



State of Wisconsin
2021 - 2022 LEGISLATURE

LRBs0315/1
KP:skw

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 743**

January 18, 2022 - Offered by Representative DALLMAN.

1 **AN ACT** *to amend* 100.20 (5) and 100.20 (6); and *to create* 100.20 (1x) and 100.75
2 of the statutes; **relating to:** information disclosure by online marketplaces
3 related to high-volume sellers and granting rule-making authority.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 100.20 (1x) of the statutes is created to read:

5 100.20 (1x) It is an unfair trade practice for a person to violate s. 100.75.

6 **SECTION 2.** 100.20 (5) of the statutes is amended to read:

7 100.20 (5) Any person suffering pecuniary loss because of a violation by any
8 other person of s. 100.70 or any order issued under this section may sue for damages
9 therefor in any court of competent jurisdiction and shall recover twice the amount
10 of such pecuniary loss, together with costs, including a reasonable attorney fee. This
11 subsection does not apply to an order related to activity prohibited under s. 100.75.

1 **SECTION 3.** 100.20 (6) of the statutes is amended to read:

2 100.20 **(6)** The department may commence an action in circuit court in the
3 name of the state to restrain by temporary or permanent injunction the violation of
4 s. 100.70 or 100.75 or any order issued under this section. The court may in its
5 discretion, prior to entry of final judgment make such orders or judgments as may
6 be necessary to restore to any person any pecuniary loss suffered because of the acts
7 or practices involved in the action, provided proof thereof is submitted to the
8 satisfaction of the court. The department may use its authority in ss. 93.14 and 93.15
9 to investigate violations of s. 100.70 or 100.75 or any order issued under this section.

10 **SECTION 4.** 100.75 of the statutes is created to read:

11 **100.75 Information disclosure by online marketplaces.** (1) In this
12 section:

13 (a) “Consumer product” means a product used primarily for personal, family,
14 or household purposes.

15 (b) “High-volume 3rd-party seller” means a 3rd-party seller who in any
16 continuous 12-month period during the immediately preceding 24 months has
17 engaged in at least 200 discrete sales or transactions of new or unused consumer
18 products that have resulted in a total of at least \$20,000 in gross revenues.

19 (c) “Online marketplace” means any person or entity that operates a
20 consumer-directed electronically based or accessed platform that meets all of the
21 following criteria:

22 1. It includes features that allow for, facilitate, or enable 3rd-party sellers to
23 engage in the sale, purchase, payment, storage, shipping, or delivery of a consumer
24 product in this state.

25 2. It is used by one or more 3rd-party sellers for such purposes.

1 3. It has a contractual or similar relationship with consumers governing their
2 use of the platform to purchase consumer products.

3 (d) 1. “Third-party seller” means any seller, independent of an online
4 marketplace, that sells, offers to sell, or contracts to sell a consumer product in this
5 state through such online marketplace’s platform.

6 2. “Third-party seller” does not include, with respect to an online marketplace,
7 either of the following:

8 a. A seller that operates the online marketplace’s platform.

9 b. A business entity that has made available to the general public the entity’s
10 name, business address, and working contact information; that has an ongoing
11 contractual relationship with the online marketplace to provide the online
12 marketplace with the manufacture, distribution, wholesaling, or fulfillment of
13 shipments of consumer products; and that has provided to the online marketplace
14 identifying information, as described in sub. (2), that has been verified in accordance
15 with sub. (2).

16 (e) “Verify” means to confirm information provided to an online marketplace
17 pursuant to sub. (2), which may include the use of one or more methods that enable
18 the online marketplace to reliably determine that any information and documents
19 provided are valid, corresponding to the seller or an individual acting on the seller’s
20 behalf, not misappropriated, and not falsified.

21 **(2)** An online marketplace shall require any high-volume 3rd-party seller on
22 such online marketplace’s platform to provide, not later than 10 days after qualifying
23 as a high-volume 3rd-party seller on the platform, all of the following information
24 to the online marketplace:

1 (a) A bank account number, or, if such seller does not have a bank account, the
2 name of the payee for payments issued by the online marketplace to such seller. The
3 bank account or payee information required under this paragraph may be provided
4 by the seller in either of the following ways:

5 1. To the online marketplace.

6 2. To a payment processor or other 3rd-party contracted by the online
7 marketplace to maintain such information, provided that the online marketplace
8 ensures that it can obtain such information on demand from such payment processor
9 or other 3rd-party.

10 (b) Contact information for such seller as follows:

11 1. With respect to a high-volume 3rd-party seller that is an individual, the
12 individual's name.

13 2. With respect to a high-volume 3rd-party seller that is not an individual, one
14 of the following forms of contact information:

15 a. A copy of a valid government-issued identification for an individual acting
16 on behalf of such seller that includes the individual's name.

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

19 c. A business tax identification number, or, if such seller does not have a
20 business tax identification number, a taxpayer identification number.

21 d. A current working electronic mail address and telephone number for such
22 seller.

23 **(3)** An online marketplace shall do both of the following:

1 (a) Periodically, but not less than annually, notify any high-volume 3rd-party
2 seller on such online marketplace's platform of the requirement to keep any
3 information collected under sub. (2) current.

4 (b) Require any high-volume 3rd-party seller on such online marketplace's
5 platform to, not later than 10 days after receiving the notice under par. (a),
6 electronically certify one of the following:

7 1. The seller has provided any changes to such information to the online
8 marketplace, if any such changes have occurred.

9 2. There have been no changes to such seller's information.

10 3. Such seller has provided any changes to such information to the online
11 marketplace.

12 **(4)** In the event that a high-volume 3rd-party seller does not provide the
13 information or certification required under this section, the online marketplace
14 shall, after providing the seller with written or electronic notice and an opportunity
15 to provide such information or certification not later than 10 days after the issuance
16 of such notice, suspend any future sales activity of such seller until such seller
17 provides such information or certification.

18 **(5)** An online marketplace shall do both of the following:

19 (a) Verify the information collected under sub. (2) not later than 10 days after
20 such collection.

21 (b) Verify any change to such information not later than 10 days after being
22 notified of such change by a high-volume 3rd-party seller under sub. (3).

23 **(6)** In the case of a high-volume 3rd-party seller that provides a copy of a valid
24 government-issued tax document, any information contained in such document
25 shall be presumed to be verified as of the date of issuance of such document.

1 **(7)** (a) An online marketplace shall do both of the following:

2 1. Require any high-volume 3rd-party seller with an aggregate total of
3 \$20,000 or more in annual gross revenues on such online marketplace and that uses
4 such online marketplace's platform to provide the information described in par. (b)
5 to the online marketplace.

6 2. Disclose the information described in par. (b) to consumers in a clear and
7 conspicuous manner both in:

8 a. The order confirmation message or other document or communication made
9 to a consumer after a purchase is finalized.

10 b. The consumer's account transaction history.

11 (b) The information required to be provided and disclosed under par. (a) is both
12 of the following:

13 1. Except as provided in sub. (8) (a), the identity of the high-volume 3rd-party
14 seller, including all of the following:

15 a. The full name of the seller, which may include the seller's name or seller's
16 company name, or the name by which the seller or company operates on the online
17 marketplace.

18 b. The physical address of the seller.

19 c. Contact information for the seller, to allow for the direct, unhindered
20 communication with high-volume 3rd-party sellers by users of the online
21 marketplace, including a current working telephone number, a current working
22 electronic mail address, or a means of direct electronic messaging, which may be
23 provided to such seller by the online marketplace.

24 2. Whether the high-volume 3rd-party seller used a different seller to supply
25 the consumer product to the consumer upon purchase, and, upon the request of an

1 authenticated purchaser, the information described in subd. 1. relating to any such
2 seller that supplied the consumer product to the purchaser, if such seller is different
3 than the high-volume 3rd-party seller listed on the product listing prior to purchase.

4 (8) Subject to sub. (7) (b), upon the request of a high-volume 3rd-party seller,
5 an online marketplace may provide for partial disclosure of the identity information
6 required under sub. (7) (b) in the following situations:

7 (a) If such seller certifies to the online marketplace that the seller does not have
8 a business address and only has a residential street address, or has a combined
9 business and residential address, the online marketplace may both:

10 1. Disclose only the country and, if applicable, the state in which such seller
11 resides.

12 2. Inform consumers that there is no business address available for the seller
13 and that consumer inquiries should be submitted to the seller by telephone,
14 electronic mail, or other means of electronic messaging provided to such seller by the
15 online marketplace.

16 (b) If such seller certifies to the online marketplace that the seller is a business
17 that has a physical address for product returns, the online marketplace may disclose
18 the seller's physical address for product returns.

19 (c) If such seller certifies to the online marketplace that the seller does not have
20 a telephone number other than a personal telephone number, the online marketplace
21 shall inform consumers that there is no telephone number available for the seller and
22 that consumer inquiries should be submitted to the seller's electronic mail address
23 or other means of electronic messaging provided to such seller by the online
24 marketplace.

1 **(9)** If an online marketplace becomes aware that a high-volume 3rd-party
2 seller has made a false representation to the online marketplace in order to justify
3 the provision of a partial disclosure under sub. (8) (a) or that a high-volume
4 3rd-party seller who has requested and received a provision for a partial disclosure
5 under sub. (8) (a) has not provided responsive answers within a reasonable time
6 frame to consumer inquiries submitted to the seller by telephone, electronic mail, or
7 other means of electronic messaging provided to such seller by the online
8 marketplace, the online marketplace shall, after providing the seller with written or
9 electronic notice and an opportunity to respond not later than 10 days after the
10 issuance of such notice, suspend any future sales activity of such seller unless such
11 seller consents to the disclosure of the identity information required under sub. (7)
12 (b).

13 **(10)** An online marketplace shall disclose to consumers in a clear and
14 conspicuous manner on the product listing of any high-volume 3rd-party seller a
15 reporting mechanism that allows for electronic and telephonic reporting of
16 suspicious marketplace activity to the online marketplace.

17 **(11)** The department may promulgate rules necessary to implement this
18 section.

19 **(12)** No city, village, town, or county may enact or enforce an ordinance
20 requiring an online marketplace to verify information relating to a high-volume
21 3rd-party seller or requiring an online marketplace to disclose information to
22 consumers.

23 **SECTION 5. Effective date.**

