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1 **TITLE III—INFORM CONSUMERS**

2 **SEC. 301. COLLECTION, VERIFICATION, AND DISCLOSURE**
3 **OF INFORMATION BY ONLINE MARKET-**
4 **PLACES TO INFORM CONSUMERS.**

5 (a) COLLECTION AND VERIFICATION OF INFORMA-
6 TION.—

7 (1) COLLECTION.—

8 (A) IN GENERAL.—An online marketplace
9 shall require any high-volume third party seller
10 on such online marketplace’s platform to pro-
11 vide, not later than 10 days after qualifying as
12 a high-volume third party seller on the plat-
13 form, the following information to the online
14 marketplace:

15 (i) BANK ACCOUNT.—

16 (I) IN GENERAL.—A bank ac-
17 count number, or, if such seller does
18 not have a bank account, the name of
19 the payee for payments issued by the
20 online marketplace to such seller.

21 (II) PROVISION OF INFORMA-
22 TION.—The bank account or payee in-
23 formation required under subclause
24 (I) may be provided by the seller in
25 the following ways:

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1 (aa) To the online market-
2 place.

3 (bb) To a payment processor
4 or other third party contracted
5 by the online marketplace to
6 maintain such information, pro-
7 vided that the online marketplace
8 ensures that it can obtain such
9 information within 3 business
10 days from such payment proc-
11 essor or other third party.

12 (ii) CONTACT INFORMATION.—Contact
13 information for such seller as follows:

14 (I) With respect to a high-volume
15 third party seller that is an individual,
16 the individual's name.

17 (II) With respect to a high-vol-
18 ume third party seller that is not an
19 individual, one of the following forms
20 of contact information:

21 (aa) A copy of a valid gov-
22 ernment-issued identification for
23 an individual acting on behalf of
24 such seller that includes the indi-
25 vidual's name.

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1 (bb) A copy of a valid gov-
2 ernment-issued record or tax doc-
3 ument that includes the business
4 name and physical address of
5 such seller.

6 (iii) TAX ID.—A business tax identi-
7 fication number, or, if such seller does not
8 have a business tax identification number,
9 a taxpayer identification number.

10 (iv) WORKING EMAIL AND PHONE
11 NUMBER.—A current working email ad-
12 dress and phone number for such seller.

13 (B) NOTIFICATION OF CHANGE; ANNUAL
14 CERTIFICATION.—An online marketplace
15 shall—

16 (i) periodically, but not less than an-
17 nually, notify any high-volume third party
18 seller on such online marketplace's plat-
19 form of the requirement to keep any infor-
20 mation collected under subparagraph (A)
21 current; and

22 (ii) require any high-volume third
23 party seller on such online marketplace's
24 platform to, not later than 10 days after

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1 receiving the notice under clause (i), elec-
2 tronically certify that—

3 (I) the seller has provided any
4 changes to such information to the
5 online marketplace, if any such
6 changes have occurred; or

7 (II) there have been no changes
8 to such seller's information.

9 (C) SUSPENSION.—In the event that a
10 high-volume third party seller does not provide
11 the information or certification required under
12 this paragraph, the online marketplace shall,
13 after providing the seller with written or elec-
14 tronic notice and an opportunity to provide
15 such information or certification not later than
16 10 days after the issuance of such notice, sus-
17 pend any future sales activity of such seller
18 until such seller provides such information or
19 certification.

20 (2) VERIFICATION.—

21 (A) IN GENERAL.—An online marketplace
22 shall—

23 (i) verify the information collected
24 under paragraph (1)(A) not later than 10
25 days after such collection; and

1 (ii) verify any change to such informa-
2 tion not later than 10 days after being no-
3 tified of such change by a high-volume
4 third party seller under paragraph (1)(B).

5 (B) PRESUMPTION OF VERIFICATION.—In
6 the case of a high-volume third party seller that
7 provides a copy of a valid government-issued
8 tax document, any information contained in
9 such document shall be presumed to be verified
10 as of the date of issuance of such document.

11 (3) DATA USE LIMITATION.—Data collected
12 solely to comply with the requirements of this sec-
13 tion may not be used for any other purpose unless
14 required by law.

15 (4) DATA SECURITY REQUIREMENT.—An online
16 marketplace shall implement and maintain reason-
17 able security procedures and practices, including ad-
18 ministrative, physical, and technical safeguards, ap-
19 propriate to the nature of the data and the purposes
20 for which the data will be used, to protect the data
21 collected to comply with the requirements of this
22 section from unauthorized use, disclosure, access, de-
23 struction, or modification.

24 (b) DISCLOSURE REQUIRED.—

25 (1) REQUIREMENT.—

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1 (A) IN GENERAL.—An online marketplace
2 shall—

3 (i) require any high-volume third
4 party seller with an aggregate total of
5 \$20,000 or more in annual gross revenues
6 on such online marketplace, and that uses
7 such online marketplace’s platform, to pro-
8 vide the information described in subpara-
9 graph (B) to the online marketplace; and
10 (ii) disclose the information described
11 in subparagraph (B) to consumers in a
12 clear and conspicuous manner—

13 (I) on the product listing page
14 (including via hyperlink); or

15 (II) in the order confirmation
16 message or other document or com-
17 munication made to the consumer
18 after the purchase is finalized and in
19 the consumer’s account transaction
20 history.

21 (B) INFORMATION DESCRIBED.—The in-
22 formation described in this subparagraph is the
23 following:

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1 (i) Subject to paragraph (2), the iden-
2 tity of the high-volume third party seller,
3 including—

4 (I) the full name of the seller,
5 which may include the seller name or
6 seller's company name, or the name
7 by which the seller or company oper-
8 ates on the online marketplace;

9 (II) the physical address of the
10 seller; and

11 (III) contact information for the
12 seller, to allow for the direct,
13 unhindered communication with high-
14 volume third party sellers by users of
15 the online marketplace, including—

16 (aa) a current working
17 phone number;

18 (bb) a current working email
19 address; or

20 (cc) other means of direct
21 electronic messaging (which may
22 be provided to such seller by the
23 online marketplace), provided
24 that the requirements of this
25 item shall not prevent an online

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1 marketplace from monitoring
2 communications between high-
3 volume third party sellers and
4 users of the online marketplace
5 for fraud, abuse, or spam.

6 (ii) Whether the high-volume third
7 party seller used a different seller to sup-
8 ply the consumer product to the consumer
9 upon purchase, and, upon the request of
10 an authenticated purchaser, the informa-
11 tion described in clause (i) relating to any
12 such seller that supplied the consumer
13 product to the purchaser, if such seller is
14 different than the high-volume third party
15 seller listed on the product listing prior to
16 purchase.

17 (2) EXCEPTION.—

18 (A) IN GENERAL.—Subject to subpara-
19 graph (B), upon the request of a high-volume
20 third party seller, an online marketplace may
21 provide for partial disclosure of the identity in-
22 formation required under paragraph (1)(B)(i)
23 in the following situations:

24 (i) If such seller certifies to the online
25 marketplace that the seller does not have

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1 a business address and only has a residen-
2 tial street address, or has a combined busi-
3 ness and residential address, the online
4 marketplace may—

5 (I) disclose only the country and,
6 if applicable, the State in which such
7 seller resides; and

8 (II) inform consumers that there
9 is no business address available for
10 the seller and that consumer inquiries
11 should be submitted to the seller by
12 phone, email, or other means of elec-
13 tronic messaging provided to such
14 seller by the online marketplace.

15 (ii) If such seller certifies to the online
16 marketplace that the seller is a business
17 that has a physical address for product re-
18 turns, the online marketplace may disclose
19 the seller's physical address for product re-
20 turns.

21 (iii) If such seller certifies to the on-
22 line marketplace that the seller does not
23 have a phone number other than a per-
24 sonal phone number, the online market-
25 place shall inform consumers that there is

1 no phone number available for the seller
2 and that consumer inquiries should be sub-
3 mitted to the seller's email address or
4 other means of electronic messaging pro-
5 vided to such seller by the online market-
6 place.

7 (B) LIMITATION ON EXCEPTION.—If an
8 online marketplace becomes aware that a high-
9 volume third party seller has made a false rep-
10 resentation to the online marketplace in order
11 to justify the provision of a partial disclosure
12 under subparagraph (A) or that a high-volume
13 third party seller who has requested and re-
14 ceived a provision for a partial disclosure under
15 subparagraph (A) has not provided responsive
16 answers within a reasonable time frame to con-
17 sumer inquiries submitted to the seller by
18 phone, email, or other means of electronic mes-
19 saging provided to such seller by the online
20 marketplace, the online marketplace shall, after
21 providing the seller with written or electronic
22 notice and an opportunity to respond not later
23 than 10 days after the issuance of such notice,
24 suspend any future sales activity of such seller
25 unless such seller consents to the disclosure of

1 the identity information required under para-
2 graph (1)(B)(i).

3 (3) REPORTING MECHANISM.—An online mar-
4 ketplace shall disclose to consumers in a clear and
5 conspicuous manner on the product listing of any
6 high-volume third party seller a reporting mecha-
7 nism that allows for electronic and telephonic report-
8 ing of suspicious marketplace activity to the online
9 marketplace.

10 (4) COMPLIANCE.—If a high-volume third party
11 seller does not comply with the requirements to pro-
12 vide and disclose information under this subsection,
13 the online marketplace shall, after providing the sell-
14 er with written or electronic notice and an oppor-
15 tunity to provide or disclose such information not
16 later than 10 days after the issuance of such notice,
17 suspend any future sales activity of such seller until
18 the seller complies with such requirements.

19 (c) ENFORCEMENT BY FEDERAL TRADE COMMIS-
20 SION.—

21 (1) UNFAIR AND DECEPTIVE ACTS OR PRAC-
22 TICES.—A violation of subsection (a) or (b) by an
23 online marketplace shall be treated as a violation of
24 a rule defining an unfair or deceptive act or practice

1 prescribed under section 18(a)(1)(B) of the Federal
2 Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

3 (2) POWERS OF THE COMMISSION.—

4 (A) IN GENERAL.—The Commission shall
5 enforce subsections (a) and (b) in the same
6 manner, by the same means, and with the same
7 jurisdiction, powers, and duties as though all
8 applicable terms and provisions of the Federal
9 Trade Commission Act (15 U.S.C. 41 et seq.)
10 were incorporated into and made a part of this
11 section.

12 (B) PRIVILEGES AND IMMUNITIES.—Any
13 person that violates subsection (a) or (b) shall
14 be subject to the penalties, and entitled to the
15 privileges and immunities, provided in the Fed-
16 eral Trade Commission Act (15 U.S.C. 41 et
17 seq.).

18 (3) REGULATIONS.—The Commission may pro-
19 mulgate regulations under section 553 of title 5,
20 United States Code, with respect to the collection,
21 verification, or disclosure of information under this
22 section, provided that such regulations are limited to
23 what is necessary to collect, verify, and disclose such
24 information.

1 (4) AUTHORITY PRESERVED.—Nothing in this
2 section shall be construed to limit the authority of
3 the Commission under any other provision of law.

4 (d) ENFORCEMENT BY STATE ATTORNEYS GEN-
5 ERAL.—

6 (1) IN GENERAL.—If the attorney general of a
7 State has reason to believe that any online market-
8 place has violated or is violating this section or a
9 regulation promulgated under this section that af-
10 fects one or more residents of that State, the attor-
11 ney general of the State may bring a civil action in
12 any appropriate district court of the United States,
13 to—

14 (A) enjoin further such violation by the de-
15 fendant;

16 (B) enforce compliance with this section or
17 such regulation;

18 (C) obtain civil penalties in the amount
19 provided for under subsection (c);

20 (D) obtain other remedies permitted under
21 State law; and

22 (E) obtain damages, restitution, or other
23 compensation on behalf of residents of the
24 State.

1 (2) NOTICE.—The attorney general of a State
2 shall provide prior written notice of any action under
3 paragraph (1) to the Commission and provide the
4 Commission with a copy of the complaint in the ac-
5 tion, except in any case in which such prior notice
6 is not feasible, in which case the attorney general
7 shall serve such notice immediately upon instituting
8 such action.

9 (3) INTERVENTION BY THE COMMISSION.—
10 Upon receiving notice under paragraph (2), the
11 Commission shall have the right—

12 (A) to intervene in the action;

13 (B) upon so intervening, to be heard on all
14 matters arising therein; and

15 (C) to file petitions for appeal.

16 (4) LIMITATION ON STATE ACTION WHILE FED-
17 ERAL ACTION IS PENDING.—If the Commission has
18 instituted a civil action for violation of this section
19 or a regulation promulgated under this section, no
20 State attorney general, or official or agency of a
21 State, may bring a separate action under paragraph
22 (1) during the pendency of that action against any
23 defendant named in the complaint of the Commis-
24 sion for any violation of this section or a regulation
25 promulgated under this section that is alleged in the

1 complaint. A State attorney general, or official or
2 agency of a State, may join a civil action for a viola-
3 tion of this section or regulation promulgated under
4 this section filed by the Commission.

5 (5) RULE OF CONSTRUCTION.—For purposes of
6 bringing a civil action under paragraph (1), nothing
7 in this section shall be construed to prevent the chief
8 law enforcement officer, or official or agency of a
9 State, from exercising the powers conferred on such
10 chief law enforcement officer, or official or agency of
11 a State, by the laws of the State to conduct inves-
12 tigation, administer oaths or affirmations, or com-
13 pel the attendance of witnesses or the production of
14 documentary and other evidence.

15 (6) ACTIONS BY OTHER STATE OFFICIALS.—

16 (A) IN GENERAL.—In addition to civil ac-
17 tions brought by attorneys general under para-
18 graph (1), any other officer of a State who is
19 authorized by the State to do so, except for any
20 private person on behalf of the State attorney
21 general, may bring a civil action under para-
22 graph (1), subject to the same requirements
23 and limitations that apply under this subsection
24 to civil actions brought by attorneys general.

1 (B) SAVINGS PROVISION.—Nothing in this
2 subsection may be construed to prohibit an au-
3 thorized official of a State from initiating or
4 continuing any proceeding in a court of the
5 State for a violation of any civil or criminal law
6 of the State.

7 (e) SEVERABILITY.—If any provision of this section,
8 or the application thereof to any person or circumstance,
9 is held invalid, the remainder of this section and the appli-
10 cation of such provision to other persons not similarly situ-
11 ated or to other circumstances shall not be affected by
12 the invalidation.

13 (f) DEFINITIONS.—In this section:

14 (1) COMMISSION.—The term “Commission”
15 means the Federal Trade Commission.

16 (2) CONSUMER PRODUCT.—The term “con-
17 sumer product” has the meaning given such term in
18 section 101 of the Magnuson-Moss Warranty—Fed-
19 eral Trade Commission Improvement Act (15 U.S.C.
20 2301) and section 700.1 of title 16, Code of Federal
21 Regulations.

22 (3) HIGH-VOLUME THIRD PARTY SELLER.—

23 (A) IN GENERAL.—The term “high-volume
24 third party seller” means a participant on an
25 online marketplace’s platform who is a third

1 party seller and, in any continuous 12-month
2 period during the previous 24 months, has en-
3 tered into 200 or more discrete sales or trans-
4 actions of new or unused consumer products
5 and an aggregate total of \$5,000 or more in
6 gross revenues.

7 (B) CLARIFICATION.—For purposes of cal-
8 culating the number of discrete sales or trans-
9 actions or the aggregate gross revenues under
10 subparagraph (A), an online marketplace shall
11 only be required to count sales or transactions
12 made through the online marketplace and for
13 which payment was processed by the online
14 marketplace, either directly or through its pay-
15 ment processor.

16 (4) ONLINE MARKETPLACE.—The term “online
17 marketplace” means any person or entity that oper-
18 ates a consumer-directed electronically based or
19 accessed platform that—

20 (A) includes features that allow for, facili-
21 tate, or enable third party sellers to engage in
22 the sale, purchase, payment, storage, shipping,
23 or delivery of a consumer product in the United
24 States;

1 (B) is used by one or more third party sell-
2 ers for such purposes; and

3 (C) has a contractual or similar relation-
4 ship with consumers governing their use of the
5 platform to purchase consumer products.

6 (5) SELLER.—The term “seller” means a per-
7 son who sells, offers to sell, or contracts to sell a
8 consumer product through an online marketplace’s
9 platform.

10 (6) THIRD PARTY SELLER.—

11 (A) IN GENERAL.—The term “third party
12 seller” means any seller, independent of an on-
13 line marketplace, who sells, offers to sell, or
14 contracts to sell a consumer product in the
15 United States through such online market-
16 place’s platform.

17 (B) EXCLUSIONS.—The term “third party
18 seller” does not include, with respect to an on-
19 line marketplace—

20 (i) a seller who operates the online
21 marketplace’s platform; or

22 (ii) a business entity that has—

23 (I) made available to the general
24 public the entity’s name, business ad-

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1 dress, and working contact informa-
2 tion;

3 (II) an ongoing contractual rela-
4 tionship with the online marketplace
5 to provide the online marketplace with
6 the manufacture, distribution, whole-
7 saling, or fulfillment of shipments of
8 consumer products; and

9 (III) provided to the online mar-
10 ketplace identifying information, as
11 described in subsection (a), that has
12 been verified in accordance with that
13 subsection.

14 (7) VERIFY.—The term “verify” means to con-
15 firm information provided to an online marketplace
16 pursuant to this section, which may include the use
17 of one or more methods that enable the online mar-
18 ketplace to reliably determine that any information
19 and documents provided are valid, corresponding to
20 the seller or an individual acting on the seller’s be-
21 half, not misappropriated, and not falsified.

22 (g) RELATIONSHIP TO STATE LAWS.—No State or
23 political subdivision of a State, or territory of the United
24 States, may establish or continue in effect any law, regula-

1 tion, rule, requirement, or standard that conflicts with the
2 requirements of this section.

3 (h) EFFECTIVE DATE.—This section shall take effect
4 180 days after the date of the enactment of this Act.

5 **TITLE IV—VIRGINIA GRAEME**
6 **BAKER POOL AND SPA SAFE-**
7 **TY ACT REAUTHORIZATION**

8 **SEC. 401. COVERED ENTITY DEFINED.**

9 (a) IN GENERAL.—Section 1403 of the Virginia
10 Graeme Baker Pool and Spa Safety Act (15 U.S.C. 8002)
11 is amended—

12 (1) by redesignating paragraphs (4), (5), (6),
13 (7), and (8) as paragraphs (6), (7), (8), (9), and
14 (10), respectively; and

15 (2) by inserting after paragraph (3) the fol-
16 lowing:

17 “(4) COVERED ENTITY.—The term ‘covered en-
18 tity’ means—

19 “(A) a State; or

20 “(B) an Indian Tribe.

21 “(5) INDIAN TRIBE.—The term ‘Indian Tribe’
22 has the meaning given that term in section 4(e) of
23 the Indian Self-Determination and Education Assist-
24 ance Act (25 U.S.C. 5304(e)).”.