

MICHIGAN CONSUMER PROTECTION ACT (EXCERPT)
Act 331 of 1976

***** 445.903o.added THIS ADDED SECTION IS EFFECTIVE JANUARY 1, 2023 *****

445.903o.added Regulation and verification of online marketplace and third-party sellers; information for consumers; requirements; failure to comply; suspension; enforcement.

Sec. 3o. (1) An online marketplace shall require a high-volume third-party seller on the online marketplace's platform to provide, not later than 10 days after qualifying as a high-volume third-party seller on the platform, all of the following information to the online marketplace:

(a) A bank account number, or if the high-volume third-party seller does not have a bank account, the name of the payee for payments issued by the online marketplace to the high-volume third-party seller. The bank account or payee information required under this subdivision may be provided by the high-volume third-party seller in either of the following ways:

(i) To the online marketplace.

(ii) To a payment processor or other third party contracted by the online marketplace to maintain the bank account or payee information, if the online marketplace ensures that it can obtain that information on demand from the payment processor or other third party.

(b) Contact information for the high-volume third-party seller that includes all of the following, as applicable:

(i) If the high-volume third-party seller is an individual, the individual's name.

(ii) If the high-volume third-party seller is not an individual, 1 of the following:

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

(B) A copy of a valid government-issued record or tax document that includes the business name and physical address of the high-volume third-party seller.

(iii) A business tax identification number, or, if the high-volume third-party seller does not have a business tax identification number, a taxpayer identification number.

(iv) A current working email address and telephone number of the high-volume third-party seller.

(2) An online marketplace shall do both of the following:

(a) Periodically, but not less than annually, notify any high-volume third-party seller on the online marketplace's platform of the requirement to keep any information collected under subsection (1) current.

(b) Require any high-volume third-party seller on the online marketplace's platform to, not later than 10 days after receiving the notice under subdivision (a), electronically certify 1 of the following:

(i) The high-volume third-party seller has provided any changes to the information in subsection (1) to the online marketplace, if any changes have occurred.

(ii) There have been no changes to the high-volume third-party seller's information.

(3) If a high-volume third-party seller does not provide the information under subsection (1) or certification required under subsection (2), the online marketplace shall, after providing the high-volume third-party seller with written or electronic notice and an opportunity to provide that information or certification not later than 10 days after the issuance of the notice described in this subsection, suspend any future sales activity of the high-volume third-party seller until the high-volume third-party seller provides the required information or certification.

(4) An online marketplace shall do both of the following:

(a) Verify the information collected under subsection (1) not later than 10 days after the information was collected.

(b) Verify any change to the information under subsection (1) not later than 10 days after being notified of a change in that information by a high-volume third-party seller under subsection (2).

(5) If a high-volume third-party seller provides a copy of a valid government-issued tax document under this section, any information contained in that document is presumed to be verified as of the date of issuance of that document.

(6) Information collected solely to comply with the requirements of this section must not be used for any other purpose unless required by law.

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

(8) An online marketplace shall do both of the following:

(a) Require any high-volume third-party seller described in subsection (9) to provide the information described in subsection (9) to the online marketplace.

(b) Disclose the information described in subsection (9) to consumers in a clear and conspicuous manner in the order confirmation message or other document or communication made to a consumer after a purchase is finalized and in the consumer's account transaction history.

(9) A high-volume third-party seller that uses an online marketplace's platform and that has an aggregate total of \$20,000.00 or more in annual gross revenues on the online marketplace shall provide and disclose both of the following to the online marketplace:

(a) Except as provided in subsection (10), the identity of the high-volume third-party seller, including all of the following:

(i) The full name of the high-volume third-party seller that may include the high-volume third-party seller name or company name, or the name by which the high-volume third-party seller or company operates on the online marketplace.

(ii) The physical address of the high-volume third-party seller.

(iii) The contact information of the high-volume third-party seller, to allow for the direct, unhindered communication with the high-volume third-party seller by users of the online marketplace, including any of the following:

(A) A current working telephone number.

(B) A current working email address.

(C) Other means of direct electronic messaging that may be provided to the high-volume third-party seller by the online marketplace.

(b) Whether the high-volume third-party seller used 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 subdivision (a) relating to any seller that supplied the consumer product to the purchaser, if that seller is different from the high-volume third-party seller listed on the product listing prior to purchase.

(10) Subject to subsection (11), on the request of a high-volume third-party seller described in subsection (9), an online marketplace may provide for partial disclosure of the identity information required under subsection (9)(a) in the following situations:

(a) If the high-volume third-party seller certifies to the online marketplace that it does not have a business address and has only a residential street address, or has a combined business and residential address, the online marketplace may do both of the following:

(i) Disclose only the country, and if applicable, the state in which the high-volume third-party seller resides.

(ii) Inform consumers that there is no business address available for the high-volume third-party seller and that consumer inquiries should be submitted to the high-volume third-party seller by telephone, email, or other means of electronic messaging provided to the high-volume third-party seller by the online marketplace.

(b) If the high-volume third-party seller certifies to the online marketplace that it is a business that has a physical address for product returns, the online marketplace may disclose the high-volume third-party seller's physical address for product returns.

(c) If the high-volume third-party seller certifies to the online marketplace that it does not have a telephone number other than a personal telephone number, the online marketplace shall inform consumers that there is no telephone number available for the high-volume third-party seller and that consumer inquiries should be submitted to the high-volume third-party seller by email or other means of electronic messaging provided to the high-volume third-party seller by the online marketplace.

(11) If an online marketplace becomes aware that a high-volume third-party seller described in subsection (9) has made a false representation to the online marketplace to justify the provision for partial disclosure under subsection (10) or that a high-volume third-party seller that has requested and received a provision for partial disclosure under subsection (10) has not provided responsive answers within a reasonable time frame to consumer inquiries submitted to the high-volume third-party seller by telephone, email, or other means of electronic messaging provided to the high-volume third-party seller by the online marketplace, the online marketplace shall, after providing the high-volume third-party seller with written or electronic notice and an opportunity to respond not later than 10 days after the issuance of the notice described in this subsection, suspend any future sales activity of the high-volume third-party seller unless the high-volume third-party seller consents to the disclosure of the identity information required under subsection (9)(a).

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

(13) If a high-volume third-party seller does not comply with the requirements to provide and disclose information under subsections (9) and (10), the online marketplace shall, after providing the high-volume third-party seller with written or electronic notice and an opportunity to provide or disclose that information not later than 10 days after the issuance of the notice described in this subsection, suspend any future sales activity of the high-volume third-party seller until the seller complies with the requirements under subsections (9) and (10).

(14) Notwithstanding anything in this act to the contrary, this section may be enforced only by the attorney general. A person other than the attorney general, including, but not limited, to a prosecuting attorney, shall not bring an action under section 11 or 15 in relation to a violation of this section.

(15) A political subdivision shall not establish, mandate, or otherwise require an online marketplace or seller to undertake different or additional measures to verify or disclose the same information or information that is similar to the information that is subject to this section.

History: Add. 2022, Act 153, Eff. Jan. 1, 2023.