

FLOOR AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB418 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Ryan Martinez _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 FLOOR SUBSTITUTE
4 FOR
5 ENGROSSED SENATE
6 BILL NO. 418

By: Daniels of the Senate
and
Martinez of the House

7
8
9 FLOOR SUBSTITUTE

10 [consumer protection - Oklahoma INFORM Act - online
11 marketplaces - high-volume third-party sellers -
12 effective date]

13
14
15 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

16 SECTION 1. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 799A.1 of Title 15, unless there
18 is created a duplication in numbering, reads as follows:

19 This act shall be known and may be cited as the "Oklahoma INFORM
20 Act".

21 SECTION 2. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 799A.2 of Title 15, unless there
23 is created a duplication in numbering, reads as follows:

24 As used in the Online Marketplace Consumer Protection Act:

1 1. "Consumer product" means any tangible personal property
2 which is distributed in commerce and which is normally used for
3 personal, family, or household purposes including any such property
4 intended to be attached to or installed in any real property without
5 regard to whether it is so attached or installed;

6 2. "High-volume third-party seller" means a participant in an
7 online marketplace who is a third-party seller and who, in any
8 continuous twelve-month period during the previous twenty-four (24)
9 months, has entered into two hundred or more discrete sales or
10 transactions of new or unused consumer products and an aggregate
11 total of Five Thousand Dollars (\$5,000.00) or more in gross
12 revenues. For purposes of calculating the number of discrete sales
13 or transactions or the aggregate gross revenues, an online
14 marketplace shall only be required to count sales or transactions
15 made through the online marketplace and for which payment was
16 processed by the online marketplace, either directly or through its
17 payment processor;

18 3. "Online marketplace" means any person or entity that
19 operates a consumer-directed electronically based or accessed
20 platform that:

21 a. includes features that allow for, facilitate, or
22 enable third-party sellers to engage in the sale,
23 purchase, payment, storage, shipping, or delivery of a
24 consumer product in this state,

1 b. is used by one or more third-party sellers for such
2 purposes, and

3 c. has a contractual or similar relationship with
4 consumers governing their use of the platform to
5 purchase consumer products;

6 4. "Seller" means a person who sells, offers to sell, or
7 contracts to sell a consumer product through an online marketplace's
8 platform;

9 5. "Third-party seller" means any seller, independent of an
10 online marketplace, who sells, offers to sell, or contracts to sell
11 a consumer product in this state through an online marketplace. The
12 term third-party seller does not include:

13 a. a seller who operates the online marketplace's
14 platform, or

15 b. a business entity that has:

16 (1) made available to the general public the entity's
17 name, business address, and working contact
18 information,

19 (2) an ongoing contractual relationship with the
20 online marketplace to provide the online
21 marketplace with the manufacture, distribution,
22 wholesaling, or fulfillment of shipments of
23 consumer products, and
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1 (3) provided to the online marketplace identifying
2 information, as described in Section 3 of this
3 act, that has been verified in accordance with
4 that section; and

5 6. "Verify" means to confirm information provided to an online
6 marketplace pursuant to this act, and may include the use of one or
7 more methods that enable the online marketplace to reliably
8 determine that any information and documents provided are valid,
9 corresponding to the seller or an individual acting on the seller's
10 behalf, not misappropriated, and not falsified.

11 SECTION 3. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 799A.3 of Title 15, unless there
13 is created a duplication in numbering, reads as follows:

14 A. Online marketplaces shall require that any high-volume
15 third-party seller on the online marketplace's platform provide the
16 online marketplace with the following information no later than ten
17 (10) days after qualifying as a high-volume third-party seller on
18 the platform:

19 1. A bank account number, or, if the high-volume third-party
20 seller does not have a bank account, the name of the payee for
21 payments issued by the online marketplace to the high-volume third-
22 party seller. Such bank account or payee information may be
23 provided by the seller either:

24 a. to the online marketplace, or

1 b. other third parties contracted by the online
2 marketplace to maintain such information, provided
3 that the online marketplace ensures that it can obtain
4 such information on demand from such other third
5 parties;

6 2. Contact information, including:

7 a. if the high-volume third-party seller is an
8 individual, the individual's name, or

9 b. if the high-volume third-party seller is not an
10 individual, one of the following forms of contact
11 information:

12 (1) a copy of a valid government-issued
13 identification for an individual acting on behalf
14 of such seller that includes the individual's
15 name, or

16 (2) a copy of a valid government-issued record or tax
17 document that includes the business name and
18 physical address of such seller;

19 3. A business tax identification number or, if the high-volume
20 third-party seller does not have a business tax identification
21 number, a taxpayer identification number; and

22 4. A current working email address and phone number for the
23 high-volume third-party seller.

24 B. An online marketplace shall:

1 1. Periodically, but not less than annually, notify any high-
2 volume third-party seller on such online marketplace's platform of
3 the requirement to keep any information collected under subsection A
4 of this section current; and

5 2. Require any high-volume third-party seller on such online
6 marketplace's platform to, not later than ten (10) days after
7 receiving the notice under paragraph 1 of this subsection,
8 electronically certify that:

- 9 a. the high-volume third-party seller has provided any
10 changes to such information to the online marketplace,
11 if such changes have occurred,
- 12 b. there have been no changes to the high-volume third-
13 party seller's information; or
- 14 c. the high-volume third-party seller has provided any
15 changes to such information to the online marketplace.

16 C. In the event that a high-volume third-party seller does not
17 provide the information or certification required under this
18 paragraph, the online marketplace shall, after providing the seller
19 with written or electronic notice and an opportunity to provide such
20 information or certification not later than ten (10) days after the
21 issuance of such notice, suspend any future sales activity of such
22 seller until such seller provides such information or certification

23 D. 1. The online marketplace shall:
24

1 a. verify the information collected under subsection A of
2 this section not later than ten (10) days after such
3 collection, and

4 b. verify any change to such information not later than
5 ten (10) days after being notified of such change by a
6 high-volume third-party seller under subsection B of
7 this section; and

8 2. In the case of a high-volume third-party seller that
9 provides a copy of a valid government-issued tax document, any
10 information contained in such document shall be presumed to be
11 verified as of the date of issuance of such document.

12 E. Data collected solely to comply with the requirements of
13 this section may not be used for any other purpose unless required
14 by law.

15 F. An online marketplace shall implement and maintain
16 reasonable security procedures and practices, including
17 administrative, physical, and technical safeguards, appropriate to
18 the nature of the data and the purposes for which the data will be
19 used, to protect the data collected to comply with the requirements
20 of this section from unauthorized use, disclosure, access,
21 destruction, or modification

22 SECTION 4. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 799A.4 of Title 15, unless there
24 is created a duplication in numbering, reads as follows:

1 A. An online marketplace shall:

2 1. Require any high-volume third-party seller with an aggregate
3 total of Twenty Thousand Dollars (\$20,000.00) or more in annual
4 gross revenues on such online marketplace, and that uses such online
5 marketplace's platform, to provide the information described in
6 subsection B of this section to the online marketplace; and

7 2. Disclose the information described in subsection B of this
8 section to consumers in a conspicuous manner:

9 a. in the order confirmation message or other document or
10 communication made to a consumer after a purchase is
11 finalized, and

12 b. in the consumer's account transaction history.

13 B. 1. Subject to paragraph 2 of this subsection, the identity
14 of the high-volume third-party seller shall be disclosed including:

15 a. the full name of the seller, which may include the
16 seller's name or seller's company name, or the name by
17 which the seller or company operates on the online
18 marketplace,

19 b. the physical address of the seller, and

20 c. contact information for the seller, to allow for the
21 direct, unhindered communication with high-volume
22 third-party sellers by users of the online
23 marketplace, including:

24 (1) a current working phone number,

- 1 (2) a current working email address, or
- 2 (3) other means of direct electronic messaging which
- 3 may be provided to the high-volume third-party
- 4 seller by the online marketplace; and

5 2. Whether the high-volume third-party seller used a different
6 seller to supply the consumer product to the consumer upon purchase,
7 and, upon the request of an authenticated purchaser, the information
8 described in paragraph 1 of this subsection relating to any such
9 seller that supplied the consumer product to the purchaser, if such
10 seller is different than the high-volume third-party seller listed
11 on the product listing prior to purchase.

12 C. Subject to subsection D of this section, upon the request of
13 a high-volume third-party seller, an online marketplace may provide
14 for partial disclosure of the identity information required under
15 paragraph 1 of subsection B of this section in the following
16 situations:

17 1. If the high-volume third-party seller certifies to the
18 online marketplace that the seller does not have a business address
19 and only has a residential street address, or has a combined
20 business and residential address, the online marketplace may:

- 21 a. disclose only the country and, if applicable, the
- 22 State in which the high-volume third-party seller
- 23 resides, and

1 b. inform consumers that there is no business address
2 available for the seller and that consumer inquiries
3 should be submitted to the seller by phone, email, or
4 other means of electronic messaging provided to such
5 seller by the online marketplace;

6 2. If the high-volume third-party seller certifies to the
7 online marketplace that the seller is a business that has a physical
8 address for product returns, the online marketplace may disclose the
9 seller's physical address for product returns; and

10 3. If a high-volume third-party seller certifies to the online
11 marketplace that the seller does not have a phone number other than
12 a personal phone number, the online marketplace shall inform
13 consumers that there is no phone number available for the seller and
14 that consumer inquiries should be submitted to the seller's email
15 address or other means of electronic messaging provided to such
16 seller by the online marketplace.

17 D. If an online marketplace becomes aware that a high-volume
18 third-party seller has made a false representation to the online
19 marketplace in order to justify the provision of a partial
20 disclosure under subsection A of this section or that a high-volume
21 third-party seller who has requested and received a provision for a
22 partial disclosure under subsection A of this section has not
23 provided responsive answers within a reasonable time frame to
24 consumer inquiries submitted to the seller by phone, email, or other

1 means of electronic messaging provided to such seller by the online
2 marketplace, the online marketplace shall, after providing the
3 seller with written or electronic notice and an opportunity to
4 respond not later than ten (10) days after the issuance of such
5 notice, suspend any future sales activity of such seller unless such
6 seller consents to the disclosure of the identity information
7 required under paragraph 1 of subsection B of this section.

8 SECTION 5. NEW LAW A new section of law to be codified
9 in the Oklahoma Statutes as Section 799A.5 of Title 15, unless there
10 is created a duplication in numbering, reads as follows:

11 An online marketplace shall disclose to consumers in a clear and
12 conspicuous manner on the product listing of any high-volume third-
13 party seller a reporting mechanism that allows for electronic and
14 telephonic reporting of suspicious marketplace activity to the
15 online marketplace.

16 SECTION 6. NEW LAW A new section of law to be codified
17 in the Oklahoma Statutes as Section 799A.6 of Title 15, unless there
18 is created a duplication in numbering, reads as follows:

19 If a high-volume third-party seller does not comply with the
20 requirements to provide and disclose information under this act, the
21 online marketplace shall, after providing the seller with written or
22 electronic notice and an opportunity to provide or disclose such
23 information not later than ten (10) days after the issuance of such
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1 notice, suspend any future sales activity of such seller until the
2 seller complies with such requirements.

3 SECTION 7. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 799A.7 of Title 15, unless there
5 is created a duplication in numbering, reads as follows:

6 A. If the Attorney General has reason to believe that any
7 online marketplace has violated or is violating this act or a
8 regulation promulgated under this act that affects one or more
9 residents of this state, the Attorney General may bring a civil
10 action in district court to:

- 11 1. Enjoin further violation by the defendant;
- 12 2. Enforce compliance with this act or such regulation;
- 13 3. Obtain civil penalties in the amount set under regulations
14 promulgated under this act;
- 15 3. Obtain other remedies permitted under state law; or
- 16 4. Obtain damages, restitution, or other compensation on behalf
17 of residents of this state.

18 B. For purposes of bringing a civil action under subsection A
19 of this section, nothing in this act shall be construed to prevent
20 the Attorney General from exercising the powers conferred on the
21 Attorney General by the laws of this state to conduct
22 investigations, administer oath or affirmations, or compel the
23 attendance of witnesses or the production of documentary and other
24 evidence.

1 C. The Attorney General is authorized to adopt and promulgate
2 regulations that are necessary to enforce this act.

3 SECTION 8. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 799A.8 of Title 15, unless there
5 is created a duplication in numbering, reads as follows:

6 No political subdivision may establish, mandate, or otherwise
7 require online marketplaces to collect or verify information from
8 high-volume third-party sellers on a one-time or ongoing basis or
9 disclose information to consumers.

10 SECTION 9. This act shall become effective November 1, 2022.

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12 58-2-11424 AQH 04/20/22

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