

HOUSE No. 138

The Commonwealth of Massachusetts

PRESENTED BY:

Paul F. Tucker

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to state marketplace transparency consumers.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Paul F. Tucker</i>	<i>7th Essex</i>	<i>2/18/2021</i>
<i>Steven Ultrino</i>	<i>33rd Middlesex</i>	<i>4/20/2021</i>

HOUSE No. 138

By Mr. Tucker of Salem, a petition (accompanied by bill, House, No. 138) of Paul F. Tucker relative to the disclosure of information by online marketplaces to inform consumers. Advanced Information Technology, the Internet and Cybersecurity.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to state marketplace transparency consumers.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Sec. 1. Disclosure of Information by Online Marketplaces to Inform Consumers

2 (a) Verification Required.—(1) Online marketplaces shall require that any high-volume
3 third-party seller on the online marketplace provide the online marketplace with the following
4 information within 24 hours of

5 becoming a high-volume third-party seller: (A) Bank account information, the accuracy
6 of which has been confirmed directly by the online marketplace or by a payment processor or
7 other third-party contracted by the

8 online marketplace, or, if the high-volume third-party seller does not have a bank
9 account, the name of the payee for payments issued by the online marketplace to the high-
10 volume third-party seller. Such bank account or payee information may be provided by the seller
11 either— (i) to the online marketplace; or (ii) to a payment processor or other third-party

12 contracted by the online marketplace to maintain such information, provided that the online
13 marketplace may obtain such information on demand from such payment processor or other
14 third-party. (B) Contact information, including—(i) if the high-volume third-party seller
15 is an individual, a copy of a government issued photo identification for the individual that
16 includes the individual’s name and physical address; or (ii) if the high-volume third-party seller
17 is not an individual, either—(I) a copy of a government-issued photo identification for an
18 individual acting on behalf of the high-volume third-party seller that includes the individual’s
19 name and physical address; or (II) a copy of a government-issued record or tax document that
20 includes the business name and physical address of the high-volume third-party seller; and (iii) a
21 working email address and working phone number for the high-volume third-party seller. (C) A
22 business tax identification number or, if the high-volume third-party seller does not have a
23 business tax identification number, a taxpayer identification number. (D) Whether the high-
24 volume third-party seller is exclusively advertising or offering the consumer product or products
25 on the online marketplace, or if the high-volume third party seller is currently advertising or
26 offering for sale the same consumer product or products on any other internet websites other than
27 the online marketplace. (2) Ongoing Verification Required.— (A) The online marketplace shall
28 verify the information provided in paragraph (1) within 3 days, and shall verify within 3 days
29 any changes to such information that is provided to the marketplace by a high-volume third-party
30 seller. If a high-volume third-party seller provides a copy of a valid government-issued tax
31 document, information contained within such tax document shall be presumed to be verified as
32 of the date of issuance of such record or document. (B) The online marketplace shall, on at least
33 an annual basis, notify each high-volume

34 third-party seller on the online marketplace that the seller must inform the online
35 marketplace of any changes to the information provided by the seller pursuant to paragraph (1)
36 within 3 days of receiving the notification and shall instruct each high volume third-party seller,
37 as part of the notification, to electronically certify either that the seller's information is
38 unchanged or that the seller is providing changes to the information. If the online marketplace
39 becomes aware that a high-volume third-party seller has neither certified that the seller's
40 information is unchanged nor has not provided such changed information within 3 days of
41 receiving such notification, the online marketplace shall suspend the high-volume third-party
42 seller's participation on the

43 marketplace until the seller has either certified that the seller's information is unchanged
44 or has provided such changed information and the information has been verified. (b) Disclosure
45 Required.— (1) Any online marketplace shall require a high-volume third-party seller in such
46 online marketplace to provide, and shall disclose to consumers in a conspicuous manner either
47 on the product listing or, for information other than the seller's full name, through a
48 conspicuously placed link on the product listing, the following information: (A) Subject to
49 paragraph (2), the identity of the high-volume third-party seller which shall include— (i) the full
50 name of the seller; (ii) the full physical address of the seller; (iii) whether the seller also engages
51 in the manufacturing, importing, or reselling of consumer products; and (iv) contact information
52 for the seller, including a working phone number and working email address. Such working
53 email address may be provided to the high volume third-party seller by the online marketplace.
54 (B) Any other information determined to be necessary to address circumvention or evasion of the
55 requirements of this paragraph, provided that the additional information is limited to what is
56 necessary to address such circumvention or evasion. (2) Exceptions— (A) Subject to

57 subparagraph (B), upon the request of a high-volume third-party seller, an online marketplace
58 may provide for partial disclosure of the identity information required under paragraph (1)(A) in
59 the following situations: (i) If the high-volume third-party seller demonstrates to the online
60 marketplace that the seller does not have a business address and only has a residential street
61 address, the online marketplace may direct the high-volume third-party seller to disclose only the
62 country and, if applicable, the State in which the high-volume third-party seller resides on the
63 product listing, and may inform consumers that there is no business address available for the
64 seller and that consumer inquiries should be submitted to the seller by phone or email. (ii) If the
65 high-volume third-party seller demonstrates to the online marketplace that the seller is a business
66 that has a physical address for product returns, the online marketplace may direct the high-
67 volume third-party seller to disclose the seller's physical address for product returns. (iii) If a
68 high-volume third-party seller demonstrates to the online marketplace that the seller does not
69 have a phone number other than a personal phone number, the online marketplace shall inform
70 consumers that there is no phone number

71 available for the seller and that consumer inquiries should be submitted to the seller's
72 email address.

73 (B) Limitations to Exceptions—If an online marketplace becomes aware that a high
74 volume third-party seller has made a false representation to the online marketplace in order to
75 justify the provision of a partial disclosure under subparagraph (A) or that a high-volume third-
76 party seller who has requested and received a provision for a partial disclosure under
77 subparagraph (A) has not provided responsive answers within a

78 reasonable timeframe to consumer inquiries submitted to the seller by phone or email
79 address, the online marketplace shall withdraw its provision for partial disclosure and require the
80 full disclosure of the high-volume third-party seller's identity information required under
81 paragraph (1)(A) upon 3 business days' notice to the high-volume third party seller. (3)
82 Reporting Mechanism.—An online marketplace shall disclose to consumers, in a conspicuous
83 manner on the product listing of any high-volume third-party seller, a reporting mechanism that
84 allows for electronic and telephonic reporting of suspicious marketplace activity to the online
85 marketplace and a message encouraging individuals seeking goods for purchase to report
86 suspicious activity to the online marketplace. (c) Fulfillment Or Shipment By Different Party
87 Than Seller.—In addition to the requirements of

88 subsection (b), an online marketplace that warehouses, distributes, or otherwise fulfills a
89 consumer product order shall disclose to the consumer the identification of any high-volume
90 third-party seller supplying the consumer product if different than the seller listed on the product
91 listing page. (d) Enforcement.—(1) Unfair and Deceptive Acts or Practices.—A violation of
92 subsection (a), (b), or (c) shall be

93 treated as a violation of a rule {{{defining an unfair or deceptive act or practice}}}. (2)
94 Powers of the Attorney General.—(A) The Attorney General shall enforce this Act. (3)
95 Regulations.—The state {{{Consumer Protection Division}}} may promulgate regulations with
96 respect to collecting and verifying information under this section, provided that such regulations
97 are limited to what is necessary to collect and verify such information. (e) Preemption.—No
98 political subdivision may establish, mandate, or otherwise require online marketplaces to verify
99 information from high-volume third-party sellers on a one-time or ongoing basis or disclose
100 information to consumers. (f) Definitions.—In this Act: (1) Consumer Product.—The term

101 “consumer product” means any tangible personal property which is distributed in commerce and
102 which is normally used for personal,

103 family, or household purposes (including any such property intended to be attached to or
104 installed in any real property without regard to whether it is so attached or installed). (2) High-

105 Volume Third-Party Seller.—The term “high-volume third-party seller” means a participant in
106 an online marketplace who is a third-party seller and who, in any continuous 12-month period
107 during the previous 24 months, has entered into 200 or more discrete sales or transactions of new
108 or unused consumer products resulting in the accumulation of an aggregate total of \$5,000 or

109 more in gross revenues. (3) Online Marketplace.—The term “online marketplace” means any
110 electronically based or accessed platform that— (A) includes features that allow for, facilitate, or
111 enable third-party sellers to engage in the sale, purchase, payment, storage, shipping, or delivery
112 of a consumer product in the United States; and (B) hosts one or more third-party sellers. (4)

113 Seller.—The term “seller” means a person who sells, offers to sell, or contracts to sell a
114 consumer product through an online marketplace. (5) Third-Party Seller.— (A) The term “third-
115 party seller” means any seller, independent of an operator, facilitator, or owner of an online
116 marketplace, who sells, offers to sell, or contracts to sell a consumer product in the United States

117 through an online marketplace. (B) Exclusion.—The term “third-party seller” does not include a
118 seller who—

119 (i) is a business entity that has made available to the general public the entity’s name,
120 business address, and working contact information; (ii) has an ongoing contractual relationship
121 with the owner of the online

122 marketplace to provide for the manufacture, distribution, wholesaling, or fulfillment of
123 shipments of consumer products; and (iii) has provided to the online marketplace identifying
124 information, as described in subsection (a), that has been verified pursuant to that subsection. (6)
125 Verify.—The term “verify” means to confirm information provided to an online marketplace
126 pursuant to this section by the use of— (A) a third-party or proprietary identity verification
127 system that has the capability to confirm a seller’s name, email address, physical address, and
128 phone number; or (B) a combination of two-factor authentication, public records search, and the
129 presentation of a government-issued identification.

130 Section 3. Effective Date. This Act shall take effect 180 days after the date of the
131 enactment.