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Committee**

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Sub. H. B. No. 272

Representatives Plummer, Ghanbari

**Cosponsors: Representatives White, LaRe, Riedel, Cross, Carfagna, Johnson,
Click, Jones, Lampton, Miller, K., Patton, Roemer, Stein**

Senator Hackett

A BILL

To amend, for the purpose of adopting a new section 1
number as indicated in parentheses, section 2
1349.72 (1349.78), and to enact new section 3
1349.72 and sections 1349.65, 1349.66, 1349.67, 4
1349.68, 1349.69, 1349.70, 1349.71, 1349.73, 5
1349.74, 1349.75, and 1349.76 of the Revised 6
Code to require online marketplaces to verify 7
certain information regarding high-volume third 8
party sellers of consumer products on such 9
online marketplaces and to disclose to consumers 10
certain contact and other information regarding 11
such high-volume third party sellers. 12

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

Section 1. That section 1349.72 (1349.78) be amended for 13
the purpose of adopting a new section number as indicated in 14
parentheses and new section 1349.72 and sections 1349.65, 15
1349.66, 1349.67, 1349.68, 1349.69, 1349.70, 1349.71, 1349.73, 16

1349.74, 1349.75, and 1349.76 of the Revised Code be enacted to 17
read as follows: 18

Sec. 1349.65. As used in sections 1349.65 to 1349.76 of 19
the Revised Code: 20

(A) "Consumer product" has the same meaning as in section 21
101 of the "Magnuson-Moss Warranty-Federal Trade Commission 22
Improvement Act," 15 U.S.C. 2301 and 16 C.F.R. 700.1. 23

(B) "High-volume third party seller" means a participant 24
on an online marketplace's platform that is a third party seller 25
and that, in any continuous twelve-month period during the 26
previous twenty-four months, has entered into two hundred or 27
more discrete sales or transactions of new or unused consumer 28
products through the online marketplace, and for which payment 29
was processed by the online marketplace, either directly or 30
through its payment processor, with an aggregate total of five 31
thousand dollars or more in gross revenues. 32

(C) "Online marketplace" means any person or entity that 33
operates a consumer-directed electronically based or accessed 34
platform that meets all of the following criteria: 35

(1) It includes features that allow for, facilitate, or 36
enable third party sellers to engage in the sale, purchase, 37
payment, storage, shipping, or delivery of a consumer product in 38
this state. 39

(2) It is used by one or more third party sellers for such 40
purposes. 41

(3) It has a contractual or similar relationship with 42
consumers governing their use of the platform to purchase 43
consumer products. 44

(D) "Seller" means a person that sells, offers to sell, or contracts to sell a consumer product through an online marketplace's platform. "Seller" does not include a new motor vehicle dealer licensed under Chapter 4517. of the Revised Code. 45
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(E) (1) "Third party seller" means any seller, independent of an online marketplace, that sells, offers to sell, or contracts to sell a consumer product in this state through such online marketplace's platform. 49
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(2) "Third party seller" does not include, with respect to an online marketplace, either of the following: 53
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(a) A seller that operates the online marketplace's platform; 55
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(b) A business entity to which all of the following apply: 57

(i) It has made available to the general public the entity's name, business address, and working contact information. 58
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(ii) It 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. 61
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(iii) It has provided to the online marketplace identifying information, as described in section 1349.66 of the Revised Code, that has been verified in accordance with that section. 65
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(F) "Verify" means to confirm information provided to an online marketplace pursuant to section 1349.66 of the Revised Code, which may include the use of one or more methods that enable the online marketplace to reliably determine that any 69
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information and documents provided are valid, corresponding to 73
the seller or an individual acting on the seller's behalf, not 74
misappropriated, and not falsified. 75

Sec. 1349.66. (A) An online marketplace shall require any 76
high-volume third party seller on such online marketplace's 77
platform to provide, not later than ten days after qualifying as 78
a high-volume third party seller on the platform, all of the 79
following information to the online marketplace: 80

(1)(a) A bank account number, or, if such seller does not 81
have a bank account, the name of the payee for payments issued 82
by the online marketplace to such seller. 83

(b) The bank account or payee information required under 84
division (A)(1)(a) of this section may be provided by the seller 85
in either of the following ways: 86

(i) To the online marketplace; 87

(ii) To a payment processor or other third party 88
contracted by the online marketplace to maintain such 89
information, provided that the online marketplace ensures that 90
it can obtain such information on demand from such payment 91
processor or other third party. 92

(2) Contact information for such seller as follows: 93

(a) With respect to a high-volume third party seller that 94
is an individual, the individual's name. 95

(b) With respect to a high-volume third party seller that 96
is not an individual, one of the following forms of contact 97
information: 98

(i) A copy of a valid government-issued identification for 99
an individual acting on behalf of such seller that includes the 100

<u>individual's name;</u>	101
<u>(ii) A copy of a valid government-issued record or tax document that includes the business name and physical address of such seller.</u>	102 103 104
<u>(c) A business tax identification number, or, if such seller does not have a business tax identification number, a taxpayer identification number.</u>	105 106 107
<u>(d) A current working electronic mail address and telephone number for such seller.</u>	108 109
<u>(B) An online marketplace shall do both of the following:</u>	110
<u>(1) Periodically, but not less than annually, notify any high-volume third party seller on such online marketplace's platform of the requirement to keep any information collected under division (A) of this section current;</u>	111 112 113 114
<u>(2) Require any high-volume third party seller on such online marketplace's platform to, not later than ten days after receiving the notice under division (B)(1) of this section, electronically certify one of the following:</u>	115 116 117 118
<u>(a) The seller has provided any changes to such information to the online marketplace, if any such changes have occurred;</u>	119 120 121
<u>(b) There have been no changes to such seller's information;</u>	122 123
<u>(c) Such seller has provided any changes to such information to the online marketplace.</u>	124 125
<u>(C) In the event that a high-volume third party seller does not provide the information or certification required under</u>	126 127

this section, the online marketplace shall, after providing the 128
seller with written or electronic notice and an opportunity to 129
provide such information or certification not later than ten 130
days after the issuance of such notice, suspend any future sales 131
activity of such seller until such seller provides such 132
information or certification. 133

Sec. 1349.67. (A) An online marketplace shall do both of 134
the following: 135

(1) Verify the information collected under division (A) of 136
section 1349.66 of the Revised Code not later than ten days 137
after such collection; 138

(2) Verify any change to such information not later than 139
ten days after being notified of such change by a high-volume 140
third party seller under division (B) of section 1349.66 of the 141
Revised Code. 142

(B) In the case of a high-volume third party seller that 143
provides a copy of a valid government-issued tax document, any 144
information contained in such document shall be presumed to be 145
verified as of the date of issuance of such document. 146

Sec. 1349.68. Data collected solely to comply with the 147
requirements of this chapter shall not be used for any other 148
purpose unless required by law. 149

Sec. 1349.69. An online marketplace shall implement and 150
maintain reasonable security procedures and practices, including 151
administrative, physical, and technical safeguards, appropriate 152
to the nature of the data and the purposes for which the data 153
will be used, to protect the data collected to comply with the 154
requirements of this chapter from unauthorized use, disclosure, 155
access, destruction, or modification. 156

<u>Sec. 1349.70. (A) An online marketplace shall do both of</u>	157
<u>the following:</u>	158
<u>(1) Require any high-volume third party seller with an</u>	159
<u>aggregate total of twenty thousand dollars or more in annual</u>	160
<u>gross revenues on such online marketplace, and that uses such</u>	161
<u>online marketplace's platform, to provide the information</u>	162
<u>described in division (B) of this section to the online</u>	163
<u>marketplace;</u>	164
<u>(2) Disclose the information described in division (B) of</u>	165
<u>this section to consumers in a clear and conspicuous manner both</u>	166
<u>in:</u>	167
<u>(a) The order confirmation message or other document or</u>	168
<u>communication made to a consumer after a purchase is finalized;</u>	169
<u>(b) The consumer's account transaction history.</u>	170
<u>(B) The information required to be provided and disclosed</u>	171
<u>by division (A) of this section is both of the following:</u>	172
<u>(1) Except as provided in section 1349.71 of the Revised</u>	173
<u>Code, the identity of the high-volume third party seller,</u>	174
<u>including all of the following:</u>	175
<u>(a) The full name of the seller, which may include the</u>	176
<u>seller name or seller's company name, or the name by which the</u>	177
<u>seller or company operates on the online marketplace;</u>	178
<u>(b) The physical address of the seller;</u>	179
<u>(c) Contact information for the seller, to allow for the</u>	180
<u>direct, unhindered communication with high-volume third party</u>	181
<u>sellers by users of the online marketplace, including any of the</u>	182
<u>following:</u>	183

<u>(i) A current working telephone number;</u>	184
<u>(ii) A current working electronic mail address; or</u>	185
<u>(iii) Other means of direct electronic messaging, which</u>	186
<u>may be provided to such seller by the online marketplace.</u>	187
<u>(2) Whether the high-volume third party seller used a</u>	188
<u>different seller to supply the consumer product to the consumer</u>	189
<u>upon purchase, and, upon the request of an authenticated</u>	190
<u>purchaser, the information described in division (B) (1) of this</u>	191
<u>section relating to any such seller that supplied the consumer</u>	192
<u>product to the purchaser, if such seller is different than the</u>	193
<u>high-volume third party seller listed on the product listing</u>	194
<u>prior to purchase.</u>	195
<u>Sec. 1349.71. (A) Subject to division (B) of this section,</u>	196
<u>upon the request of a high-volume third party seller, an online</u>	197
<u>marketplace may provide for partial disclosure of the identity</u>	198
<u>information required under division (B) (1) of section 1349.70 of</u>	199
<u>the Revised Code in the following situations:</u>	200
<u>(1) If such seller certifies to the online marketplace</u>	201
<u>that the seller does not have a business address and only has a</u>	202
<u>residential street address, or has a combined business and</u>	203
<u>residential address, the online marketplace may both:</u>	204
<u>(a) Disclose only the country and, if applicable, the</u>	205
<u>state in which such seller resides;</u>	206
<u>(b) Inform consumers that there is no business address</u>	207
<u>available for the seller and that consumer inquiries should be</u>	208
<u>submitted to the seller by telephone, electronic mail, or other</u>	209
<u>means of electronic messaging provided to such seller by the</u>	210
<u>online marketplace.</u>	211

(2) If such seller certifies to the online marketplace 212
that the seller is a business that has a physical address for 213
product returns, the online marketplace may disclose the 214
seller's physical address for product returns. 215

(3) If such seller certifies to the online marketplace 216
that the seller does not have a telephone number other than a 217
personal telephone number, the online marketplace shall inform 218
consumers that there is no telephone number available for the 219
seller and that consumer inquiries should be submitted to the 220
seller's electronic mail address or other means of electronic 221
messaging provided to such seller by the online marketplace. 222

(B) If an online marketplace becomes aware that a high- 223
volume third party seller has made a false representation to the 224
online marketplace in order to justify the provision of a 225
partial disclosure under division (A) of this section or that a 226
high-volume third party seller who has requested and received a 227
provision for a partial disclosure under division (A) of this 228
section has not provided responsive answers within a reasonable 229
time frame to consumer inquiries submitted to the seller by 230
telephone, electronic mail, or other means of electronic 231
messaging provided to such seller by the online marketplace, the 232
online marketplace shall, after providing the seller with 233
written or electronic notice and an opportunity to respond not 234
later than ten days after the issuance of such notice, suspend 235
any future sales activity of such seller unless such seller 236
consents to the disclosure of the identity information required 237
under division (B)(1) of section 1349.70 of the Revised Code. 238

(C) If a high-volume third-party seller is a program 239
participant as defined in section 111.41 of the Revised Code, 240
the only address of which the online marketplace may require 241

disclosure is the address designated by the secretary of state 242
under section 111.42 of the Revised Code. 243

Sec. 1349.72. An online marketplace shall disclose to 244
consumers in a clear and conspicuous manner on the product 245
listing of any high-volume third-party seller a reporting 246
mechanism that allows for electronic and telephonic reporting of 247
suspicious marketplace activity to the online marketplace. 248

Sec. 1349.73. If a high-volume third-party seller does not 249
comply with the requirements to provide and disclose information 250
under sections 1349.70 and 1349.71 of the Revised Code, the 251
online marketplace shall, after providing the seller with 252
written or electronic notice and an opportunity to provide or 253
disclose such information not later than ten days after the 254
issuance of such notice, suspend any future sales activity of 255
such seller until the seller complies with such requirements. 256

Sec. 1349.74. (A) A violation of sections 1349.66 to 257
1349.73 of the Revised Code is an unfair or deceptive act or 258
practice in violation of section 1345.02 of the Revised Code. 259

(B) (1) The attorney general shall enforce sections 1349.66 260
to 1349.73 of the Revised Code in the same manner, by the same 261
means, and with the same jurisdiction, powers, and duties as 262
though all applicable terms and provisions of sections 1345.01 263
to 1345.13 of the Revised Code were incorporated and made part 264
of sections 1349.66 to 1349.73 of the Revised Code. 265

(2) There is no private right of action, pursuant to 266
section 1345.09 of the Revised Code, to enforce sections 1349.66 267
to 1349.73 of the Revised Code. 268

(C) The attorney general may adopt rules with respect to 269
the collection, verification, or disclosure of information under 270

sections 1349.66, 1349.67, and 1349.70 to 1349.73 of the Revised Code, provided that such regulations are limited to what is necessary to collect, verify, and disclose such information. 271
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(D) Nothing in sections 1349.66 to 1349.74 of the Revised Code shall be construed to limit the authority of the attorney general under any other provision of law. 274
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Sec. 1349.75. If any provision of sections 1349.65 to 1349.74 of the Revised Code, or the application thereof to any person or circumstance, is held invalid, the remainder of those provisions and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by the invalidation. 277
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Sec. 1349.76. The intent of the general assembly in enacting sections 1349.65 to 1349.76 of the Revised Code is to establish a statewide, comprehensive enactment that applies to all parts of the state, operates uniformly throughout the state, and sets forth police regulations. No political subdivision as defined in section 2744.01 of the Revised Code shall establish, mandate, or otherwise require online marketplaces or sellers to undertake different or additional measures to verify or disclose the same information as or information similar to that which is the subject of sections 1349.65 to 1349.73 of the Revised Code. 283
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Sec. ~~1349.72~~ 1349.78. (A) Not less than thirty days prior to a person filing a foreclosure action to collect on a debt secured by residential real property, the person shall first send a written notice as described in division (B) of this section via United States mail to the residential address of the debtor, if both of the following apply: 293
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(1) The debt is secured by a mortgage lien on the debtor's 299

residential real property that is not in the first mortgage	300
position.	301
(2) The debt has either been accelerated or is in default	302
in accordance with the terms set forth in the promissory note.	303
(B) The written notice may be included on, or accompany,	304
any other communication, and shall be printed in at least	305
twelve-point type and include the following:	306
(1) The name and contact information of the person	307
collecting the debt;	308
(2) A statement of the amount of the debt;	309
(3) A statement that the debtor has a right to engage an	310
attorney;	311
(4) A statement that the debtor may qualify for debt	312
relief under Chapter 7 or 13 of the United States Bankruptcy	313
Code, 11 U.S.C. Chapter 7 or 13, as amended;	314
(5) A statement that a debtor that qualifies under Chapter	315
13 of the United States Bankruptcy Code may be able to protect	316
their residential real property from foreclosure.	317
(C) Upon written request of the debtor, the owner of the	318
debt shall provide a copy of the note and the loan history to	319
the debtor.	320
(D) (1) As used in this division:	321
(a) "Bona fide error" means an unintentional clerical,	322
calculation, computer malfunction or programming, or printing	323
error.	324
(b) "Restitution" means either of the following:	325
(i) A waiver of all fees, costs, or expenses proximately	326

associated with the failure to provide the notice to the debtor;	327
or	328
(ii) Actual damages.	329
(2) Any owner of debt subject to divisions (A), (B), and	330
(C) of this section shall not be held civilly liable in any	331
action, if all of the following are met:	332
(a) The owner of the debt shows by a preponderance of	333
evidence that the compliance failure was not intentional and	334
resulted from a bona fide error notwithstanding the maintenance	335
of procedures reasonably adapted to avoid any such error.	336
(b) Within sixty days after discovering the error, and	337
prior to the initiation of any action, the owner of the debt	338
notifies the debtor of the error and the manner in which the	339
owner of the debt intends to make full restitution to the	340
debtor.	341
(c) The owner of the debt promptly makes reasonable	342
restitution to the debtor.	343
(3) If, in the event of a compliance failure, the owner of	344
the debt does not meet the conditions set forth in division (D)	345
(2) of this section, a debtor injured by the error has a cause	346
of action to recover damages. Such an action shall not, however,	347
be maintained as a class action.	348
Section 2. That existing section 1349.72 of the Revised	349
Code is hereby repealed.	350