

117TH CONGRESS  
1ST SESSION

# H. R. 5502

To require online marketplaces to verify certain information regarding high-volume third party sellers of consumer products on such online marketplaces and to disclose to consumers certain contact and other information regarding such high-volume third party sellers.

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## IN THE HOUSE OF REPRESENTATIVES

OCTOBER 5, 2021

Ms. SCHAKOWSKY (for herself and Mr. BILIRAKIS) introduced the following bill; which was referred to the Committee on Energy and Commerce

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## A BILL

To require online marketplaces to verify certain information regarding high-volume third party sellers of consumer products on such online marketplaces and to disclose to consumers certain contact and other information regarding such high-volume third party sellers.

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. COLLECTION, VERIFICATION, AND DISCLO-**  
4                       **SURE OF INFORMATION BY ONLINE MARKET-**  
5                       **PLACES TO INFORM CONSUMERS.**

6       (a) COLLECTION AND VERIFICATION OF INFORMA-  
7       TION.—

(1) COLLECTION.—

(A) IN GENERAL.—An online marketplace shall require any high-volume third party seller on such online marketplace’s platform to provide, not later than 10 days after qualifying as a high-volume third party seller on the platform, the following information to the online marketplace:

(i) BANK ACCOUNT.—

(I) IN GENERAL.—A bank account number, or, if such seller does not have a bank account, the name of the payee for payments issued by the online marketplace to such seller.

(II) PROVISION OF INFORMATION.—The bank account or payee information required under subclause (I) may be provided by the seller in the following ways:

(aa) To the online marketplace.

(bb) To a payment processor or other third party contracted by the online marketplace to maintain such information, pro-

1 vided that the online marketplace  
2 ensures that it can obtain such  
3 information on demand from  
4 such payment processor or other  
5 third party.

6 (ii) CONTACT INFORMATION.—Contact  
7 information for such seller as follows:

8 (I) With respect to a high-volume  
9 third party seller that is an individual,  
10 the individual's name.

11 (II) With respect to a high-vol-  
12 ume third party seller that is not an  
13 individual, one of the following forms  
14 of contact information:

15 (aa) A copy of a valid gov-  
16 ernment-issued identification for  
17 an individual acting on behalf of  
18 such seller that includes the indi-  
19 vidual's name.

20 (bb) A copy of a valid gov-  
21 ernment-issued record or tax doc-  
22 ument that includes the business  
23 name and physical address of  
24 such seller.

1 (iii) TAX ID.—A business tax identi-  
2 fication number, or, if such seller does not  
3 have a business tax identification number,  
4 a taxpayer identification number.

5 (iv) WORKING EMAIL AND PHONE  
6 NUMBER.—A current working email ad-  
7 dress and phone number for such seller.

8 (B) NOTIFICATION OF CHANGE; ANNUAL  
9 CERTIFICATION.—An online marketplace  
10 shall—

11 (i) periodically, but not less than an-  
12 nually, notify any high-volume third party  
13 seller on such online marketplace’s plat-  
14 form of the requirement to keep any infor-  
15 mation collected under subparagraph (A)  
16 current; and

17 (ii) require any high-volume third  
18 party seller on such online marketplace’s  
19 platform to, not later than 10 days after  
20 receiving the notice under clause (i), elec-  
21 tronically certify that—

22 (I) the seller has provided any  
23 changes to such information to the  
24 online marketplace, if any such  
25 changes have occurred;

1 (II) there have been no changes  
2 to such seller's information; or

3 (III) such seller has provided any  
4 changes to such information to the  
5 online marketplace.

6 (C) SUSPENSION.—In the event that a  
7 high-volume third party seller does not provide  
8 the information or certification required under  
9 this paragraph, the online marketplace shall,  
10 after providing the seller with written or elec-  
11 tronic notice and an opportunity to provide  
12 such information or certification not later than  
13 10 days after the issuance of such notice, sus-  
14 pend any future sales activity of such seller  
15 until such seller provides such information or  
16 certification.

17 (2) VERIFICATION.—

18 (A) IN GENERAL.—An online marketplace  
19 shall—

20 (i) verify the information collected  
21 under paragraph (1)(A) not later than 10  
22 days after such collection; and

23 (ii) verify any change to such informa-  
24 tion not later than 10 days after being no-

1           tified of such change by a high-volume  
2           third party seller under paragraph (1)(B).

3           (B) PRESUMPTION OF VERIFICATION.—In  
4           the case of a high-volume third party seller that  
5           provides a copy of a valid government-issued  
6           tax document, any information contained in  
7           such document shall be presumed to be verified  
8           as of the date of issuance of such document.

9           (3) DATA USE LIMITATION.—Data collected  
10          solely to comply with the requirements of this sec-  
11          tion may not be used for any other purpose unless  
12          required by law.

13          (4) DATA SECURITY REQUIREMENT.—An online  
14          marketplace shall implement and maintain reason-  
15          able security procedures and practices, including ad-  
16          ministrative, physical, and technical safeguards, ap-  
17          propriate to the nature of the data and the purposes  
18          for which the data will be used, to protect the data  
19          collected to comply with the requirements of this  
20          section from unauthorized use, disclosure, access, de-  
21          struction, or modification.

22          (b) DISCLOSURE REQUIRED.—

23                  (1) REQUIREMENT.—

24                          (A) IN GENERAL.—An online marketplace  
25                          shall—

1 (i) require any high-volume third  
2 party seller with an aggregate total of  
3 \$20,000 or more in annual gross revenues  
4 on such online marketplace, and that uses  
5 such online marketplace's platform, to pro-  
6 vide the information described in subpara-  
7 graph (B) to the online marketplace; and

8 (ii) disclose the information described  
9 in subparagraph (B) to consumers in a  
10 clear and conspicuous manner—

11 (I) in the order confirmation  
12 message or other document or com-  
13 munication made to a consumer after  
14 a purchase is finalized; and

15 (II) in the consumer's account  
16 transaction history.

17 (B) INFORMATION DESCRIBED.—The in-  
18 formation described in this subparagraph is the  
19 following:

20 (i) Subject to paragraph (2), the iden-  
21 tity of the high-volume third party seller,  
22 including—

23 (I) the full name of the seller,  
24 which may include the seller name or  
25 seller's company name, or the name

1 by which the seller or company oper-  
2 ates on the online marketplace;

3 (II) the physical address of the  
4 seller; and

5 (III) contact information for the  
6 seller, to allow for the direct,  
7 unhindered communication with high-  
8 volume third party sellers by users of  
9 the online marketplace, including—

10 (aa) a current working  
11 phone number;

12 (bb) a current working email  
13 address; or

14 (cc) other means of direct  
15 electronic messaging (which may  
16 be provided to such seller by the  
17 online marketplace).

18 (ii) Whether the high-volume third  
19 party seller used a different seller to sup-  
20 ply the consumer product to the consumer  
21 upon purchase, and, upon the request of  
22 an authenticated purchaser, the informa-  
23 tion described in clause (i) relating to any  
24 such seller that supplied the consumer  
25 product to the purchaser, if such seller is



1 different than the high-volume third party  
2 seller listed on the product listing prior to  
3 purchase.

4 (2) EXCEPTION.—

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

11 (i) If such seller certifies to the online  
12 marketplace that the seller does not have  
13 a business address and only has a residen-  
14 tial street address, or has a combined busi-  
15 ness and residential address, the online  
16 marketplace may—

17 (I) disclose only the country and,  
18 if applicable, the State in which such  
19 seller resides; and

20 (II) inform consumers that there  
21 is no business address available for  
22 the seller and that consumer inquiries  
23 should be submitted to the seller by  
24 phone, email, or other means of elec-

1                   tronic messaging provided to such  
2                   seller by the online marketplace.

3                   (ii) If such seller certifies to the online  
4                   marketplace that the seller is a business  
5                   that has a physical address for product re-  
6                   turns, the online marketplace may disclose  
7                   the seller's physical address for product re-  
8                   turns.

9                   (iii) If such seller certifies to the on-  
10                  line marketplace that the seller does not  
11                  have a phone number other than a per-  
12                  sonal phone number, the online market-  
13                  place shall inform consumers that there is  
14                  no phone number available for the seller  
15                  and that consumer inquiries should be sub-  
16                  mitted to the seller's email address or  
17                  other means of electronic messaging pro-  
18                  vided to such seller by the online market-  
19                  place.

20                  (B) LIMITATION ON EXCEPTION.—If an  
21                  online marketplace becomes aware that a high-  
22                  volume third party seller has made a false rep-  
23                  resentation to the online marketplace in order  
24                  to justify the provision of a partial disclosure  
25                  under subparagraph (A) or that a high-volume

1           third party seller who has requested and re-  
2           ceived a provision for a partial disclosure under  
3           subparagraph (A) has not provided responsive  
4           answers within a reasonable time frame to con-  
5           sumer inquiries submitted to the seller by  
6           phone, email, or other means of electronic mes-  
7           saging provided to such seller by the online  
8           marketplace, the online marketplace shall, after  
9           providing the seller with written or electronic  
10          notice and an opportunity to respond not later  
11          than 10 days after the issuance of such notice,  
12          suspend any future sales activity of such seller  
13          unless such seller consents to the disclosure of  
14          the identity information required under para-  
15          graph (1)(B)(i).

16          (3) REPORTING MECHANISM.—An online mar-  
17          ketplace shall disclose to consumers in a clear and  
18          conspicuous manner on the product listing of any  
19          high-volume third party seller a reporting mecha-  
20          nism that allows for electronic and telephonic report-  
21          ing of suspicious marketplace activity to the online  
22          marketplace.

23          (4) COMPLIANCE.—If a high-volume third party  
24          seller does not comply with the requirements to pro-  
25          vide and disclose information under this subsection,

1 the online marketplace shall, after providing the sell-  
2 er with written or electronic notice and an oppor-  
3 tunity to provide or disclose such information not  
4 later than 10 days after the issuance of such notice,  
5 suspend any future sales activity of such seller until  
6 the seller complies with such requirements.

7 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
8 SION.—

9 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-  
10 TICES.—A violation of subsection (a) or (b) by an  
11 online marketplace shall be treated as a violation of  
12 a rule defining an unfair or deceptive act or practice  
13 prescribed under section 18(a)(1)(B) of the Federal  
14 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

15 (2) POWERS OF THE COMMISSION.—

16 (A) IN GENERAL.—The Commission shall  
17 enforce subsections (a) and (b) in the same  
18 manner, by the same means, and with the same  
19 jurisdiction, powers, and duties as though all  
20 applicable terms and provisions of the Federal  
21 Trade Commission Act (15 U.S.C. 41 et seq.)  
22 were incorporated into and made a part of this  
23 section.

24 (B) PRIVILEGES AND IMMUNITIES.—Any  
25 person that violates subsection (a) or (b) shall

1 be subject to the penalties, and entitled to the  
2 privileges and immunities, provided in the Fed-  
3 eral Trade Commission Act (15 U.S.C. 41 et  
4 seq.).

5 (3) REGULATIONS.—The Commission may pro-  
6 mulgate regulations under section 553 of title 5,  
7 United States Code, with respect to the collection,  
8 verification, or disclosure of information under this  
9 section, provided that such regulations are limited to  
10 what is necessary to collect, verify, and disclose such  
11 information.

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

15 (d) ENFORCEMENT BY STATE ATTORNEYS GEN-  
16 ERAL.—

17 (1) IN GENERAL.—If the attorney general of a  
18 State has reason to believe that any online market-  
19 place has violated or is violating this section or a  
20 regulation promulgated under this section that af-  
21 fects one or more residents of that State, the attor-  
22 ney general of the State may bring a civil action in  
23 any appropriate district court of the United States,  
24 to—

1 (A) enjoin further such violation by the de-  
2 fendant;

3 (B) enforce compliance with this section or  
4 such regulation;

5 (C) obtain civil penalties in the amount  
6 provided for under subsection (c);

7 (D) obtain other remedies permitted under  
8 State law; and

9 (E) obtain damages, restitution, or other  
10 compensation on behalf of residents of the  
11 State.

12 (2) NOTICE.—The attorney general of a State  
13 shall provide prior written notice of any action under  
14 paragraph (1) to the Commission and provide the  
15 Commission with a copy of the complaint in the ac-  
16 tion, except in any case in which such prior notice  
17 is not feasible, in which case the attorney general  
18 shall serve such notice immediately upon instituting  
19 such action.

20 (3) INTERVENTION BY THE FTC.—Upon receiv-  
21 ing notice under paragraph (2), the Commission  
22 shall have the right—

23 (A) to intervene in the action;

24 (B) upon so intervening, to be heard on all  
25 matters arising therein; and

1 (C) to file petitions for appeal.

2 (4) LIMITATION ON STATE ACTION WHILE FED-  
3 ERAL ACTION IS PENDING.—If the Commission has  
4 instituted a civil action for violation of this section  
5 or a regulation promulgated under this section, no  
6 State attorney general, or official or agency of a  
7 State, may bring a separate action under paragraph  
8 (1) during the pendency of that action against any  
9 defendant named in the complaint of the Commis-  
10 sion for any violation of this section or a regulation  
11 promulgated under this section that is alleged in the  
12 complaint. A State attorney general, or official or  
13 agency of a State, may join a civil action for a viola-  
14 tion of this section or regulation promulgated under  
15 this section filed by the Commission.

16 (5) RULE OF CONSTRUCTION.—For purposes of  
17 bringing a civil action under paragraph (1), nothing  
18 in this section shall be construed to prevent the chief  
19 law enforcement officer, or official or agency of a  
20 State, from exercising the powers conferred on such  
21 chief law enforcement officer, official or agency of a  
22 State, by the laws of the State to conduct investiga-  
23 tions, administer oaths or affirmations, or compel  
24 the attendance of witnesses or the production of doc-  
25 umentary and other evidence.

1 (6) ACTIONS BY OTHER STATE OFFICIALS.—

2 (A) IN GENERAL.—In addition to civil ac-  
3 tions brought by attorneys general under para-  
4 graph (1), any other officer of a State who is  
5 authorized by the State to do so, except for any  
6 private person on behalf of the State attorney  
7 general, may bring a civil action under para-  
8 graph (1), subject to the same requirements  
9 and limitations that apply under this subsection  
10 to civil actions brought by attorneys general.

11 (B) SAVINGS PROVISION.—Nothing in this  
12 subsection may be construed to prohibit an au-  
13 thorized official of a State from initiating or  
14 continuing any proceeding in a court of the  
15 State for a violation of any civil or criminal law  
16 of the State.

17 (e) SEVERABILITY.—If any provision of this section,  
18 or the application thereof to any person or circumstance,  
19 is held invalid, the remainder of this section and the appli-  
20 cation of such provision to other persons not similarly situ-  
21 ated or to other circumstances shall not be affected by  
22 the invalidation.

23 (f) DEFINITIONS.—In this section:

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



1           (2) CONSUMER PRODUCT.—The term “con-  
2       sumer product” has the meaning given such term in  
3       section 101 of the Magnuson-Moss Warranty—Fed-  
4       eral Trade Commission Improvement Act (15 U.S.C.  
5       2301) and section 700.1 of title 16, Code of Federal  
6       Regulations.

7           (3) HIGH-VOLUME THIRD PARTY SELLER.—

8           (A) IN GENERAL.—The term “high-volume  
9       third party seller” means a participant on an  
10      online marketplace’s platform who is a third  
11      party seller and who, in any continuous 12-  
12      month period during the previous 24 months,  
13      has entered into 200 or more discrete sales or  
14      transactions of new or unused consumer prod-  
15      ucts and an aggregate total of \$5,000 or more  
16      in gross revenues.

17          (B) CLARIFICATION.—For purposes of cal-  
18      culating the number of discrete sales or trans-  
19      actions or the aggregate gross revenues under  
20      subparagraph (A), an online marketplace shall  
21      only be required to count sales or transactions  
22      made through the online marketplace and for  
23      which payment was processed by the online  
24      marketplace, either directly or through its pay-  
25      ment processor.

1 (4) ONLINE MARKETPLACE.—The term “online  
2 marketplace” means any person or entity that oper-  
3 ates a consumer-directed electronically based or  
4 accessed platform that—

5 (A) includes features that allow for, facili-  
6 tate, or enable third party sellers to engage in  
7 the sale, purchase, payment, storage, shipping,  
8 or delivery of a consumer product in the United  
9 States;

10 (B) is used by one or more third party sell-  
11 ers for such purposes; and

12 (C) has a contractual or similar relation-  
13 ship with consumers governing their use of the  
14 platform to purchase consumer products.

15 (5) SELLER.—The term “seller” means a per-  
16 son who sells, offers to sell, or contracts to sell a  
17 consumer product through an online marketplace’s  
18 platform.

19 (6) THIRD PARTY SELLER.—

20 (A) IN GENERAL.—The term “third party  
21 seller” means any seller, independent of an on-  
22 line marketplace, who sells, offers to sell, or  
23 contracts to sell a consumer product in the  
24 United States through such online market-  
25 place’s platform.

1 (B) EXCLUSIONS.—The term “third party  
2 seller” does not include, with respect to an on-  
3 line marketplace—

4 (i) a seller who operates the online  
5 marketplace’s platform; or

6 (ii) a business entity that has—

7 (I) made available to the general  
8 public the entity’s name, business ad-  
9 dress, and working contact informa-  
10 tion;

11 (II) an ongoing contractual rela-  
12 tionship with the online marketplace  
13 to provide the online marketplace with  
14 the manufacture, distribution, whole-  
15 saling, or fulfillment of shipments of  
16 consumer products; and

17 (III) provided to the online mar-  
18 ketplace identifying information, as  
19 described in subsection (a), that has  
20 been verified in accordance with that  
21 subsection.

22 (7) VERIFY.—The term “verify” means to con-  
23 firm information provided to an online marketplace  
24 pursuant to this section, which may include the use  
25 of one or more methods that enable the online mar-

1       ketplace to reliably determine that any information  
2       and documents provided are valid, corresponding to  
3       the seller or an individual acting on the seller's be-  
4       half, not misappropriated, and not falsified.

5       (g) RELATIONSHIP TO STATE LAWS.—No State or  
6       political subdivision of a State, or territory of the United  
7       States, may establish or continue in effect any law, regula-  
8       tion, rule, requirement, or standard that conflicts with the  
9       requirements of this section.

10       (h) EFFECTIVE DATE.—This section shall take effect  
11       180 days after the date of the enactment of this Act.

○