

**ASSEMBLY, No. 3543**

**STATE OF NEW JERSEY**  
**220th LEGISLATURE**

INTRODUCED MARCH 8, 2022

**Sponsored by:**  
**Assemblyman PAUL D. MORIARTY**  
**District 4 (Camden and Gloucester)**

**SYNOPSIS**

Imposes certain requirements on online marketplaces.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning online marketplaces and supplementing  
2 P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. Every online marketplace shall require every high-  
8 volume third-party seller on the online marketplace's platform to  
9 provide the online marketplace with the following information  
10 within 10 days of qualifying as a high-volume third-party seller on  
11 the platform:

12 (1) a bank account number or, if the high-volume third-party  
13 seller does not have a bank account, the name of the payee for  
14 payments issued by the online marketplace to the high-volume  
15 third-party seller. The bank account or payee information may be  
16 provided by the high-volume third-party seller to the online  
17 marketplace or to a payment processor or other third party  
18 contracted by the online marketplace to maintain the information if  
19 the online marketplace ensures that the online marketplace can  
20 obtain the information on demand from the payment processor or  
21 other third party;

22 (2) contact information for the high-volume third-party seller,  
23 including:

24 (a) if the high-volume third-party seller is an individual, the  
25 individual's name;

26 (b) if the high-volume third-party seller is not an individual, one  
27 of the following forms of contact information: a copy of a valid  
28 government-issued identification for an individual acting on behalf  
29 of the high-volume third-party seller, including the individual's  
30 name; or a copy of a valid government-issued record or tax  
31 document, including the business name and physical address of the  
32 high-volume third-party seller;

33 (3) a business tax identification number or, if the high-volume  
34 third-party seller does not have a business tax identification  
35 number, a taxpayer identification number;

36 (4) a current working telephone number; and

37 (5) a current working email address.

38 b. An online marketplace shall:

39 (1) notify, on at least an annual basis, each high-volume third-  
40 party seller on the online marketplace's platform of the requirement  
41 to keep the information collected pursuant to subsection a. of this  
42 section current; and

43 (2) require a high-volume third-party seller on the online  
44 marketplace's platform to, not later than 10 days after receiving the  
45 notice pursuant to paragraph (1) of this subsection, electronically  
46 certify that the high-volume third-party seller has provided a change  
47 to the information provided pursuant to subsection a. of this section  
48 to the online marketplace or there have been no changes to the high-

1 volume third-party seller's information provided pursuant to  
2 subsection a. of this section.

3 c. If a high-volume third-party seller does not comply with the  
4 requirements contained in subsection b. of this section, the online  
5 marketplace shall, after providing the high-volume third-party seller  
6 with a written or electronic notice and an opportunity to comply  
7 with the requirements contained in subsection b. of this section,  
8 suspend the future sales activity of the high-volume third-party  
9 seller, not later than 10 days after the issuance of the second notice,  
10 until the seller complies with the requirements of subsection b. of  
11 this section.

12 d. An online marketplace shall verify the information collected  
13 pursuant to subsection a. of this section within 10 days of collection  
14 and any changes to the information collected pursuant to subsection  
15 a. of this section within 10 days after being notified of the change  
16 by a high-volume third-party seller pursuant to paragraph (2) of  
17 subsection b. of this section.

18 e. If a high-volume third-party seller provides a copy of a valid  
19 government-issued record or tax document pursuant to  
20 subparagraph (b) of paragraph (2) of subsection a. of this section,  
21 the information contained in the record or tax document shall be  
22 presumed to be verified as of the date of issuance of the record or  
23 tax document.

24 f. Data collected solely to comply with the requirements of this  
25 section may not be used for any other purpose unless required by  
26 federal or State law. An online marketplace shall implement and  
27 maintain reasonable security procedures and practices, including  
28 administrative, physical, and technical safeguards, appropriate to  
29 the nature of the data collected under this section and the purposes  
30 for which the data will be used, to protect the data from  
31 unauthorized use, disclosure, access, destruction, or modification.

32 g. An online marketplace shall require a high-volume third-  
33 party seller that has an aggregate total of \$20,000 or more in annual  
34 gross revenues on the online marketplace and uses the online  
35 marketplace's platform to:

36 (1) provide the information required pursuant to subsection h. of  
37 this section to the online marketplace; and

38 (2) disclose the information required pursuant to subsection h. of  
39 this section to a consumer in a conspicuous manner in the order  
40 confirmation message or other document or communication made to  
41 the consumer after a purchase is finalized and in the consumer's  
42 account transaction history.

43 h. Except as provided in subsection i. of this section, a high-  
44 volume third-party seller as described in subsection g. of this  
45 section shall provide and disclose the following information in  
46 accordance with the provisions of subsection g. of this section:

47 (1) the identity of the high-volume third-party seller, including  
48 the full name of the high-volume third-party seller, which may

1 include the high-volume third party seller's name or company name  
2 or the name by which the high-volume third-party seller or  
3 company operates on the online marketplace;

4 (2) the physical address of the high-volume third-party seller;

5 (3) the contact information for the high-volume third-party  
6 seller to allow for the direct, unhindered communication with the  
7 high-volume third-party seller by a user of the online marketplace,  
8 including any of the following: a current working telephone  
9 number, a current working email address, and any other means of  
10 direct electronic messaging provided by the online marketplace;  
11 provided, however, the requirements of this subparagraph shall not  
12 prevent an online marketplace from preventing fraud, abuse, or  
13 spam through the communication; and

14 (4) whether the high-volume third-party seller used a different  
15 seller than listed on the product listing, prior to purchase, to supply  
16 a consumer product to a consumer and, upon the request of an  
17 authenticated purchaser, the information required pursuant  
18 paragraphs (1), (2), and (3) of this subsection relating to the  
19 different seller.

20 i. Subject to the limitations pursuant to subsection j. of this  
21 section, upon request of a high-volume third-party seller, an online  
22 marketplace may provide for the partial disclosure of the  
23 information required under subparagraphs (1), (2), and (3) of  
24 subsection h. of this section to a consumer in accordance with the  
25 provisions of this subsection.

26 If the high-volume third-party seller certifies to the online  
27 marketplace that the high-volume third-party seller does not have a  
28 business address and only has a residential street address, or has a  
29 combined business and residential address, the online marketplace  
30 may:

31 (1) disclose to the consumer only the country, and, if applicable,  
32 the state where the high-volume third-party seller resides;

33 (2) inform the consumer that there is no business address  
34 available for the high-volume third-party seller and that consumer  
35 inquiries should be submitted to the high-volume third-party seller  
36 by telephone, email, or any other means of electronic messaging  
37 provided to the high-volume third-party seller by the online  
38 marketplace;

39 (3) if the high-volume third-party seller certifies to the online  
40 marketplace that the high-volume third-party seller is a business  
41 that has a physical address for product returns, disclose the high-  
42 volume third-party seller's physical address for product returns; and

43 (4) if the high-volume third-party seller certifies to the online  
44 marketplace that the high-volume third-party seller does not have a  
45 telephone number other than a personal telephone number, inform  
46 the consumer that there is no telephone number available for the  
47 high-volume third-party seller and consumer inquiries should be  
48 submitted to the high-volume third-party seller's email address or

1 other means of electronic messaging provided to the seller by the  
2 online marketplace.

3 j. If an online marketplace becomes aware that a high-volume  
4 third-party seller has made a false representation to the online  
5 marketplace to justify a partial disclosure pursuant to subsection i.  
6 of this section or the high-volume third-party seller has requested  
7 and received an authorization for a partial disclosure pursuant to  
8 subsection i. of this section and has not provided responsive  
9 answers within a reasonable timeframe to a consumer inquiry  
10 submitted to the high-volume third-party seller in accordance with  
11 subsection i. of this section, the online marketplace shall, after  
12 providing the high-volume third-party seller with a written or  
13 electronic notice and an opportunity to respond, suspend the future  
14 sales activity of the high-volume third-party seller, not later than 10  
15 days after the issuance of the notice, unless the high-volume third-  
16 party seller consents to the disclosure of the identity information  
17 required pursuant to paragraphs (1), (2), and (3) of subsection h. of  
18 this section.

19 k. An online marketplace shall, in a clear and conspicuous  
20 manner, disclose to a consumer on every product listing of a high-  
21 volume third-party seller a reporting mechanism that allows for  
22 electronic and telephonic reporting of suspicious marketplace  
23 activity to the online marketplace.

24 l. If a high-volume third-party seller does not comply with the  
25 requirements to provide and disclose information under this section,  
26 the online marketplace shall, after providing the seller with a  
27 written or electronic notice and an opportunity to provide or  
28 disclose the information, suspend the future sales activity of the  
29 high-volume third-party seller, not later than 10 days after the  
30 issuance of the notice, until the high-volume third-party seller  
31 complies with the requirements under this section.

32 m. (1) If the Attorney General has reason to believe that an  
33 online marketplace has violated or is violating the provisions of this  
34 section or regulations promulgated pursuant to paragraph (3) of this  
35 subsection, which affect a resident of this State, the Attorney  
36 General may bring a civil action to do any of the following:

37 (a) enjoin an additional violation by the defendant;

38 (b) enforce compliance with the provisions of this section or  
39 regulations promulgated pursuant to paragraph (3) of this  
40 subsection;

41 (c) obtain civil penalties in an amount specified in the  
42 regulations promulgated pursuant to paragraph (3) of this  
43 subsection; and

44 (d) obtain other damages, restitution, compensation, or other  
45 remedies as authorized under the laws of this State.

46 (2) Nothing in paragraph (1) of this subsection shall be  
47 construed to prevent the Attorney General from exercising the  
48 powers conferred by the laws of this State to conduct investigations,

1 administer oaths or affirmations, or compel the attendance of  
2 witnesses or the production of documentary and other evidence.

3 (3) The Attorney General shall adopt rules and regulations  
4 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
5 (C.52:14B-1 et seq.) as necessary to enforce the provisions of this  
6 section.

7 n. A political subdivision may not establish, mandate, or  
8 otherwise require an online marketplace to collect or verify  
9 information from a high-volume third-party seller or disclose  
10 information to a consumer.

11 o. As used in this section:

12 "Consumer product" means tangible personal property that is  
13 distributed in commerce and is normally used for personal, family,  
14 or household purposes, including personal property intended to be  
15 attached to or installed in real property without regard to whether  
16 the personal property is attached or installed.

17 "High-volume third-party seller" means a participant in an online  
18 marketplace who is a third-party seller and who, for a continuous  
19 period of 12 months during the previous 24 months, has entered  
20 into at least 200 discrete sales or transactions of new or unused  
21 consumer products and an aggregate total of at least \$5,000 gross  
22 revenue. For purposes of calculating the number of discrete sales or  
23 transactions or the aggregate gross revenue, an online marketplace  
24 shall only count sales or transactions made through the online  
25 marketplace and for which payment was processed by the online  
26 marketplace directly or through the online marketplace's payment  
27 processor.

28 "Online marketplace" means any person or entity that operates a  
29 consumer-directed, electronically based or accessed platform that  
30 meets the following criteria:

31 (1) The platform includes features that allow for, facilitate, or  
32 enable a third-party seller to engage in the sale, purchase, payment,  
33 storage, shipping, or delivery of a consumer product in the United  
34 States;

35 (2) The platform is used by a third-party seller for purposes  
36 specified under paragraph (1); and

37 (3) The platform has a contractual or similar relationship with a  
38 consumer to govern the consumer's use of the platform to purchase  
39 a consumer product.

40 "Seller" means a person who sells, offers to sell, or contracts to  
41 sell a consumer product through an online marketplace's platform.

42 "Third-party seller" means a seller, independent of an online  
43 marketplace, who sells, offers to sell or contracts to sell a consumer  
44 product in the United States through an online marketplace. The  
45 term does not include the following:

46 (1) A seller who operates an online marketplace's platform; or

47 (2) A business entity that meets all of the following criteria:

1 (a) The business entity has made the business entity's name,  
2 business address, and contact information available to the public;

3 (b) The business entity has an ongoing contractual relationship  
4 with an online marketplace to provide the online marketplace with  
5 the manufacturing, distribution, wholesaling, or fulfillment of the  
6 shipment of a consumer product; and

7 (c) The business entity has provided the information required  
8 pursuant to subsection a. of this section to an online marketplace,  
9 which has been verified in accordance with this section.

10 "Verify" means to confirm information provided to an online  
11 marketplace under this section, including the use of a method that  
12 enables the online marketplace to reliably determine the validity of  
13 the information corresponding to a seller or an individual acting on  
14 the seller's behalf and confirm the information is not  
15 misappropriated or falsified.

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17 2. This act shall take effect on the first day of the sixth month  
18 after enactment.

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#### STATEMENT

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23 This bill imposes certain requirements on online marketplaces.  
24 Under the provisions of this bill, every online marketplace is to  
25 require every high-volume third-party seller on the online  
26 marketplace's platform to provide the online marketplace with the  
27 following information within 10 days of qualifying as a high-  
28 volume third-party seller: 1) a bank account number or if the high-  
29 volume third-party seller does not have a bank account, the name of  
30 the payee for payments issued by the online marketplace to the  
31 high-volume third-party seller; 2) contact information; 3) a business  
32 tax identification number or, if the high-volume third-party seller  
33 does not have a business tax identification number, a taxpayer  
34 identification number; 4) a current working telephone number; and  
35 5) a current working email address.

36 Under the bill, an online marketplace is required to, on at least an  
37 annual basis, notify each high-volume third-party seller that the  
38 seller is required to keep the above information current and is to  
39 require a high-volume third-party seller, within 10 days of receiving  
40 notification, to electronically certify that the seller has provided a  
41 change to the information or there have been no changes to the  
42 information. If the high-volume third-party seller fails to comply,  
43 the online marketplace is required, after providing written or  
44 electronic notice and an opportunity to comply, to suspend, within  
45 10 days after issuance of the second notice, the future sales activity  
46 of the seller until the seller complies.

47 In addition, an online marketplace is required to verify the  
48 information collected within 10 days of collection and any changes

1 to the information collected within 10 days after being notified of  
2 the change by the high-volume third-party seller.

3 The bill further provides that, with certain exceptions, an online  
4 marketplace is to require a high-volume third-party seller that has  
5 an aggregate total of \$20,000 or more in annual gross revenues on  
6 the online marketplace and uses the online marketplace's platform  
7 to provide the following information: 1) the identity of the seller; 2)  
8 the physical address of the seller; 3) the contact information; and 4)  
9 whether the high-volume third-party seller used a different seller  
10 than listed on the product listing, prior to purchase, to supply a  
11 consumer product to a consumer and, upon request of an  
12 authenticated purchaser, the above information regarding the  
13 different seller. This information is required to be disclosed to a  
14 consumer in a conspicuous manner in the order confirmation  
15 message or other document or communication made to the  
16 consumer after a purchase is finalized and in the consumer's  
17 account transaction history.

18 Under the bill, upon request of a high-volume third-party seller,  
19 in certain circumstances, an online marketplace may provide for the  
20 partial disclosure of the identity information required to be provided  
21 pursuant to the bill. If the online marketplace becomes aware that a  
22 high-volume third-party seller has made a false representation to  
23 justify a partial disclosure or has received authorization for a partial  
24 disclosure and has not provided responsive answers to a consumer  
25 inquiry, the online marketplace is to, after providing notice to the  
26 high-volume third-party seller, suspend the future sales activity of  
27 the seller, unless the seller consents to disclosure of the identity  
28 information required under the bill.

29 Further, an online marketplace is required to disclose to  
30 consumers, in a clear and conspicuous manner, on every product  
31 listing of a high-volume third-party seller, a reporting mechanism  
32 that allows for electronic and telephonic reporting of suspicious  
33 marketplace activity to the online marketplace.

34 In addition, if a high-volume third-party seller does not comply  
35 with the requirements to provide and disclose information under the  
36 bill, the online marketplace is required to, after providing the seller  
37 with written or electronic notice and an opportunity to provide or  
38 disclose the information, suspend the future sales activity of the  
39 seller until the seller complies.

40 If the Attorney General has reason to believe that an online  
41 marketplace has violated the provisions of this bill or regulations  
42 promulgated by the Attorney General, which affects a resident of  
43 this State, the Attorney General may bring a civil action to: 1)  
44 enjoin an additional violation by the defendant; 2) enforce  
45 compliance with the bill's provisions or regulations; 3) obtain civil  
46 penalties; or 4) obtain other damages, restitution, compensation, or  
47 other remedies as authorized under State law.



**A3543 MORIARTY**

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1       The bill defines a high-volume third-party seller as a participant  
2 in an online marketplace who is a third-party seller and who, for a  
3 continuous period of 12 months during the previous 24 months, has  
4 entered into at least 200 discrete sales or transactions of new or  
5 unused consumer products and an aggregate total of at least \$5,000  
6 gross revenue.