

SENATE BILL NO. 250

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR LUETKEMEYER.

0076S.01I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapters 407 and 570, RSMo, by adding thereto two new sections relating to organized retail theft, with penalty provisions and an effective date for a certain section.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapters 407 and 570, RSMo, are amended by
2 adding thereto two new sections, to be known as sections
3 407.1700 and 570.036, to read as follows:

**407.1700. 1. For the purposes of this section, the
2 following terms shall mean:**

3 (1) "Consumer product", any tangible personal property
4 that is distributed in commerce and that is normally used
5 for personal, family, or household purposes, including any
6 such property intended to be attached to or installed in any
7 real property without regard to whether the personal
8 property is so attached or installed;

9 (2) "High-volume third-party seller", a participant in
10 an online marketplace who is a third-party seller and who,
11 in any continuous twelve-month period during the previous
12 twenty-four months, has entered into two hundred or more
13 discrete sales or transactions of new or unused consumer
14 products with an aggregate total of five thousand dollars or
15 more in gross revenue. For purposes of calculating the
16 number of discrete sales or transactions or the aggregate
17 gross revenues under this subdivision, an online marketplace
18 shall be required to count only sales or transactions made

19 through the online marketplace and for which payment was
20 processed by the online marketplace, either directly or
21 through its payment processor;

22 (3) "Online marketplace", any person or entity that
23 operates a consumer-directed, electronically-based or
24 accessed platform that:

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

29 (b) Is used by one or more third-party sellers for
30 such purposes; and

31 (c) Has a contractual or similar relationship with
32 consumers governing its use of the platform to purchase
33 consumer products;

34 (4) "Seller", a person who sells, offers to sell, or
35 contracts to sell a consumer product through an online
36 marketplace's platform;

37 (5) "Third-party seller", any seller, independent of
38 an online marketplace, who sells, offers to sell, or
39 contracts to sell a consumer product through an online
40 marketplace. This term shall not include a seller who:

41 (a) Operates the online marketplace's platform; or

42 (b) Is a business entity that has:

43 a. Made available to the general public the entity's
44 name, business address, and working contact information;

45 b. An ongoing contractual relationship with the online
46 marketplace to provide the online marketplace with the
47 manufacture, distribution, wholesaling, or fulfillment of
48 shipments of consumer products; and

49 c. Provided to the online marketplace identifying
50 information, as described in subparagraph a. of this

51 paragraph, that has been verified under subsection 2 of this
52 section;

53 (6) "Verify", to confirm information provided to an
54 online marketplace under this section, which may include the
55 use of one or more methods that enable the online
56 marketplace to reliably determine that any information and
57 documents provided are valid, corresponding to the seller or
58 an individual acting on the seller's behalf; not
59 misappropriated; and not falsified.

60 2. An online marketplace shall require any high-volume
61 third-party seller on the online marketplace to provide, no
62 later than ten days after qualifying as a high-volume third-
63 party seller, the following information:

64 (1) Bank account information, including a bank account
65 number or, if such seller does not have a bank account, the
66 name of the payee for payments issued by the online
67 marketplace to such seller. The bank account or payee
68 information required under this subdivision may be provided
69 by the seller in the following ways:

70 (a) To the online marketplace; or

71 (b) To a payment processor or other third-party
72 contracted by the online marketplace to maintain such
73 information, provided that the online marketplace ensures
74 that it may obtain such information on demand from such
75 payment processor or other third-party;

76 (2) Contact information for such seller, including the
77 following:

78 (a) With respect to a high-volume third-party seller
79 who is an individual, the individual's name; or

80 (b) With respect to a high-volume third-party seller
81 who is not an individual, one of the following forms of
82 contact information:

83 a. A copy of a valid government-issued identification
84 for an individual acting on behalf of such seller that
85 includes the individual's name; or

86 b. A copy of a valid government-issued record or tax
87 document that includes the business name and physical
88 address of such seller;

89 (3) A current working email address and phone number
90 for such seller; and

91 (4) A business tax identification number or, if such
92 seller does not have a business tax identification number, a
93 taxpayer identification number.

94 3. An online marketplace shall:

95 (1) Periodically, but no less than annually, notify
96 any high-volume third-party seller on such online
97 marketplace's platform of the requirement to keep any
98 information collected under subsection 2 of this section
99 current; and

100 (2) Require any high-volume third-party seller on such
101 online marketplace's platform to, no later than ten days
102 after receiving the notice under subdivision (1) of this
103 subsection, electronically certify that:

104 (a) The seller has provided any changes to such
105 information to the online marketplace if any such changes
106 have occurred;

107 (b) There have been no changes to such seller's
108 information; or

109 (c) Such seller has provided any changes to such
110 information to the online marketplace.

111 4. In the event that a high-volume third-party seller
112 does not provide the information or certification required
113 under subsections 2 and 3 of this section, the online
114 marketplace shall, after providing the seller with written

115 or electronic notice and an opportunity to provide such
116 information or certification no later than ten days after
117 the issuance of such notice, suspend any future sales
118 activity of such seller until such seller provides such
119 information or certification.

120 5. (1) An online marketplace shall:

121 (a) Verify the information collected in subsection 2
122 of this section no later than ten days after such
123 collection; and

124 (b) Verify any change to such information no later
125 than ten days after being notified of such change by a high-
126 volume third-party seller under subsection 3 of this section.

127 (2) In the case of a high-volume third-party seller
128 who provides a copy of a valid government-issued tax
129 document, any information contained in such tax document
130 shall be presumed to be verified as of the date of issuance
131 of such document.

132 (3) Data collected to comply solely with the
133 requirements of this section shall not be used for any other
134 purpose unless required by law.

135 (4) An online marketplace shall implement and maintain
136 reasonable security procedures and practices, including
137 administrative, physical, and technical safeguards,
138 appropriate to the nature of the data and the purposes for
139 which the data will be used, to protect the data collected
140 to comply with the requirements of this section from
141 unauthorized use, disclosure, access, destruction, or
142 modification.

143 6. (1) An online marketplace shall:

144 (a) Require any high-volume third-party seller with an
145 aggregate total of twenty thousand dollars or more in annual
146 gross revenues on such online marketplace, and that uses

147 such online marketplace's platform, to provide the
148 information described in subdivision (2) of this subsection
149 to the online marketplace; and

150 (b) Disclose the information described in subdivision
151 (2) of this subsection to consumers in a clear and
152 conspicuous manner in the order confirmation message or
153 other document or communication made to a consumer after a
154 purchase is finalized and in the consumer's account
155 transaction history.

156 (2) The information required shall be the following:

157 (a) Subject to subdivision (3) of this subsection, the
158 identity of the high-volume third-party seller, including:

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

162 b. The physical address of the seller; and

163 c. Contact information for the seller, to allow for
164 the direct, unhindered communication with high-volume third-
165 party sellers by users of the online marketplace, including:

166 (i) A current working phone number;

167 (ii) A current working email address; or

168 (iii) Other means of direct electronic messaging,

169 which may be provided to such seller by the online
170 marketplace; and

171 (b) Whether the high-volume third-party seller used a
172 different seller to supply the consumer product to the
173 consumer upon purchase and, upon the request of an
174 authenticated purchaser, the information described in
175 paragraph (a) of this subdivision relating to any such
176 seller who supplied the consumer product to the purchaser if
177 such seller is different than the high-volume third-party
178 seller listed on the product listing prior to purchase.

179 (3) Subject to subdivision (2) of this subsection,
180 upon the request of a high-volume third-party seller, an
181 online marketplace may provide for partial disclosure of the
182 identity information required under paragraph (a) of
183 subdivision (2) of this subsection in the following
184 situations:

185 (a) If such seller certifies to the online marketplace
186 that the seller does not have a business address and only
187 has a residential street address, or has a combined business
188 and residential address, the online marketplace may:

189 a. Disclose only the country and, if applicable, the
190 state in which such seller resides; and

191 b. Inform consumers that there is no business address
192 available for the seller and that consumer inquiries should
193 be submitted to the seller by phone, email, or other means
194 of electronic messaging provided to such seller by the
195 online marketplace;

196 (b) If such seller certifies to the online marketplace
197 that the seller is a business that has a physical address
198 for product returns, the online marketplace may disclose the
199 seller's physical address for product returns; and

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

207 (4) If an online marketplace becomes aware that a high-
208 volume third-party seller has made a false representation to
209 the online marketplace in order to justify the provision of
210 a partial disclosure under subdivision (1) of this

211 subsection or that a high-volume third-party seller who has
212 requested and received a provision for a partial disclosure
213 under subdivision (1) of this subsection has not provided
214 responsive answers within a reasonable time frame to
215 consumer inquiries submitted to the seller by phone, email,
216 or other means of electronic messaging provided to such
217 seller by the online marketplace, the online marketplace
218 shall, after providing the seller with written or electronic
219 notice and an opportunity to respond no later than ten days
220 after the issuance of such notice, suspend any future sales
221 activity of such seller unless such seller consents to the
222 disclosure of the identity information required under
223 paragraph (a) of subdivision (2) of this subsection.

224 (5) An online marketplace shall disclose to consumers
225 in a clear and conspicuous manner on the product listing of
226 any high-volume third-party seller a reporting mechanism
227 that allows for electronic and telephonic reporting of
228 suspicious marketplace activity to the online marketplace.

229 (6) If a high-volume third-party seller does not
230 comply with the requirements to provide and disclose
231 information under this subsection, the online marketplace
232 shall, after providing the seller with written or electronic
233 notice and an opportunity to provide or disclose such
234 information no later than ten days after the issuance of
235 such notice, suspend any future sales activity of such
236 seller until the seller complies with such requirements.

237 7. (1) A violation of the provisions of this section
238 shall be treated as a violation of sections 407.010 to
239 407.130 and shall be enforced solely by the attorney
240 general. Nothing in this section shall be construed as
241 providing the basis for, or subjecting a party to, a private
242 civil action.

243 (2) The attorney general may promulgate rules and
244 regulations with respect to collecting, verifying, and
245 disclosing information under this section, provided that
246 such rules and regulations are limited to what is necessary
247 to collect, verify, or disclose such information. Any rule
248 or portion of a rule, as that term is defined in section
249 536.010, that is created under the authority delegated in
250 this section shall become effective only if it complies with
251 and is subject to all of the provisions of chapter 536 and,
252 if applicable, section 536.028. This section and chapter
253 536 are nonseverable and if any of the powers vested with
254 the general assembly pursuant to chapter 536 to review, to
255 delay the effective date, or to disapprove and annul a rule
256 are subsequently held unconstitutional, then the grant of
257 rulemaking authority and any rule proposed or adopted after
258 August 28, 2024, shall be invalid and void.

259 8. If the attorney general has reason to believe that
260 any online marketplace has violated or is violating this
261 section or a rule or regulation promulgated under this
262 section that affects one or more residents of Missouri, the
263 attorney general may bring a civil action in any appropriate
264 circuit court to:

265 (1) Enjoin further such violation by the defendant;

266 (2) Enforce compliance with this section or such rule
267 or regulation;

268 (3) Obtain other remedies permitted under state law;
269 and

270 (4) Obtain damages, restitution, or other compensation
271 on behalf of residents of this state.

570.036. 1. A person commits the offense of organized
2 retail theft if he or she, while alone or with any other
3 person or persons, commits a series of thefts of retail

4 merchandise against one or more persons either on the
5 premises of a merchant or through the use of an internet or
6 network site in this state with the intent to:

7 (1) Return the merchandise to the merchant for value;

8 or

9 (2) Resell, trade, or barter the merchandise for value
10 in any manner including, but not limited to, through the use
11 of an internet or network site.

12 2. The offense of organized retail theft is a class D
13 felony if the aggregated value of the property or services
14 involved in all thefts committed in this state during a
15 period of one hundred twenty days is no less than one
16 thousand five hundred dollars and no more than ten thousand
17 dollars.

18 3. The offense of organized retail theft is a class C
19 felony if the aggregated value of the property or services
20 involved in all thefts committed in this state during a
21 period of one hundred twenty days is more than ten thousand
22 dollars.

23 4. In addition to any other penalty, the court shall
24 order a person who violates this section to pay restitution.

25 5. For the purposes of this section, in determining
26 the aggregated value of the property or services involved in
27 all thefts committed in this state during a period of one
28 hundred twenty days:

29 (1) The amount involved in a single theft shall be
30 deemed to be the highest value, by any reasonable standard,
31 of the property or services that are obtained; and

32 (2) The amounts involved in all thefts committed by
33 all participants in the organized retail theft shall be
34 aggregated.

35 6. In any prosecution for a violation of this section,
36 the violation shall be deemed to have been committed and may
37 be prosecuted in any jurisdiction in this state in which any
38 theft committed by any participant in the organized retail
39 theft was committed regardless of whether the defendant was
40 ever physically present in such jurisdiction.

 Section B. The enactment of section 407.1700 of this
2 act shall become effective on February 28, 2024.

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