

LEGISLATURE OF NEBRASKA  
ONE HUNDRED SEVENTH LEGISLATURE  
FIRST SESSION

**LEGISLATIVE BILL 603**

Introduced by Aguilar, 35; Lathrop, 12.

Read first time January 20, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to consumer protection; to adopt the Organized

2 Consumer Product Theft Prevention Act.

3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 9 of this act shall be known and may be  
2 cited as the Organized Consumer Product Theft Prevention Act.

3           Sec. 2. For purposes of the Organized Consumer Product Theft  
4 Prevention Act:

5           (1) Consumer product means any tangible personal property which is  
6 distributed in commerce and which is normally used for personal, family,  
7 or household purposes. Consumer product includes any such property  
8 intended to be attached to or installed in any real property without  
9 regard to whether it is so attached or installed;

10           (2) High-volume third-party seller means a participant in an online  
11 marketplace who is a third-party seller and who, in any continuous  
12 twelve-month period during the previous twenty-four months, has entered  
13 into two hundred or more discrete sales or transactions of new or unused  
14 consumer products resulting in the accumulation of an aggregate total of  
15 at least five thousand dollars in gross revenues;

16           (3) Online marketplace means any electronically based or  
17 electronically accessed platform that:

18           (a) Includes features that allow for, facilitate, or enable third-  
19 party sellers to engage in the sale, purchase, payment, storage,  
20 shipping, or delivery of a consumer product in the United States; and

21           (b) Hosts one or more third-party sellers;

22           (4) Seller means a person who sells, offers to sell, or contracts to  
23 sell a consumer product through an online marketplace;

24           (5)(a) Third-party seller means any seller which:

25           (i) Is independent of an operator, facilitator, or owner of an  
26 online marketplace; and

27           (ii) Sells, offers to sell, or contracts to sell a consumer product  
28 in the United States through an online marketplace.

29           (b) Third-party seller does not include a seller which:

30           (i) Is a business entity that has made available to the general  
31 public the entity's name, business address, and working contact

1 information;

2 (ii) Has an ongoing contractual relationship with the owner of the  
3 online marketplace to provide for the manufacture, distribution,  
4 wholesaling, or fulfillment of shipments of consumer products; and

5 (iii) Has provided to the online marketplace identifying  
6 information, as described in subsection (3) of this act, that has been  
7 verified pursuant to such section; and

8 (6) Verify means to confirm information provided to an online  
9 marketplace pursuant to the use of a:

10 (a) Third-party or proprietary identity verification system that has  
11 the capability to confirm a seller's name, email address, physical  
12 address, and phone number; or

13 (b) Combination of two-factor authentication, public records search,  
14 and the presentation of a government-issued identification.

15 Sec. 3. (1) An online marketplace shall require that any high-  
16 volume third-party seller on the online marketplace provide the online  
17 marketplace with the following information within twenty-four hours after  
18 becoming a high-volume third-party seller:

19 (a) Bank account information, the accuracy of which has been  
20 confirmed directly by the online marketplace or by a payment processor or  
21 other third-party contracted by the online marketplace, or, if the seller  
22 does not have a bank account, the name of the payee for payments issued  
23 by the online marketplace to the seller. Such bank account or payee  
24 information may be provided by the seller either:

25 (i) To the online marketplace; or

26 (ii) To a payment processor or other third-party contracted by the  
27 online marketplace to maintain such information, so long as the online  
28 marketplace may obtain such information on demand from such payment  
29 processor or other third-party;

30 (b) Contact information, including:

31 (i) If the seller is an individual, a copy of a government-issued

1 photo identification for the individual that includes the individual's  
2 name and physical address; or

3 (ii) If the seller is not an individual, either:

4 (A) A copy of a government-issued photo identification for an  
5 individual acting on behalf of the seller that includes the individual's  
6 name and physical address; or

7 (B) A copy of a government-issued record or tax document that  
8 includes the business name and physical address of the seller; and

9 (iii) A working email address and working phone number for the  
10 seller;

11 (c) A business tax identification number or, if the seller does not  
12 have a business tax identification number, a taxpayer identification  
13 number; and

14 (d) A statement regarding whether the seller is exclusively  
15 advertising or offering the consumer product or products on the online  
16 marketplace or if the seller is currently advertising or offering for  
17 sale the same consumer product or products on any other Internet web  
18 sites other than the online marketplace.

19 Sec. 4. (1) An online marketplace shall verify the information  
20 provided in section 3 of this act within three days after receipt and  
21 shall verify any changes to such information within three days after  
22 receipt of such changes from a high-volume third-party seller.

23 (2) If a high-volume third-party seller provides a copy of a valid  
24 government-issued tax document, information contained within such tax  
25 document shall be presumed to be verified as of the date of issuance of  
26 such record or document.

27 (3) The online marketplace shall, on at least an annual basis,  
28 notify each high-volume third-party seller on the online marketplace that  
29 the seller must, within three days after receiving such notification:

30 (a) Inform the online marketplace of any changes to the information  
31 provided by the seller pursuant to section 3 of this act; and

1       (b) Electronically certify either that the seller's information is  
2 unchanged or that the seller is providing changes to the information.

3       (4) If an online marketplace becomes aware that a high-volume third-  
4 party seller has failed to certify that the seller's information is  
5 unchanged or failed to provide such changed information within the  
6 deadline under subsection (3) of this section, the online marketplace  
7 shall suspend the high-volume third-party seller's participation on the  
8 marketplace until the seller has either certified that the seller's  
9 information is unchanged or has provided such changed information and the  
10 information has been verified.

11       (5) If an online marketplace becomes aware that a high-volume third-  
12 party seller has failed to provide the information required by section 3  
13 of this act within twenty-four hours of becoming a high-volume third-  
14 party seller, the online marketplace shall suspend the high-volume third-  
15 party seller's participation on the marketplace until the seller has  
16 complied with such section.

17       Sec. 5. (1) An online marketplace shall require a high-volume  
18 third-party seller in such online marketplace to provide to such online  
19 marketplace the following information:

20       (a) Except as provided in subsection (2) of this section, the  
21 identity of the high-volume third-party seller which shall include:

22       (i) The full name of the seller;

23       (ii) The full physical address of the seller;

24       (iii) Whether the seller also engages in the manufacturing,  
25 importing, or reselling of consumer products; and

26       (iv) Contact information for the seller, including a working phone  
27 number and working email address. Such working email address may be  
28 provided to the high-volume third-party seller by the online marketplace;  
29 and

30       (b) Any other information determined to be necessary to address  
31 circumvention or evasion of the requirements of this section, provided

1 that the additional information is limited to what is necessary to  
2 address such circumvention or evasion.

3 (2) Except as provided in subsection (3) of this section, upon the  
4 request of a high-volume third-party seller, an online marketplace may  
5 provide for partial disclosure of the identity information required under  
6 subdivision (1)(a) of this section in the following situations:

7 (a) If the seller demonstrates to the online marketplace that the  
8 seller does not have a business address and only has a residential street  
9 address, the online marketplace may direct the seller to disclose on the  
10 product listing the country and, if applicable, state, in which the  
11 seller resides. In such case the online marketplace may inform consumers  
12 that there is no business address available for the seller and that  
13 consumer inquiries should be submitted to the seller by phone or email;

14 (b) If the seller demonstrates to the online marketplace that the  
15 seller is a business that has a physical address for product returns, the  
16 online marketplace may direct the seller to disclose such address; and

17 (c) If a seller demonstrates to the online marketplace that the  
18 seller does not have a phone number other than a personal phone number,  
19 the online marketplace shall inform consumers that there is no phone  
20 number available for the seller and that consumer inquiries should be  
21 submitted to the seller's email address.

22 (3) If an online marketplace becomes aware that a high-volume third-  
23 party seller has made a false representation to the online marketplace in  
24 order to justify the provision of a partial disclosure under subsection  
25 (2) of this section or that a high-volume third-party seller who has  
26 requested and received a permission for a partial disclosure under  
27 subsection (2) of this section has not provided responsive answers within  
28 a reasonable timeframe to consumer inquiries submitted to the seller by  
29 phone or email address, the online marketplace shall withdraw its  
30 permission for such partial disclosure and shall require the full  
31 disclosure of the seller's identity information required under subsection

1 (1) of this section within three days after notifying the seller.

2 (4) An online marketplace shall post the information provided by the  
3 seller under this section in a conspicuous manner either on the product  
4 listing or, for information other than the seller's full name, through a  
5 conspicuously placed link on the product listing.

6 Sec. 6. An online marketplace shall disclose to consumers, in a  
7 conspicuous manner on the product listing of any high-volume third-party  
8 seller, a reporting mechanism that allows for electronic and telephonic  
9 reporting of suspicious marketplace activity to the online marketplace  
10 and a message encouraging individuals seeking goods for purchase to  
11 report suspicious activity to the online marketplace.

12 Sec. 7. In addition to the information disclosed pursuant to  
13 section 5 of this act, an online marketplace that warehouses,  
14 distributes, or otherwise fulfills a consumer product order shall  
15 disclose to the consumer the identification of any high-volume third-  
16 party seller supplying the consumer product if different than the seller  
17 listed on the product listing page.

18 Sec. 8. (1) A violation of the Organized Consumer Product Theft  
19 Prevention Act shall be a deceptive trade practice under the Uniform  
20 Deceptive Trade Practices Act.

21 (2) The Attorney General shall enforce the Organized Consumer  
22 Product Theft Prevention Act. For purposes of the act, the Attorney  
23 General may issue subpoenas and seek injunctive relief and a monetary  
24 award for civil penalties, attorney's fees, and costs. Any person who  
25 violates the act shall be subject to a civil penalty of not more than two  
26 thousand dollars for each violation.

27 (3) The Attorney General may adopt and promulgate rules and  
28 regulations to carry out the Organized Consumer Product Theft Prevention  
29 Act. Any rules and regulations with respect to collecting and verifying  
30 information required to be provided under the act shall be limited to  
31 what is necessary to collect and verify such information.

1           Sec. 9.   No political subdivision of the state may establish,  
2 mandate, or otherwise require online marketplaces to verify information  
3 from high-volume third-party sellers on a one-time or ongoing basis or to  
4 disclose information to consumers.