



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4061

Introduced 1/13/2020, by Rep. Margo McDermed

SYNOPSIS AS INTRODUCED:

New Act

Creates the Online Marketplace Seller Act. Provides that an operator of a marketplace may not require a marketplace seller to adjudicate a claim arising out of an agreement between the marketplace seller and the operator of the marketplace outside of this State and may not gather, obtain, collect, or store the business data of a marketplace seller for the purposes of sales, marketing, pricing, or other business decisions regarding sales of services or tangible personal property to be made by the operator of the marketplace. Provides that if a marketplace decides to suspend or terminate a marketplace seller, 30 days prior to the termination, the marketplace shall provide the marketplace seller with a written statement of reasons for that decision. Provides that a marketplace may suspend or terminate a marketplace seller without notice if the marketplace seller engages in conduct or business practices that the marketplace reasonably deems fraudulent or injurious to public safety.

LRB101 14968 KTG 65495 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Online
5 Marketplace Seller Act.

6 Section 5. Definitions. As used in this Act:

7 "Business data" means any information obtained by the
8 operator of a marketplace from the retail sales of services or
9 tangible personal property through that marketplace by a
10 marketplace seller.

11 "Marketplace" means an electronic place, including, but
12 not limited to, a website, catalog, or dedicated sales software
13 application, that sells or offers for retail sale services or
14 tangible personal property and has an agreement with a
15 marketplace seller to make retail sales of services or tangible
16 personal property through that marketplace, regardless of
17 whether the tangible personal property or the marketplace has a
18 physical presence in this State.

19 "Marketplace seller" means a person residing in this State
20 who has an agreement with a marketplace and makes retail sales
21 of services or tangible personal property through a marketplace
22 owned, operated, or controlled by that marketplace operator.

1 Section 10. Prohibited marketplace conduct.

2 (a) An operator of a marketplace may not:

3 (1) Require a marketplace seller to adjudicate a claim
4 arising out of an agreement between the marketplace seller
5 and the operator of the marketplace outside of this State.

6 (2) Gather, obtain, collect, or store the business data
7 of a marketplace seller for the purposes of sales,
8 marketing, pricing, or other business decisions regarding
9 sales of services or tangible personal property to be made
10 by the operator of a marketplace.

11 (b) Any provision of a contract that violates paragraph (1)
12 of subsection (a) is voidable by the marketplace seller, and if
13 a provision is rendered void at the request of the marketplace
14 seller, the matter shall be adjudicated in this State and the
15 laws of this State shall govern the dispute.

16 (c) The Attorney General shall have exclusive authority to
17 enforce paragraph (2) of subsection (a), and there shall be no
18 private right of action to enforce violations of paragraph (2)
19 of subsection (a).

20 Section 15. Terminations.

21 (a) If a marketplace decides to suspend or terminate a
22 marketplace seller, 30 days prior to the termination, the
23 marketplace shall provide the marketplace seller with a written
24 statement of reasons for that decision. The written statement
25 of reasons shall, at a minimum, do all of the following:

1 (1) Without disclosing information that would result
2 in the disclosure of any proprietary, confidential, or
3 trade secret information, or disclosing information that
4 would hinder any investigation or prevention of deceptive,
5 fraudulent, or illegal activity, describe the facts and
6 circumstances that led to the decision unless the
7 marketplace reasonably believes that giving a written
8 statement of reasons could negatively impact the safety or
9 property of another user or the marketplace itself.

10 (2) Identify the term, condition, or policy that serves
11 as the basis for the suspension or termination.

12 (3) Explain whether or not the decision may be
13 appealed, and, if so, the procedure for such an appeal.

14 (b) A marketplace may suspend or terminate a marketplace
15 seller without the notice required under subsection (a) if the
16 marketplace seller engages in conduct or business practices
17 that the marketplace reasonably deems fraudulent or injurious
18 to public safety. In lieu of the notice required under
19 subsection (a), the marketplace shall provide a written
20 statement describing the fraudulent or injurious activity
21 within 30 days of the termination or suspension.