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(Original Signature of Member)

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

Ms. SCHAKOWSKY introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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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,*

1 **SECTION 1. COLLECTION, VERIFICATION, AND DISCLO-**  
2 **SURE OF INFORMATION BY ONLINE MARKET-**  
3 **PLACES TO INFORM CONSUMERS.**

4 (a) COLLECTION AND VERIFICATION OF INFORMA-  
5 TION.—

6 (1) COLLECTION.—

7 (A) IN GENERAL.—An online marketplace  
8 shall require any high-volume third party seller  
9 on such online marketplace’s platform to pro-  
10 vide, not later than 10 days after qualifying as  
11 a high-volume third party seller on the plat-  
12 form, the following information to the online  
13 marketplace:

14 (i) BANK ACCOUNT.—

15 (I) IN GENERAL.—A bank ac-  
16 count number, or, if such seller does  
17 not have a bank account, the name of  
18 the payee for payments issued by the  
19 online marketplace to such seller.

20 (II) PROVISION OF INFORMA-  
21 TION.—The bank account or payee in-  
22 formation required under subclause  
23 (I) may be provided by the seller in  
24 the following ways:

25 (aa) To the online market-  
26 place.

1 (bb) To a payment processor  
2 or other third party contracted  
3 by the online marketplace to  
4 maintain such information, pro-  
5 vided that the online marketplace  
6 ensures that it can obtain such  
7 information on demand from  
8 such payment processor or other  
9 third party.

10 (ii) CONTACT INFORMATION.—Contact  
11 information for such seller as follows:

12 (I) With respect to a high-volume  
13 third party seller that is an individual,  
14 the individual's name.

15 (II) With respect to a high-vol-  
16 ume third party seller that is not an  
17 individual, one of the following forms  
18 of contact information:

19 (aa) A copy of a valid gov-  
20 ernment-issued identification for  
21 an individual acting on behalf of  
22 such seller that includes the indi-  
23 vidual's name.

24 (bb) A copy of a valid gov-  
25 ernment-issued record or tax doc-

1                   ument that includes the business  
2                   name and physical address of  
3                   such seller.

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

8                   (iv) WORKING EMAIL AND PHONE  
9                   NUMBER.—A current working email ad-  
10                  dress and phone number for such seller.

11                  (B) NOTIFICATION OF CHANGE; ANNUAL  
12                  CERTIFICATION.—An online marketplace  
13                  shall—

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

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

1 (I) the seller has provided any  
2 changes to such information to the  
3 online marketplace, if any such  
4 changes have occurred;

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

7 (III) such seller has provided any  
8 changes to such information to the  
9 online marketplace.

10 (C) SUSPENSION.—In the event that a  
11 high-volume third party seller does not provide  
12 the information or certification required under  
13 this paragraph, the online marketplace shall,  
14 after providing the seller with written or elec-  
15 tronic notice and an opportunity to provide  
16 such information or certification not later than  
17 10 days after the issuance of such notice, sus-  
18 pend any future sales activity of such seller  
19 until such seller provides such information or  
20 certification.

21 (2) VERIFICATION.—

22 (A) IN GENERAL.—An online marketplace  
23 shall—

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

4 (ii) verify any change to such informa-  
5 tion not later than 10 days after being no-  
6 tified of such change by a high-volume  
7 third party seller under paragraph (1)(B).

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

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

18 (4) DATA SECURITY REQUIREMENT.—An online  
19 marketplace shall implement and maintain reason-  
20 able security procedures and practices, including ad-  
21 ministrative, physical, and technical safeguards, ap-  
22 propriate to the nature of the data and the purposes  
23 for which the data will be used, to protect the data  
24 collected to comply with the requirements of this

1 section from unauthorized use, disclosure, access, de-  
2 struction, or modification.

3 (b) DISCLOSURE REQUIRED.—

4 (1) REQUIREMENT.—

5 (A) IN GENERAL.—An online marketplace  
6 shall—

7 (i) require any high-volume third  
8 party seller with an aggregate total of  
9 \$20,000 or more in annual gross revenues  
10 on such online marketplace, and that uses  
11 such online marketplace's platform, to pro-  
12 vide the information described in subpara-  
13 graph (B) to the online marketplace; and

14 (ii) disclose the information described  
15 in subparagraph (B) to consumers in a  
16 clear and conspicuous manner—

17 (I) in the order confirmation  
18 message or other document or com-  
19 munication made to a consumer after  
20 a purchase is finalized; and

21 (II) in the consumer's account  
22 transaction history.

23 (B) INFORMATION DESCRIBED.—The in-  
24 formation described in this subparagraph is the  
25 following:

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

4 (I) the full name of the seller,  
5 which may include the seller name or  
6 seller's company name, or the name  
7 by which the seller or company oper-  
8 ates on the online marketplace;

9 (II) the physical address of the  
10 seller; and

11 (III) contact information for the  
12 seller, to allow for the direct,  
13 unhindered communication with high-  
14 volume third party sellers by users of  
15 the online marketplace, including—

16 (aa) a current working  
17 phone number;

18 (bb) a current working email  
19 address; or

20 (cc) other means of direct  
21 electronic messaging (which may  
22 be provided to such seller by the  
23 online marketplace).

24 (ii) Whether the high-volume third  
25 party seller used a different seller to sup-



1           ply the consumer product to the consumer  
2           upon purchase, and, upon the request of  
3           an authenticated purchaser, the informa-  
4           tion described in clause (i) relating to any  
5           such seller that supplied the consumer  
6           product to the purchaser, if such seller is  
7           different than the high-volume third party  
8           seller listed on the product listing prior to  
9           purchase.

10           (2) EXCEPTION.—

11           (A) IN GENERAL.—Subject to subpara-  
12           graph (B), upon the request of a high-volume  
13           third party seller, an online marketplace may  
14           provide for partial disclosure of the identity in-  
15           formation required under paragraph (1)(B)(i)  
16           in the following situations:

17           (i) If such seller certifies to the online  
18           marketplace that the seller does not have  
19           a business address and only has a residen-  
20           tial street address, or has a combined busi-  
21           ness and residential address, the online  
22           marketplace may—

23           (I) disclose only the country and,  
24           if applicable, the State in which such  
25           seller resides; and

1 (II) inform consumers that there  
2 is no business address available for  
3 the seller and that consumer inquiries  
4 should be submitted to the seller by  
5 phone, email, or other means of elec-  
6 tronic messaging provided to such  
7 seller by the online marketplace.

8 (ii) If such seller certifies to the online  
9 marketplace that the seller is a business  
10 that has a physical address for product re-  
11 turns, the online marketplace may disclose  
12 the seller's physical address for product re-  
13 turns.

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

1 (B) LIMITATION ON EXCEPTION.—If an  
2 online marketplace becomes aware that a high-  
3 volume third party seller has made a false rep-  
4 resentation to the online marketplace in order  
5 to justify the provision of a partial disclosure  
6 under subparagraph (A) or that a high-volume  
7 third party seller who has requested and re-  
8 ceived a provision for a partial disclosure under  
9 subparagraph (A) has not provided responsive  
10 answers within a reasonable time frame to con-  
11 sumer inquiries submitted to the seller by  
12 phone, email, or other means of electronic mes-  
13 saging provided to such seller by the online  
14 marketplace, the online marketplace shall, after  
15 providing the seller with written or electronic  
16 notice and an opportunity to respond not later  
17 than 10 days after the issuance of such notice,  
18 suspend any future sales activity of such seller  
19 unless such seller consents to the disclosure of  
20 the identity information required under para-  
21 graph (1)(B)(i).

22 (3) REPORTING MECHANISM.—An online mar-  
23 ketplace shall disclose to consumers in a clear and  
24 conspicuous manner on the product listing of any  
25 high-volume third party seller a reporting mecha-

1 nism that allows for electronic and telephonic report-  
2 ing of suspicious marketplace activity to the online  
3 marketplace.

4 (4) COMPLIANCE.—If a high-volume third party  
5 seller does not comply with the requirements to pro-  
6 vide and disclose information under this subsection,  
7 the online marketplace shall, after providing the sell-  
8 er with written or electronic notice and an oppor-  
9 tunity to provide or disclose such information not  
10 later than 10 days after the issuance of such notice,  
11 suspend any future sales activity of such seller until  
12 the seller complies with such requirements.

13 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-  
14 SION.—

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

21 (2) POWERS OF THE COMMISSION.—

22 (A) IN GENERAL.—The Commission shall  
23 enforce subsections (a) and (b) in the same  
24 manner, by the same means, and with the same  
25 jurisdiction, powers, and duties as though all

1 applicable terms and provisions of the Federal  
2 Trade Commission Act (15 U.S.C. 41 et seq.)  
3 were incorporated into and made a part of this  
4 section.

5 (B) PRIVILEGES AND IMMUNITIES.—Any  
6 person that violates subsection (a) or (b) shall  
7 be subject to the penalties, and entitled to the  
8 privileges and immunities, provided in the Fed-  
9 eral Trade Commission Act (15 U.S.C. 41 et  
10 seq.).

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

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

21 (d) ENFORCEMENT BY STATE ATTORNEYS GEN-  
22 ERAL.—

23 (1) IN GENERAL.—If the attorney general of a  
24 State has reason to believe that any online market-  
25 place has violated or is violating this section or a

1 regulation promulgated under this section that af-  
2 fects one or more residents of that State, the attor-  
3 ney general of the State may bring a civil action in  
4 any appropriate district court of the United States,  
5 to—

6 (A) enjoin further such violation by the de-  
7 fendant;

8 (B) enforce compliance with this section or  
9 such regulation;

10 (C) obtain civil penalties in the amount  
11 provided for under subsection (c);

12 (D) obtain other remedies permitted under  
13 State law; and

14 (E) obtain damages, restitution, or other  
15 compensation on behalf of residents of the  
16 State.

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

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

4                   (A) to intervene in the action;

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

7                   (C) to file petitions for appeal.

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

22          (5) RULE OF CONSTRUCTION.—For purposes of  
23          bringing a civil action under paragraph (1), nothing  
24          in this section shall be construed to prevent the chief  
25          law enforcement officer, or official or agency of a

1 State, from exercising the powers conferred on such  
2 chief law enforcement officer, official or agency of a  
3 State, by the laws of the State to conduct investiga-  
4 tions, administer oaths or affirmations, or compel  
5 the attendance of witnesses or the production of doc-  
6 umentary and other evidence.

7 (6) ACTIONS BY OTHER STATE OFFICIALS.—

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

17 (B) SAVINGS PROVISION.—Nothing in this  
18 subsection may be construed to prohibit an au-  
19 thorized official of a State from initiating or  
20 continuing any proceeding in a court of the  
21 State for a violation of any civil or criminal law  
22 of the State.

23 (e) SEVERABILITY.—If any provision of this section,  
24 or the application thereof to any person or circumstance,  
25 is held invalid, the remainder of this section and the appli-



1 cation of such provision to other persons not similarly situ-  
2 ated or to other circumstances shall not be affected by  
3 the invalidation.

4 (f) DEFINITIONS.—In this section:

5 (1) COMMISSION.—The term “Commission”  
6 means the Federal Trade Commission.

7 (2) CONSUMER PRODUCT.—The term “con-  
8 sumer product” has the meaning given such term in  
9 section 101 of the Magnuson-Moss Warranty—Fed-  
10 eral Trade Commission Improvement Act (15 U.S.C.  
11 2301) and section 700.1 of title 16, Code of Federal  
12 Regulations.

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

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

23 (B) CLARIFICATION.—For purposes of cal-  
24 culating the number of discrete sales or trans-  
25 actions or the aggregate gross revenues under

1           subparagraph (A), an online marketplace shall  
2           only be required to count sales or transactions  
3           made through the online marketplace and for  
4           which payment was processed by the online  
5           marketplace, either directly or through its pay-  
6           ment processor.

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

11                 (A) includes features that allow for, facili-  
12                 tate, or enable third party sellers to engage in  
13                 the sale, purchase, payment, storage, shipping,  
14                 or delivery of a consumer product in the United  
15                 States;

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

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

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

25           (6) THIRD PARTY SELLER.—

1 (A) IN GENERAL.—The term “third party  
2 seller” means any seller, independent of an on-  
3 line marketplace, who sells, offers to sell, or  
4 contracts to sell a consumer product in the  
5 United States through such online market-  
6 place’s platform.

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

10 (i) a seller who operates the online  
11 marketplace’s platform; or

12 (ii) a business entity that has—

13 (I) made available to the general  
14 public the entity’s name, business ad-  
15 dress, and working contact informa-  
16 tion;

17 (II) an ongoing contractual rela-  
18 tionship with the online marketplace  
19 to provide the online marketplace with  
20 the manufacture, distribution, whole-  
21 saling, or fulfillment of shipments of  
22 consumer products; and

23 (III) provided to the online mar-  
24 ketplace identifying information, as  
25 described in subsection (a), that has

1                   been verified in accordance with that  
2                   subsection.

3                   (7) VERIFY.—The term “verify” means to con-  
4                   firm information provided to an online marketplace  
5                   pursuant to this section, which may include the use  
6                   of one or more methods that enable the online mar-  
7                   ketplace to reliably determine that any information  
8                   and documents provided are valid, corresponding to  
9                   the seller or an individual acting on the seller’s be-  
10                  half, not misappropriated, and not falsified.

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

16                  (h) EFFECTIVE DATE.—This section shall take effect  
17                  180 days after the date of the enactment of this Act.