

**Senate Study Bill 3142 - Introduced**

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE  
ON JUDICIARY BILL BY  
CHAIRPERSON ZAUN)

**A BILL FOR**

1 An Act relating to the sale of certain consumer products by  
2 high-volume third-party sellers using online marketplaces  
3 and including effective date provisions.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 554E.1 Definitions.

2 As used in this chapter, unless the context otherwise  
3 requires:

4 1. "*Consumer product*" means any tangible personal property,  
5 including property that may be attached to real property,  
6 that is distributed in commerce and that is normally used for  
7 personal, family, or household purposes.

8 2. "*High-volume third-party seller*" means a third-party  
9 seller that, in any twelve-month period during the previous  
10 twenty-four months, meets all of the following criteria:

11 a. Has entered into at least two hundred discrete sales or  
12 transactions on the online marketplace.

13 b. Has generated at least five thousand dollars of gross  
14 revenue on the online marketplace.

15 3. "*Online marketplace*" means an internet site that includes  
16 features that allow, enable, or otherwise facilitate the  
17 ability of one or more third-party sellers to engage in the  
18 sale, purchase, payment, storage, shipping, or delivery of a  
19 consumer product in the United States.

20 4. "*Online marketplace facilitator*" means a person or  
21 an affiliate of a person who owns or operates any online  
22 marketplace.

23 5. "*Seller*" means a person who sells, offers to sell,  
24 or contracts to sell a consumer product through an online  
25 marketplace.

26 6. "*Third-party seller*" means a seller that, independent  
27 of an online marketplace facilitator, sells, offers to sell,  
28 or contracts to sell a consumer product through an online  
29 marketplace. "*Third-party seller*" does not include a seller  
30 that meets all of the following criteria:

31 a. Is a corporation, limited liability company, business  
32 trust, estate, trust, partnership or association, or any other  
33 legal entity that has made available to the general public the  
34 entity's name, business address, and contact information.

35 b. Has a currently effective agreement with the online

1 marketplace facilitator to provide for the manufacture,  
2 distribution, wholesale, or fulfillment of shipments of  
3 consumer products.

4 *c.* Has provided the online marketplace facilitator with all  
5 information required under section 554E.2, subsection 1.

6 7. "Verify" means to confirm the information provided by  
7 a high-volume third-party seller by the use of any of the  
8 following:

9 *a.* A third-party or proprietary identity verification system  
10 that has the capability to confirm a high-volume third-party  
11 seller's name, electronic mail address, physical address, and  
12 telephone number.

13 *b.* A combination of two-factor authentication, public  
14 records search, and the presentation of government-issued  
15 identification.

16 **Sec. 2. NEW SECTION. 554E.2 Verification of information**  
17 **related to a high-volume third-party seller — ongoing**  
18 **verification.**

19 1. An online marketplace facilitator shall require a  
20 high-volume third-party seller that uses the online marketplace  
21 facilitator's online marketplace to provide the online  
22 marketplace facilitator with all of the following information  
23 within twenty-four hours after becoming a high-volume  
24 third-party seller:

25 *a.* The high-volume third-party seller's bank account  
26 information for the bank account into which payments issued  
27 by the online marketplace facilitator to the high-volume  
28 third-party seller will be or are deposited, or, if the  
29 high-volume third-party seller requires the online marketplace  
30 facilitator to issue payments to a third-party payee, the  
31 high-volume third-party seller shall provide the online  
32 marketplace facilitator with the name of the third-party payee.  
33 An online marketplace facilitator may require a high-volume  
34 third-party seller to provide the high-volume third-party  
35 seller's bank account or third-party payee information to a

1 payment processor or other person contracted by the online  
2 marketplace facilitator to maintain such information if the  
3 online marketplace facilitator may obtain the information from  
4 the payment processor or person upon request.

5 *b.* The high-volume third-party seller's contact information,  
6 including functioning electronic mail address, telephone  
7 number, and either of the following, as applicable:

8 (1) If the high-volume third-party seller is an individual,  
9 the high-volume third-party seller shall also provide the  
10 online marketplace facilitator with a copy of a form of  
11 current government identification issued to the individual that  
12 includes a photograph of the individual, the individual's name,  
13 and the individual's physical address.

14 (2) If the high-volume third-party seller is not an  
15 individual, the high-volume third-party seller shall also  
16 provide the online marketplace facilitator with any of the  
17 following:

18 (a) A copy of a form of current government identification  
19 issued to an individual acting on behalf of the high-volume  
20 third-party seller that includes the individual's name and the  
21 individual's physical address.

22 (b) A copy of a government record or tax-related document  
23 that includes the high-volume third-party seller's name and  
24 physical address.

25 *c.* The high-volume third-party seller's business tax  
26 identification number or, if the high-volume third-party  
27 seller does not have a business tax identification number,  
28 the high-volume third-party seller's taxpayer identification  
29 number.

30 *d.* Whether the high-volume third-party seller advertises  
31 or offers for sale on any other internet site the consumer  
32 products that the high-volume third-party seller advertises or  
33 offers for sale on the online marketplace facilitator's online  
34 marketplace.

35 2. An online marketplace facilitator shall verify the

1 information provided by a high-volume third-party seller  
2 pursuant to subsection 1 within three days after the online  
3 marketplace facilitator's receipt of the information. A copy  
4 of a tax-related document provided pursuant to subsection 1,  
5 paragraph "b", subparagraph (2), subparagraph division (b),  
6 shall be presumed to be verified upon the online marketplace  
7 facilitator's receipt of the document.

8 3. An online marketplace facilitator shall, at least  
9 annually, notify all high-volume third-party sellers that use  
10 the online marketplace facilitator's online marketplace to  
11 inform the online marketplace facilitator of any change to the  
12 information provided by the high-volume third-party seller  
13 pursuant to subsection 1, or electronically certify that there  
14 are no changes to the information.

15 4. Within three days after receipt of the notification  
16 provided by subsection 3, a high-volume third-party seller  
17 shall inform the online marketplace facilitator of any change  
18 to the information provided by the high-volume third-party  
19 seller pursuant to subsection 1, or electronically certify that  
20 there are no changes to the information.

21 5. An online marketplace facilitator shall suspend  
22 the ability of a high-volume third-party seller to use the  
23 online marketplace facilitator's online marketplace if the  
24 high-volume third-party seller violates this section. An  
25 online marketplace facilitator shall allow a high-volume  
26 third-party seller whose ability to use the online marketplace  
27 facilitator's online marketplace has been suspended to use the  
28 online marketplace facilitator's online marketplace within a  
29 reasonable amount of time after the high-volume third-party  
30 seller provides the online marketplace facilitator with the  
31 information or certification required by this section.

32 **Sec. 3. NEW SECTION. 554E.3 Required disclosures.**

33 1. An online marketplace facilitator shall require a  
34 high-volume third-party seller that uses the online marketplace  
35 facilitator's online marketplace to disclose to consumers the

1 name of the high-volume third-party seller in a conspicuous  
2 manner in the high-volume third-party seller's product listings  
3 on the online marketplace.

4 2. An online marketplace facilitator shall require a  
5 high-volume third-party seller that uses the online marketplace  
6 facilitator's online marketplace to disclose to consumers in  
7 a conspicuous manner, either in the high-volume third-party  
8 seller's product listings on the online marketplace or through  
9 a conspicuously placed hyperlink in the high-volume third-party  
10 seller's product listings on the online marketplace, all of the  
11 following:

12 a. The high-volume third-party seller's physical address.

13 b. Whether the high-volume third-party seller also engages  
14 in the manufacturing, importing, or reselling of consumer  
15 products.

16 c. The high-volume third-party seller's functioning  
17 electronic mail address and telephone number.

18 3. Notwithstanding subsection 2, if requested by a  
19 high-volume third-party seller, an online marketplace  
20 facilitator may modify the disclosures required by a  
21 high-volume third-party seller in accordance with paragraph  
22 "a", "b", or "c".

23 a. An online marketplace facilitator may authorize a  
24 high-volume third-party seller to not disclose the high-volume  
25 third-party seller's physical address if the high-volume  
26 third-party seller demonstrates to the online marketplace  
27 facilitator that the high-volume third-party seller only has  
28 a residential address, and if the high-volume third-party  
29 seller discloses the country and, if applicable, the state in  
30 which the high-volume third-party seller is located. If a  
31 high-volume third-party seller does not disclose its physical  
32 address pursuant to this paragraph, the high-volume third-party  
33 seller may inform consumers in the high-volume third-party  
34 seller's product listings on the online marketplace that there  
35 is no business address available and inquiries should be

1 submitted to the high-volume third-party seller by telephone  
2 or electronic mail.

3     *b.* An online marketplace facilitator may authorize a  
4 high-volume third-party seller to not disclose the high-volume  
5 third-party seller's physical address if the high-volume  
6 third-party seller demonstrates to the online marketplace  
7 facilitator that the high-volume third-party seller has a  
8 physical address for the return of consumer products. If a  
9 high-volume third-party seller does not disclose its physical  
10 address pursuant to this paragraph, the high-volume third-party  
11 seller may inform consumers in the high-volume third-party  
12 seller's product listings on the online marketplace of the  
13 high-volume third-party seller's physical address for the  
14 return of consumer products.

15     *c.* An online marketplace facilitator may authorize a  
16 high-volume third-party seller to not disclose the high-volume  
17 third-party seller's telephone number if the high-volume  
18 third-party seller demonstrates to the online marketplace  
19 facilitator that the high-volume third-party seller only has  
20 a personal telephone number. If a high-volume third-party  
21 seller does not disclose its telephone number pursuant to  
22 this paragraph, the high-volume third-party seller may inform  
23 consumers in the high-volume third-party seller's product  
24 listings on the online marketplace that there is no telephone  
25 number available and inquiries should be submitted to the  
26 high-volume third-party seller by electronic mail.

27     4. Notwithstanding subsection 3, an online marketplace  
28 facilitator shall require a high-volume third-party seller to  
29 disclose all information required under subsection 2 within  
30 three days after the online marketplace facilitator provides  
31 notice to the high-volume third-party seller if any of the  
32 following occur:

33     *a.* The online marketplace facilitator determines the  
34 high-volume third-party seller made a false representation to  
35 the online marketplace facilitator under subsection 3.

1     *b.* A high-volume third-party seller that uses modified  
2 disclosures pursuant to subsection 3 has not provided  
3 responsive answers to consumer inquiries submitted to the  
4 high-volume third-party seller through telephone or electronic  
5 mail within a reasonable amount of time.

6     5. An online marketplace facilitator shall disclose  
7 to consumers in a conspicuous manner on a high-volume  
8 third-party seller's product listing on the online marketplace  
9 facilitator's online marketplace a mechanism that allows  
10 for the electronic and telephonic reporting of suspicious  
11 activity to the online marketplace facilitator and a statement  
12 encouraging consumers to report suspicious activity to the  
13 online marketplace facilitator.

14     Sec. 4. NEW SECTION. 554E.4 **Fulfillment of shipment by a**  
15 **different person.**

16     An online marketplace facilitator that warehouses,  
17 distributes, or otherwise fulfills a consumer's order for a  
18 consumer product supplied by a high-volume third-party seller  
19 shall disclose to the consumer the identity of the high-volume  
20 third-party seller if the online marketplace facilitator's  
21 online marketplace indicated the consumer product was supplied  
22 by a different seller.

23     Sec. 5. NEW SECTION. 554E.5 **Enforcement — penalties.**

24     1. The office of the attorney general shall enforce the  
25 provisions of this chapter.

26     2. A violation of this chapter is an unlawful practice  
27 pursuant to section 714.16, and all remedies of section 714.16  
28 are available for such action.

29     Sec. 6. NEW SECTION. 554E.6 **Preemption.**

30     1. The provisions of this chapter shall be implemented  
31 uniformly throughout the state and shall preempt any county  
32 or municipal ordinance, rule, or regulation related to  
33 the verification of information related to a high-volume  
34 third-party seller or the disclosure of information by a  
35 high-volume third-party seller.



1 2. Notwithstanding any law to the contrary, political  
2 subdivisions shall not adopt or enforce any ordinance, rule, or  
3 regulation that conflicts with this chapter.

4 Sec. 7. NEW SECTION. 554E.7 Rules.

5 The office of the attorney general shall adopt rules  
6 pursuant to chapter 17A to administer and interpret this  
7 chapter.

8 Sec. 8. EFFECTIVE DATE. This Act takes effect January 1,  
9 2023.

10 EXPLANATION

11 The inclusion of this explanation does not constitute agreement with  
12 the explanation's substance by the members of the general assembly.

13 This bill relates to the sale of certain consumer products by  
14 high-volume third-party sellers using online marketplaces.

15 The bill defines "consumer product" as any tangible personal  
16 property that is distributed in commerce and that is normally  
17 used for personal, family, or household purposes. The bill  
18 defines "high-volume third-party seller" as a participant in  
19 an online marketplace that is a third-party seller and that,  
20 in any 12-month period during the previous 24 months, has  
21 entered into at least 200 discrete sales or transactions on the  
22 online marketplace and has generated at least \$5,000 of gross  
23 revenue on the online marketplace. The bill defines "online  
24 marketplace" as an internet site that includes features that  
25 facilitate the ability of one or more third-party sellers to  
26 engage in the sale, purchase, payment, storage, shipping, or  
27 delivery of a consumer product in the United States. The  
28 bill defines "online marketplace facilitator" as a person  
29 or an affiliate of a person who owns or operates any online  
30 marketplace. The bill defines "seller" as a person who  
31 sells, offers to sell, or contracts to sell a consumer product  
32 through an online marketplace. The bill defines "third-party  
33 seller" as a seller that, independent of an online marketplace  
34 facilitator, sells, offers to sell, or contracts to sell a  
35 consumer product through an online marketplace. The bill

1 establishes that "third-party seller" does not include a  
2 seller that is a legal entity that has made available to the  
3 general public the entity's name, business address, and contact  
4 information; has a currently effective agreement with the  
5 online marketplace facilitator to provide for the manufacture,  
6 distribution, wholesale, or fulfillment of shipments of  
7 consumer products; and that has fully complied with new Code  
8 section 554E.2. The bill defines "verify" to mean to confirm  
9 the information provided by a high-volume third-party seller by  
10 the use of certain methods enumerated in the bill.

11 The bill provides that an online marketplace facilitator  
12 shall require a high-volume third-party seller using the  
13 online marketplace facilitator's online marketplace to provide  
14 the online marketplace facilitator with certain information,  
15 including the high-volume third-party seller's bank account  
16 information, contact information, business tax identification  
17 number or taxpayer identification number, and whether the  
18 high-volume third-party seller advertises or offers for sale  
19 on any other internet site the consumer products that the  
20 high-volume third-party seller advertises or offers for sale  
21 on the online marketplace facilitator's online marketplace.  
22 The bill requires an online marketplace facilitator to verify  
23 this information. Additionally, the bill requires an online  
24 marketplace facilitator and a high-volume third-party seller to  
25 keep the information up to date. The bill authorizes an online  
26 marketplace facilitator to suspend the ability of a high-volume  
27 third-party seller to use the online marketplace facilitator's  
28 online marketplace if the high-volume third-party seller fails  
29 to keep the information up to date.

30 The bill provides that an online marketplace facilitator  
31 shall require a high-volume third-party seller that uses the  
32 online marketplace facilitator's online marketplace to disclose  
33 to consumers the name of the high-volume third-party seller in  
34 a conspicuous manner in the high-volume third-party seller's  
35 product listings. Additionally, the bill provides that an

1 online marketplace facilitator shall require a high-volume  
2 third-party seller to disclose to consumers in a conspicuous  
3 manner, either in the high-volume third-party seller's product  
4 listings or through a conspicuously placed hyperlink in  
5 the high-volume third-party seller's product listings, the  
6 high-volume third-party seller's physical address; whether  
7 the high-volume third-party seller also engages in the  
8 manufacturing, importing, or reselling of consumer products;  
9 and the high-volume third-party seller's functioning electronic  
10 mail address and telephone number. The bill authorizes an  
11 online marketplace facilitator to modify these disclosures in  
12 certain enumerated cases.

13 The bill requires an online marketplace facilitator to  
14 disclose to consumers in a conspicuous manner on a high-volume  
15 third-party seller's product listing a mechanism that allows  
16 for the electronic and telephonic reporting of suspicious  
17 activity to the online marketplace facilitator.

18 The bill requires an online marketplace facilitator that  
19 warehouses, distributes, or otherwise fulfills a consumer's  
20 order for a consumer product supplied by a high-volume  
21 third-party seller to disclose the identity of the high-volume  
22 third-party seller if the online marketplace facilitator's  
23 online marketplace indicated the consumer product was supplied  
24 by a different seller.

25 The bill provides that the office of the attorney general  
26 shall enforce the provisions of the new Code chapter.  
27 Additionally, the bill provides that a violation of the  
28 new Code chapter is an unlawful practice pursuant to Code  
29 section 714.16. Several types of remedies are available  
30 if a court finds that a person has committed an unlawful  
31 practice, including injunctive relief, disgorgement of moneys  
32 or property, and a civil penalty not to exceed \$40,000 per  
33 violation.

34 The bill provides that the provisions of the new Code chapter  
35 shall preempt any county or municipal ordinance, rule, or

1 regulation related to the verification of information related  
2 to a high-volume third-party seller or the disclosure of  
3 information by a high-volume third-party seller. The bill  
4 prohibits a political subdivision from adopting or enforcing  
5 any ordinance, rule, or regulation that conflicts with the new  
6 Code chapter.

7 The bill requires the attorney general to adopt rules to  
8 administer and interpret the bill.

9 The bill takes effect January 1, 2023.