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Substitute Bill Comparative Synopsis

Sub. S.B. 184

134th General Assembly

House Commerce and Labor

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This table summarizes how the latest substitute version of the bill differs from the immediately preceding version. It addresses only the topics on which the two versions differ substantively. It does not list topics on which the two bills are substantively the same.

Previous Version (As Passed by the Senate)	Latest Version (I_134_2369)
Definitions	
<p>Defines “high-volume third-party seller” as a participant in an online marketplace that, in any continuous 12-month period in the previous 24 months has entered into at least 200 discrete sales for new or unused consumer products with Ohio consumers, resulting in at least \$5,000 of gross revenue (<i>R.C. 1349.65(B)</i>).</p>	<p>Same, but:</p> <ul style="list-style-type: none"> ▪ Counts sales from any purchasers on the marketplace, rather than only Ohio purchasers, towards the \$5,000 threshold (but see definition of “third-party seller” below); ▪ Only counts sales for which the marketplace processed the payment, either itself or through its payment processor (<i>R.C. 1349.65(B)</i>).

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<p>Defines “consumer product” as “any tangible personal property that is distributed in commerce and that is normally used for personal, family, or household purposes, including any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed” (<i>R.C. 1349.65(A)</i>).</p>	<p>Defines “consumer product” by reference to definitions in federal law, specifically section 101 of the “Magnuson-Moss Warranty – Federal Trade Commission Improvement Act,” 15 U.S.C. 2301, and 16 C.F.R. 700.1. The federal statutory definition has no substantive differences with the definition in the As Passed by the Senate version of the bill. The federal regulatory provision cited offers an analysis to be applied when determining if a product meets the definition. (<i>R.C. 1349.65(A)</i>.)</p>
<p>Defines “online marketplace” as an internet-based or accessed platform that meets two criteria:</p> <ul style="list-style-type: none"> ▪ It includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, storage, shipping, or delivery of a consumer product in Ohio; ▪ It hosts one or more third-party sellers (<i>R.C. 1349.65(C)</i>). 	<p>Adds a third criterion that the platform has a contractual or similar relationship with consumers governing their use of the platform to purchase consumer products (<i>R.C. 1349.65(C)</i>).</p>
<p>Defines “third-party seller” to mean a seller, independent of an operator, facilitator, or owner of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product through an online marketplace (<i>R.C. 1349.65(E)(1)</i>).</p>	<p>Defines “third-party seller” to mean a seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in Ohio through the online marketplace’s platform (<i>R.C. 1349.65(E)(1)</i>).</p>
<p>Excludes from the definition of “third-party seller” sellers that meet three criteria:</p> <ul style="list-style-type: none"> ▪ The seller is a business entity that has published its name, address, and working contact information. ▪ The seller has an ongoing contractual relationship with the online marketplace to manufacture, distribute, wholesale, or fulfill shipments of consumer products. ▪ The seller has provided the online marketplace certain identifying information that the marketplace has verified. (<i>R.C. 1349.65(E)(2)</i>.) 	<p>Adds an additional exclusion from the definition for sellers who operate an online marketplace’s platform (<i>R.C. 1349.65(E)(2)</i>).</p>

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<p>Defines “verify” to mean confirming information provided to an online marketplace by use of either:</p> <ul style="list-style-type: none"> ▪ A third-party or proprietary identity verification system that has the capability to confirm a seller’s name, electronic mail address, physical address, and telephone number; ▪ A combination of two-factor authentication, public records search, and the presentation of a government-issued identification (<i>R.C. 1349.65(F)</i>). 	<p>Defines “verify” to mean confirming information provided to an online marketplace, which may include the use of one or more methods that enable the online marketplace to reliably determine that any information and documents provided are valid, corresponding to the seller or an individual acting on the seller’s behalf, not misappropriated, and not falsified (<i>R.C. 1349.65(F)</i>).</p>
Required disclosures to online marketplaces	
<p>Requires online marketplaces to collect the following information from a third-party seller within 24 hours of the third-party seller qualifying as a high-volume third-party seller:</p> <ul style="list-style-type: none"> ▪ A working email address and telephone number (<i>R.C. 1349.66(A)(2)(a)</i>); ▪ For individual sellers (i.e., human persons), a copy of a government-issued photo I.D. that shows the individual’s name and physical address (<i>R.C. 1349.66(A)(2)(b)</i>); 	<p>Requires online marketplaces to collect the following information from a third-party seller within ten days of the third-party seller qualifying as a high-volume third-party seller:</p> <ul style="list-style-type: none"> ▪ Same (<i>R.C. 1349.66(A)(2)(d)</i>); ▪ Requires individual sellers to disclose their name, but does not require a government issued I.D. or address disclosure (<i>R.C. 1349.66(A)(2)(a)</i>);

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<ul style="list-style-type: none"> ▪ For nonindividual sellers (i.e., business entities), one of the following: <ul style="list-style-type: none"> ▫ A copy of a government issued photo I.D. for an individual acting on behalf of the high-volume third-party seller that includes the individual's name and physical address; ▫ A copy of a government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller; ▫ A business tax I.D. number, or if the high-volume third-party seller does not have a business tax I.D. number, a taxpayer I.D. number (<i>R.C. 1349.66(A)(2)(c)</i>). ▪ A business tax I.D. number or, if the high-volume third-party seller does not have one, a taxpayer I.D. number (<i>R.C. 1349.66(A)(3)</i>); ▪ Whether they are exclusively advertising or offering a consumer product on the online marketplace, or if they are currently advertising or offering a product offered on the marketplace on any other websites (<i>R.C. 1349.66(A)(4)</i>). <p>Requires online marketplaces, at least annually, to notify high-volume third-party sellers that they must inform the marketplace of any changes to the disclosed information, within three calendar days of receiving the notice, and certify either that there have been no changes to the information or the information has been updated (<i>R.C. 1349.66(B)(2) and (B)(2)(a)</i>).</p>	<ul style="list-style-type: none"> ▪ Same, but if the business presents an individual's photo I.D., that I.D. only needs to show the individual's name, rather than name and physical address (<i>R.C. 1349.66(A)(2)(b)</i>). ▪ Same (<i>R.C. 1349.66(A)(2)(c)</i>); ▪ No provision. <p>Same, but allows ten days after receipt of the notice to update the information (<i>R.C. 1349.66(B)</i>).</p>

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<p>Requires online marketplaces to suspend high-volume third-party sellers that do not either update their information or certify that it is unchanged within three calendar days of receiving the notice to do so (<i>R.C. 1349.66(B)(2)(b)</i>).</p> <p>Requires online marketplaces or, in the case of bank account information, the marketplace's payment processor or other contracted third-party, to verify high-volume their party seller information, within three calendar days of its submission (<i>R.C. 1349.65(F) and 1349.66(B)(1)</i>).</p>	<p>Requires suspension for both failure to provide initial disclosures upon becoming a high-volume third-party seller and failure to update that information as required (as opposed to only for failure to update), but requires written or electronic notice and an opportunity to provide the information or certification within ten days of receiving the written or electronic notice before a suspension can be imposed (<i>R.C. 1349.66(C)</i>).</p> <p>Requires the online marketplace, without reference to its payment processor or other contracted party, to verify the information within ten days (<i>R.C. 1349.67(A)</i>).</p>
Data use and security	
<p>No provision.</p> <p>No provision.</p>	<p>Prohibits data collected to comply with the bill's requirements from being used for any other purpose unless required by law (<i>R.C. 1349.68</i>).</p> <p>Requires online marketplaces to implement and maintain reasonable security procedures to protect data collected to comply with the bill's requirements from unauthorized use, disclosure, access, destruction, or modification (<i>R.C. 1349.69</i>).</p>
High-volume third-party seller disclosures to customers	
<p>Mandates that online marketplaces require all high-volume third-party sellers to disclose to Ohio consumers certain information in a conspicuous manner on the product listing or, for information other than the seller's name, through a conspicuously placed link on the product listing. The required information is:</p>	<p>Mandates that an online marketplace collect certain information from high-volume third-party sellers with \$20,000 or more in annual gross revenues on the marketplace and that the marketplace, as opposed to the high-volume third-party seller, disclose that information to consumers on order confirmations and transaction histories. The required information is:</p>

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<ul style="list-style-type: none"> ▪ The high-volume third-party seller’s name; ▪ The high-volume third-party seller’s full physical address; ▪ Whether the high-volume third-party seller also engages in the manufacturing, importing, or reselling of consumer products; ▪ Contact information, including a working telephone number and email address; ▪ Any other information the Attorney General determines necessary to address circumvention or evasion of the bill’s requirements <i>(R.C. 1349.67(A))</i>. <p>Requires online marketplaces that warehouse, distribute, or otherwise fulfill consumer product orders to disclose to Ohio consumers the identification of any high-volume third-party seller supplying the product if different than the seller on the product listing <i>(R.C. 1349.67(D))</i>.</p> <p>No provision.</p>	<ul style="list-style-type: none"> ▪ Same; ▪ Same; ▪ No provision; ▪ Contact information to allow for direct, unhindered communication, including: a working telephone number; a working email address; other means of direct electronic messaging (which may be provided by the marketplace); ▪ No provision <i>(R.C. 1349.70)</i>. <p>Requires online marketplace to disclose if a high-volume third-party seller, with \$20,000 or more in annual gross revenue on the marketplace, used a different seller to supply the consumer product to the consumer, and, if so, upon the request of an authenticated purchaser, the same information that must be disclosed for the high-volume third-party seller listed on the product listing <i>(R.C. 1349.70(B)(2))</i>.</p> <p>Requires online marketplaces to suspend high-volume third-party sellers that do not comply with the customer-facing disclosure requirements after providing written or electronic notice and ten days to respond <i>(R.C. 1349.73)</i>.</p>

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Partial disclosures for individual sellers	
<p>Allows online marketplaces to allow high-volume third-party sellers to disclose limited or alternative information upon demonstration of certain facts <i>(R.C. 1349.67(B)(1))</i>.</p> <p>Mandates online marketplaces require high-volume third-party sellers that have made alternative or partial disclosures to make full disclosure under the bill's provisions, upon three business days prior notice, if the marketplace becomes aware that either:</p> <ul style="list-style-type: none"> ▪ The high-volume third-party seller made a false representation to justify the partial or alternative disclosure; ▪ The high-volume third-party seller has not timely replied to consumer inquiries <i>(R.C. 1349.67(B)(2))</i>. <p>Provides that if a seller is a participant in the Safe at Home Program, an online marketplace may not require the seller to disclose a physical business or residential address <i>(R.C. 1349.67(B)(3))</i>.</p>	<p>Same, but allows certification, rather than demonstration, of relevant facts <i>(R.C. 1349.71)</i>.</p> <p>Instead, requires ten day notice to the seller and an opportunity to respond, and requires suspension unless the seller agrees to full disclosure <i>(R.C. 1349.71(B))</i>.</p> <p>Provides that if a seller is a participant in the Safe at Home Program, an online marketplace may only require the seller to disclose the address designated by the Secretary of State under the program <i>(R.C. 1349.71(C))</i>.</p>
Private right of action	
<p>Grants the Attorney General the same enforcement authority the Attorney General has under the Consumer Sales Practices Act, and allows a person injured by a violation of the bill's provisions to sue for the same relief as is available under the Ohio Consumer Sales Practices Act <i>(R.C. 1349.68(A))</i>.</p>	<p>Only allows the Attorney General to enforce the bill's provisions <i>(R.C. 1349.74)</i>.</p>