third-party seller. If a high-volume third-party seller provides a copy of a valid government-issued tax document, information contained within the tax document shall be presumed to be verified as of the date of issuance of the record or document.

(c) The online marketplace shall keep the information provided in subdivision (a) for no less than five years on a secured server.

(d) (1) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that the seller must inform the online marketplace of any changes to the information provided by the seller pursuant to subdivision (a) within three days of receiving the notification and shall instruct each high-volume third-party seller, as part of the notification, to electronically certify either that the seller's information is unchanged or that the seller is providing changes to the information.

(2) If the online marketplace becomes aware that a high-volume third-party seller has neither certified that the seller's information is unchanged nor has not provided such changed information within three days of receiving the notification, the online marketplace shall suspend the high-volume third-party seller's participation on the marketplace until the seller has either certified that the seller's information is unchanged or has provided the changed information and the information has been verified.

1749.8.2. An online marketplace shall do all of the following:

(a) Display on their electronically based or accessed platform, clearly, conspicuously, and reasonably designed to be seen by all users of the platform, a link to the following information:

(1) The procedures required for retailers and law enforcement agencies to make a claim that a product offered through the online marketplace is an illegitimate product or to request information regarding the sale of illegitimate products on the online marketplace.

(2) Contact information, including, but not limited to, a phone number and an email address, that a person may contact to inquire about procedures and information related to illegitimate products.

(b) Disclose to a law enforcement agency, upon request from that agency, information pursuant to subdivision (a) of 1749.8.1, within 10 business days of the initial request.

(c) Disclose to a retailer, upon request from that retailer, information pursuant to subdivision (a) of 1749.8.1, within 10 business days of the initial request.

(d) Disclosing incorrect or outdated information pursuant to subdivision (a) of 1749.8.1 to a law enforcement agency or retailer shall be deemed a violation of this title unless the marketplace can demonstrate that the disclosed information was verified within the year before the disclosure.

1749.8.3. (a) The Attorney General may adopt regulations with respect to collecting and verifying information under this title. These regulations shall be limited to what is necessary to collect and verify that information.

(b) The Attorney General may adopt regulations for the enforcement of this title.

(c) A civil action may be brought in the name of the people of the State of California by the Attorney General to enforce this title.

(d) Anyone who violates any provision of this title may be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation, which may be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General.

1749.8.4. This title is a matter of statewide concern and supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted by a city, county, city and county, municipality, or local agency regarding online marketplaces requirements in relation to verification of information from high-volume third-party sellers.

1749.8.5. This title shall become operative July 1, 2022.

SEC. 2. The Legislature finds and declares that the regulation of high-volume third party sellers in this act adding Title 1.4D (commencing with Section 1749.8) to Part 4 of Division 3 of the Civil Code addresses a matter of statewide concern rather than a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Section 1 of this act applies to all cities, including charter cities.

Amendment 3

On page 1, strike out lines 1 to 4, inclusive

LEGISLATIVE COUNSEL'S DIGEST

SB 301, as amended, Skinner. ~~Marketplaces.~~ Marketplaces: online marketplaces.

Existing law requires a marketplace, as defined, to ensure that its terms and conditions regarding commercial relationships with marketplace sellers meet certain criteria, including that they are drafted in plain and intelligible language.

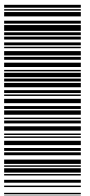
~~This bill would express the intent of the Legislature to enact legislation that would provide consumers greater transparency with respect to identity and contact information for marketplace sellers.~~ would, commencing July 1, 2022, require online marketplaces, as defined, to regulate high-volume third party sellers, as defined, on the online marketplace by requiring a high-volume third-party seller to provide to the online marketplace specified information, including contact information, 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 keep that information provided by a third-party seller for no less than 5 years on a secured server.

This bill would require the online marketplace to verify the information provided by the high-volume third-party seller within 3 days, and would require the online marketplace to verify within 3 days any changes to the information and to, at least annually, notify each high-volume third-party seller on the online marketplace that the seller must inform the online marketplace of any changes to the information, as provided. The bill would require the online marketplace to suspend the high-volume third-party seller's participation if the online marketplace becomes aware that a high-volume third-party seller has not complied with those provisions.

This bill would require an online marketplace to display on their platform, as specified, a link to information about, among other things, procedures required for retailers and law enforcement agencies to make a claim or request information related to illegitimate products, as defined, on the online marketplace. The bill would require an online platform to disclose specified information about high-volume third-party sellers to a law enforcement agency or retailer within 10 business days of a request from the law enforcement agency or retailer, and provide that disclosing incorrect or outdated information to a law enforcement agency or retailer is a violation of these provisions unless the marketplace can demonstrate that the disclosed information was verified within the year before the disclosure.

This bill would authorize the Attorney General to adopt regulations for the enforcement of these provisions and to adopt regulations with respect to the collection and verification of information, as provided. The bill would authorize the Attorney General to enforce these provisions by commencing a civil action, and specify that violators of the provisions of this bill may be held liable for a civil penalty of up to \$10,000.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.



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Substantive

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~yes. State-mandated local program: no.

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[AMENDED IN...]

SENATE BILL

No. 301

Introduced by Senator Skinner

[Date introduced]

[Title will go here]

LEGISLATIVE COUNSEL'S DIGEST

SB 301, as introduced, Skinner. ~~Marketplaces.~~ *Marketplaces:
online marketplaces.*

[Text of Legislative Counsel's Digest will go here]

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: no.

THIS PAGE IS A MOCKUP OF THE MEASURE AS IT WILL BE PUBLISHED

PROPOSED AMENDMENTS TO SENATE BILL NO. 301

SENATE BILL

No. 301

Introduced by Senator Skinner

February 3, 2021

An act to add Title 1.4D (commencing with Section 1749.8) to Part 4 of Division 3 of the Civil Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

SB 301, as introduced, Skinner. ~~Marketplaces.~~ *Marketplaces: online marketplaces.*

Existing law requires a marketplace, as defined, to ensure that its terms and conditions regarding commercial relationships with marketplace sellers meet certain criteria, including that they are drafted in plain and intelligible language.

~~This bill would express the intent of the Legislature to enact legislation that would provide consumers greater transparency with respect to identity and contact information for marketplace sellers. would, commencing July 1, 2022, require online marketplaces, as defined, to regulate high-volume third party sellers, as defined, on the online marketplace by requiring a high-volume third-party seller to provide to the online marketplace specified information, including contact information, 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 keep that information provided by a third-party seller for no less than 5 years on a secured server.~~

This bill would require the online marketplace to verify the information provided by the high-volume third-party seller within 3 days, and would require the online marketplace to verify within 3 days any changes to the information and to, at least annually, notify each



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Amendment 1

high-volume third-party seller on the online marketplace that the seller must inform the online marketplace of any changes to the information, as provided. The bill would require the online marketplace to suspend the high-volume third-party seller’s participation if the online marketplace becomes aware that a high-volume third-party seller has not complied with those provisions.

This bill would require an online marketplace to display on their platform, as specified, a link to information about, among other things, procedures required for retailers and law enforcement agencies to make a claim or request information related to illegitimate products, as defined, on the online marketplace. The bill would require an online platform to disclose specified information about high-volume third-party sellers to a law enforcement agency or retailer within 10 business days of a request from the law enforcement agency or retailer, and provide that disclosing incorrect or outdated information to a law enforcement agency or retailer is a violation of these provisions unless the marketplace can demonstrate that the disclosed information was verified within the year before the disclosure.

This bill would authorize the Attorney General to adopt regulations for the enforcement of these provisions and to adopt regulations with respect to the collection and verification of information, as provided. The bill would authorize the Attorney General to enforce these provisions by commencing a civil action, and specify that violators of the provisions of this bill may be held liable for a civil penalty of up to \$10,000.

This bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

+ SECTION 1. Title 1.4D (commencing with Section 1749.8) is
+ added to Part 4 of Division 3 of the Civil Code, to read:

Amendment 2

+
+ TITLE 1.4D. ONLINE MARKETPLACES

+ 1749.8. For purposes of this chapter, the following definitions
+ shall apply:

- + (a) *“High-volume third-party seller” means a participant in 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 five thousand dollars (\$5,000) or more in gross revenues.*
- + (b) *“Illegitimate product” means a product about which either of the following is shown to be true by clear and convincing evidence:*
 - + (1) *The product is counterfeit.*
 - + (2) *The product has been stolen.*
- + (c) *“Online marketplace” means any electronically based or accessed platform that does both of the following:*
 - + (1) *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 state.*
 - + (2) *Hosts one or more third-party sellers.*
- + (d) *“Regulated product” means a product subject to regulation by a federal or state government agency.*
- + (e) *“Retailer” includes the following:*
 - + (1) *Every seller who makes any retail sale or sales of tangible personal property, and every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others.*
 - + (2) *Every person engaged in the business of making sales for storage, use, or other consumption or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.*
- + (f) *“Seller” means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace.*
- + (g) *“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 state through an online marketplace. “Third-party seller” does not include a seller that meets all of the following requirements:*
 - + (1) *The seller is a business entity that has made available to the general public the entity’s name, business address, and working contact information.*

- + (2) *The seller 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.*
- + (3) *The seller has provided to the online marketplace identifying information pursuant to subdivision (a) of Section 1749.8.1, that has been verified pursuant to subdivision (b) of Section 1749.8.1.*
- + *1749.8.1. (a) Online marketplaces shall require the responsible officer of a business operating as a high-volume third-party seller, or the individual if it's an individual seller, on the online marketplace to provide the online marketplace with the following information within 24 hours of becoming a high-volume third-party seller:*
 - + (1) *The name of the business if applicable, and the first and last name of the responsible officer or individual.*
 - + (2) *The street address of the business or individual.*
 - + (3) *The phone number of the business or individual.*
 - + (4) *The email address of the business or individual.*
 - + (5) *The business tax identification number or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.*
- + *(b) The online marketplace shall verify the information provided in subdivision (a) within three days, and shall verify within three days any changes to the information that is provided to the marketplace by a high-volume third-party seller. If a high-volume third-party seller provides a copy of a valid government-issued tax document, information contained within the tax document shall be presumed to be verified as of the date of issuance of the record or document.*
- + *(c) The online marketplace shall keep the information provided in subdivision (a) for no less than five years on a secured server.*
- + *(d) (1) The online marketplace shall, on at least an annual basis, notify each high-volume third-party seller on the online marketplace that the seller must inform the online marketplace of any changes to the information provided by the seller pursuant to subdivision (a) within three days of receiving the notification and shall instruct each high-volume third-party seller, as part of the notification, to electronically certify either that the seller's information is unchanged or that the seller is providing changes to the information.*

- + (2) *If the online marketplace becomes aware that a high-volume third-party seller has neither certified that the seller’s information is unchanged nor has not provided such changed information within three days of receiving the notification, the online marketplace shall suspend the high-volume third-party seller’s participation on the marketplace until the seller has either certified that the seller’s information is unchanged or has provided the changed information and the information has been verified.*
- + 1749.8.2. *An online marketplace shall do all of the following:*
- + (a) *Display on their electronically based or accessed platform, clearly, conspicuously, and reasonably designed to be seen by all users of the platform, a link to the following information:*
- + (1) *The procedures required for retailers and law enforcement agencies to make a claim that a product offered through the online marketplace is an illegitimate product or to request information regarding the sale of illegitimate products on the online marketplace.*
- + (2) *Contact information, including, but not limited to, a phone number and an email address, that a person may contact to inquire about procedures and information related to illegitimate products.*
- + (b) *Disclose to a law enforcement agency, upon request from that agency, information pursuant to subdivision (a) of 1749.8.1, within 10 business days of the initial request.*
- + (c) *Disclose to a retailer, upon request from that retailer, information pursuant to subdivision (a) of 1749.8.1, within 10 business days of the initial request.*
- + (d) *Disclosing incorrect or outdated information pursuant to subdivision (a) of 1749.8.1 to a law enforcement agency or retailer shall be deemed a violation of this title unless the marketplace can demonstrate that the disclosed information was verified within the year before the disclosure.*
- + 1749.8.3. (a) *The Attorney General may adopt regulations with respect to collecting and verifying information under this title. These regulations shall be limited to what is necessary to collect and verify that information.*
- + (b) *The Attorney General may adopt regulations for the enforcement of this title.*
- + (c) *A civil action may be brought in the name of the people of the State of California by the Attorney General to enforce this title.*

+ (d) Anyone who violates any provision of this title may be liable
+ for a civil penalty not to exceed ten thousand dollars (\$10,000)
+ for each violation, which may be assessed and recovered in a civil
+ action brought in the name of the people of the State of California
+ by the Attorney General.

+ 1749.8.4. This title is a matter of statewide concern and
+ supersedes and preempts all rules, regulations, codes, ordinances,
+ and other laws adopted by a city, county, city and county,
+ municipality, or local agency regarding online marketplaces
+ requirements in relation to verification of information from
+ high-volume third-party sellers.

+ 1749.8.5. This title shall become operative July 1, 2022.

+ SEC. 2. The Legislature finds and declares that the regulation
+ of high-volume third party sellers in this act adding Title 1.4D
+ (commencing with Section 1749.8) to Part 4 of Division 3 of the
+ Civil Code addresses a matter of statewide concern rather than a
+ municipal affair as that term is used in Section 5 of Article XI of
+ the California Constitution. Therefore, Section 1 of this act applies
+ to all cities, including charter cities.

1 SECTION 1. ~~It is the intent of the Legislature to enact~~
2 ~~legislation that would provide consumers greater transparency~~
3 ~~with respect to identity and contact information for marketplace~~
4 ~~sellers.~~

Page 1

Amendment 3

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