

## HOUSE BILL No. 2433

By Committee on Federal and State Affairs

3-11

1 AN ACT concerning consumer protection; relating to online third-party  
2 marketplaces and the sale of stolen merchandise; requiring such  
3 marketplaces to verify and authenticate the identity of third parties who  
4 sell products on their platforms; providing for enforcement by the  
5 attorney general.

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. As used in this act:

9 (a) "Consumer product" means any tangible personal property that is  
10 distributed in commerce and that is normally used for personal, family or  
11 household purposes, including any such property intended to be attached  
12 to or installed upon any real property without regard to whether such  
13 tangible personal property is so attached or installed.

14 (b) "High-volume third-party seller" means a participant in an online  
15 marketplace who is a third-party seller and who, in any continuous 12-  
16 month period during the previous 24 months, has entered into 200 or more  
17 separate sales or transactions of new or unused consumer products for  
18 delivery in this state resulting in the accumulation of an aggregate total of  
19 \$5,000 or more in gross revenues.

20 (c) "Online marketplace" means any electronically based or accessed  
21 platform that:

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

25 (2) hosts one or more third-party sellers who make sales for delivery  
26 in this state.

27 (d) "Person" means any individual, firm, partnership, joint venture,  
28 association, corporation, limited liability company, estate, business trust,  
29 receiver or any other group or combination acting as a unit.

30 (e) "Seller" means a person who sells, offers to sell or contracts to sell  
31 a consumer product through an online marketplace.

32 (e) "Third-party seller" means any seller, independent of an operator,  
33 facilitator or owner of an online marketplace, who sells, offers to sell or  
34 contracts to sell a consumer product in the United States through an online  
35 marketplace. "Third-party seller" does not include a seller that is a  
36 business entity that has:

1 (1) Made available to the general public the entity's name, business  
2 address and working contact information;

3 (2) an ongoing contractual relationship with the owner of the online  
4 marketplace to provide for the manufacture, distribution, wholesaling or  
5 fulfillment of shipments of consumer products; and

6 (3) provided to the online marketplace identifying information, as  
7 described in section 2, and amendments thereto, that has been verified.

8 (f) "Verify" means to confirm information provided to an online  
9 marketplace pursuant to this section by the use of:

10 (1) A third-party or proprietary identity verification system that has  
11 the capability to confirm a seller's name, email address, physical address  
12 and phone number; or

13 (2) a combination of two-factor authentication, public records search  
14 and the presentation of a government-issued identification.

15 Sec. 2. (a) An online marketplace shall require that any high-volume  
16 third-party seller on the online marketplace provide the online marketplace  
17 with the following information within 24 hours of becoming a high-  
18 volume third-party seller:

19 (1) Bank account information, the accuracy of which has been  
20 confirmed directly by the online marketplace or by a payment processor or  
21 other third-party contracted by the online marketplace or, if the high-  
22 volume third-party seller does not have a bank account, the name of the  
23 payee for payments issued by the online marketplace to the high-volume  
24 third-party seller. Such bank account or payee information may be  
25 provided by the seller either to:

26 (A) The online marketplace; or

27 (B) a payment processor or other third party contracted by the online  
28 marketplace to maintain such information, provided that the online  
29 marketplace may obtain such information on demand from such payment  
30 processor or other third party;

31 (2) contact information, including:

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

35 (B) if the high-volume third-party seller is not an individual:

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

39 (b) a copy of a government-issued record or tax document that  
40 includes the business name and physical address of the high-volume third-  
41 party seller; and

42 (ii) a working email address and working phone number for the high-  
43 volume third-party seller;

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

4 (4) whether the high-volume third-party seller is exclusively  
5 advertising or offering the consumer product or products on the online  
6 marketplace or the high-volume third-party seller is currently advertising  
7 or offering for sale the same consumer product or products on any internet  
8 websites other than the online marketplace.

9 (b) (1) The online marketplace shall verify the information provided  
10 in subsection (a) within three days and shall verify any changes to such  
11 information that is provided to the marketplace by a high-volume third-  
12 party seller within three days. If a high-volume third-party seller provides  
13 a copy of a valid government-issued tax document, information contained  
14 within such tax document shall be presumed to be verified as of the date of  
15 issuance of such record or document.

16 (2) The online marketplace shall, on at least an annual basis, notify  
17 each high-volume third-party seller on the online marketplace that the  
18 seller must inform the online marketplace of any changes to the  
19 information provided by the seller pursuant to subsection (a) within three  
20 days of receiving the notification and shall instruct each high-volume  
21 third-party seller, as part of the notification, to electronically certify either  
22 that the seller's information is unchanged or that the seller is providing  
23 changes to the information. If the online marketplace becomes aware that a  
24 high-volume third-party seller has neither certified that the seller's  
25 information is unchanged nor provided such changed information within  
26 three days of receiving such notification, the online marketplace shall  
27 suspend the high-volume third-party seller's participation on the  
28 marketplace until the seller has either certified that the seller's information  
29 is unchanged or has provided such changed information and the  
30 information has been verified.

31 Sec. 3. (a) Any online marketplace shall require a high-volume third-  
32 party seller in such online marketplace to provide, and shall disclose to  
33 consumers in a conspicuous manner either on the product listing or, for  
34 information other than the seller's full name, through a conspicuously  
35 placed link on the product listing, the following information:

36 (1) Subject to subsection (b), the identity of the high-volume third-  
37 party seller, including:

38 (A) The full name of the seller;

39 (B) the full physical address of the seller;

40 (C) whether the seller also engages in the manufacturing, importing  
41 or reselling of consumer products; and

42 (D) contact information for the seller, including a working phone  
43 number and working email address. Such working email address may be

1 provided to the high-volume third-party seller by the online marketplace;  
2 and

3 (2) any other information determined by the attorney general to be  
4 necessary to address circumvention or evasion of the requirements of this  
5 subsection, and such additional information shall be limited to what is  
6 necessary to address such circumvention or evasion.

7 (b) (1) Subject to paragraph (2), upon the request of a high-volume  
8 third-party seller, an online marketplace may provide for partial disclosure  
9 of the identity information required under subsection (a) in the following  
10 situations:

11 (A) If the high-volume third-party seller demonstrates to the online  
12 marketplace that the seller does not have a business address and only has a  
13 residential street address, the online marketplace may direct the high-  
14 volume third-party seller to disclose only the country and, if applicable,  
15 the state in which the high-volume third-party seller resides on the product  
16 listing and may inform consumers that there is no business address  
17 available for the seller and that consumer inquiries should be submitted to  
18 the seller by phone or email;

19 (B) if the high-volume third-party seller demonstrates to the online  
20 marketplace that the seller is a business that has a physical address for  
21 product returns, the online marketplace may direct the high-volume third-  
22 party seller to disclose the seller's physical address for product returns; or

23 (C) if a high-volume third-party seller demonstrates to the online  
24 marketplace that the seller does not have a phone number other than a  
25 personal phone number, the online marketplace shall inform consumers  
26 that there is no phone number available for the seller and that consumer  
27 inquiries should be submitted to the seller's email address.

28 (2) 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 paragraph (1) or  
31 that a high-volume third-party seller who has requested and received a  
32 provision for a partial disclosure under paragraph (1) has not provided  
33 responsive answers within a reasonable time to consumer inquiries  
34 submitted to the seller by phone or email address, the online marketplace  
35 shall withdraw its provision for partial disclosure and require the full  
36 disclosure of the high-volume third-party seller's identity information  
37 required under subsection (a) upon 3 business days' notice to the high-  
38 volume third-party seller.

39 (c) An online marketplace shall disclose to consumers, in a  
40 conspicuous manner on the product listing of any high-volume third-party  
41 seller, a reporting mechanism that allows for electronic and telephonic  
42 reporting of suspicious marketplace activity to the online marketplace and  
43 a message encouraging individuals seeking goods for purchase to report

1 suspicious activity to the online marketplace.

2 (d) In addition to the requirements of this section, an online  
3 marketplace that warehouses, distributes or otherwise fulfills a consumer  
4 product order shall disclose to the consumer the identification of any high-  
5 volume third-party seller supplying the consumer product if different than  
6 the seller listed on the product listing page.

7 Sec. 4. (a) A violation of section 2 or 3, and amendments thereto,  
8 shall constitute a deceptive act or practice pursuant to K.S.A. 50-626, and  
9 amendments thereto, and shall be subject to the remedies and penalties  
10 provided by the Kansas consumer protection act.

11 (b) The attorney general shall enforce the provisions of this act.

12 (c) The attorney general may adopt rules and regulations as necessary  
13 to implement the provisions of this act.

14 Sec. 5. No political subdivision may establish, mandate or otherwise  
15 require online marketplaces to verify information from high-volume third-  
16 party sellers on either a one-time or ongoing basis or to disclose  
17 information to consumers.

18 Sec. 6. This act shall take effect and be in force from and after its  
19 publication in the statute book.