HOUSE FILE 2401
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 687)

(As Amended and Passed by the House February 23, 2022)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to the disclosure of specified information in connection with designated online marketplace transactions and including effective date provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

1. *"Consumer product"* means goods that are used or bought for use primarily for personal, family, or household purposes.

2. *"High-volume third-party seller"* means a participant on an online marketplace platform who is a third-party seller and who, in any continuous twelve-month period during the previous twenty-four months, has entered into two hundred or more discrete sales or transactions of new or unused consumer products made through the online marketplace and for which payment was processed by the online marketplace, either directly or through its payment processor, and an aggregate total of five thousand dollars or more in gross revenues.

3. *"Online marketplace"* means a person or entity that operates a consumer-directed electronically based or accessed platform as follows:

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

b. The platform is used by one or more third-party sellers for the purposes specified in paragraph *"a"*.

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

4. *"Seller"* means a person who sells, offers to sell, or contracts to sell a consumer product through an online marketplace platform in the state.

5. *"Third-party seller"* means a seller, independent of an online marketplace, who sells, offers to sell, or contracts to sell a consumer product in the state through an online marketplace platform. The term *"third-party seller"* does not include, with respect to an online marketplace, the following:

a. A seller who operates an online marketplace platform.

b. A business entity that has made available to the general public the entity's name, business address, and working contact information; that has an ongoing contractual relationship with the online marketplace to provide the online marketplace with the manufacture, distribution, wholesaling, or fulfillment of shipments of consumer products; and that has provided to the online marketplace identifying information, as described in section 554E.2, that has been verified in accordance with that section.

6. *"Verify"* means to confirm information provided to an online marketplace pursuant to this chapter, 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.

Sec. 2. NEW SECTION. **554E.2 Collection of information.**

1. An online marketplace shall require any high-volume third-party seller on an online marketplace platform to provide, not later than ten days after qualifying as a high-volume third-party seller on the platform, the following:

a. A bank account number, or, if such seller does not have a bank account, the name of the payee for payments issued by the online marketplace to such seller.

b. The seller's contact information.

c. A business tax identification number, or, if such seller does not have a business tax identification number, a taxpayer identification number. Any information contained in such document shall be presumed to be verified as of the date of issuance of such document.

d. A current working email address and phone number for such seller.

2. The bank account or payee information required under this section may be provided by the seller as follows:

a. To the online marketplace.

b. To a payment processor or other third party contracted by the online marketplace to maintain such information, provided that the online marketplace ensures that it can obtain such information on demand from such payment processor or other third party.

3. Acceptable forms of seller contact information include the following:

a. With respect to a high-volume third-party seller that is an individual, the individual's name.

b. With respect to a high-volume third-party seller that is not an individual, one of the following forms of contact information:

(1) A copy of a valid government-issued identification for an individual acting on behalf of such seller that includes the individual's name.

(2) A copy of a valid government-issued record or tax document that includes the business name and physical address of such seller. Any information contained in such document shall be presumed to be verified as of the date of issuance of such document.

4. An online marketplace shall verify the information collected under this section not later than ten days after collection.

Sec. 3. NEW SECTION. **554E.3 Information updates.**

1. An online marketplace shall do the following:

a. Periodically, but not less than annually, notify a high-volume third-party seller on an online marketplace platform of the requirement to keep any information collected under this chapter current.

b. Require a high-volume third-party seller on an online marketplace platform to, not later than ten days after receiving the notice under this section, electronically certify that the following:

(1) That the seller has provided any changes to such information to the online marketplace, if any such changes have

occurred.

(2) That there have been no changes to such seller's information.

(3) That the seller has provided any changes to such information to the online marketplace.

2. An online marketplace shall verify any change to such information not later than ten days after being notified of the change by a high-volume third-party seller under this section.

Sec. 4. NEW SECTION. **554E.4 Suspension.**

In the event that a high-volume third-party seller does not provide the information or certification required under this chapter, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide such information or certification not later than ten days after the issuance of such notice, suspend any future sales activity of the seller until the seller provides such information or certification.

Sec. 5. NEW SECTION. **554E.5 Data collection.**

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

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

Sec. 6. NEW SECTION. **554E.6 Disclosure requirements.**

1. An online marketplace shall do the following:

a. Require a high-volume third-party seller with an aggregate total of twenty thousand dollars or more in annual gross revenues on an online marketplace, and that uses an online marketplace platform, to provide the information as specified in subsection 2 to the online marketplace.

b. Disclose the information described in this section to [consumers in a clear and conspicuous manner in the] order confirmation message or other document or communication made to the consumer after the purchase is finalized and in the consumer's account transaction history.

2. A high-volume third-party seller subject to this section shall disclose the following:

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

b. The physical address of the seller.

c. Contact information for the seller, to allow for the direct, unhindered communication with high-volume third-party sellers by users of the online marketplace, including a current working phone number, a current working email address, or other means of direct electronic messaging which may be provided to the seller by the online marketplace.

d. When a high-volume third-party seller uses a different seller to supply the consumer product to the consumer upon purchase, and upon the request of an authenticated purchaser, the information described in this section relating to any such seller that supplied the consumer product to the purchaser, if the seller is different than the high-volume third-party seller listed on the product listing prior to purchase.

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

4. If a high-volume third-party seller does not comply with the requirements to provide and disclose information under this section, the online marketplace shall, after providing the seller with written or electronic notice and an opportunity to provide or disclose such information not later than ten days after the issuance of such notice, suspend any future sales

activity of the seller until the seller complies with the requirements.

Sec. 7. NEW SECTION. **554E.7 Exceptions.**

1. Subject to section 554E.6, upon the request of a high-volume third-party seller, an online marketplace may provide for partial disclosure of the identity information required under section 554E.6 as follows:

a. If the seller certifies to the online marketplace that the seller does not have a business address and only has a residential street address, or has a combined business and residential address, the online marketplace may disclose only the country and, if applicable, the state in which such seller resides; and inform consumers that there is no business address available for the seller and that consumer inquiries should be submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace.

b. If the seller certifies to the online marketplace that the seller is a business that has a physical address for product returns, the online marketplace may disclose the seller's physical address for product returns.

c. If the seller certifies to the online marketplace that the seller does not have a phone number other than a personal phone number, the online marketplace shall inform consumers that there is no phone number available for the seller and that consumer inquiries should be submitted to the seller's email address or other means of electronic messaging provided to such seller by the online marketplace.

2. If an online marketplace becomes aware that a high-volume third-party seller has made a false representation to the online marketplace in order to justify the provision of a partial disclosure under section 554E.6 or that a high-volume third-party seller who has requested and received a provision for a partial disclosure under section 554E.6 has not provided responsive answers within a reasonable time frame to consumer

inquiries submitted to the seller by phone, email, or other means of electronic messaging provided to such seller by the online marketplace, the online marketplace shall, after providing the seller with written or electronic notice and the opportunity to respond not later than ten days after the issuance of such notice, suspend any future sales activity of such seller unless such seller consents to the disclosure of the identity information required under section 554E.6.

Sec. 8. NEW SECTION. **554E.8 Enforcement — penalties.**

1. If the attorney general has reasonable belief that an online marketplace is in violation of this chapter, the attorney general has the sole authority to bring civil action to provide for all of the following:

a. Enjoin further violations by the online marketplace.

b. Enforce compliance with this chapter.

c. Assess civil penalties in an amount not more than one hundred thousand dollars.

d. Obtain other remedies permitted under law.

e. Obtain damages, restitution, or other compensation on behalf of residents of the state.

2. This chapter shall not be construed to prevent the state from exercising the power to conduct investigations, administer oaths or affirmations, or compel the attendance of witnesses or the production of documentary and other evidence.

3. The attorney general may adopt rules as necessary to implement this chapter.

Sec. 9. NEW SECTION. **554E.9 Severability.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provisions or application and, to this end, the provisions of this chapter are severable.

Sec. 10. EFFECTIVE DATE. This Act takes effect January 1, 2023.