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PUBLIC ADVISORY ON
NEW LAWS TO TAKE EFFECT ON
PREVENTION OF SALES OF STOLEN RETAIL GOODS

– Issued December 28, 2022 –

Attorney General Phil Weiser issues this Public Advisory on a recently enacted law, House Bill 22-1099, Concerning Mandatory Disclosures of Third-Party Sellers Selling Through Online Marketplaces, which takes effect on January 1, 2023, to prevent the resale of stolen retail goods through online platforms.

Beginning January 1, online marketplaces must comply with new disclosure and reporting laws to curb misuses of their platforms by organized retail theft rings. The State intends to ensure that Colorado laws to reduce and prevent organized theft and resale of stolen property are enforced, and the State will bring prosecutions or other legal actions necessary to ensure compliance with the new law.¹

ORGANIZED RETAIL THEFT PREVENTION MEASURES

Under HB 22-1099, a “high-volume third-party seller” (“seller”) is defined as a third-party seller of goods that: (1) in a continuous 12-month period during the prior 24 months; (2) entered into 200 or more sales or transactions of consumer products, used or new; and (3) earned gross revenues of \$5,000 or more from sales or transactions completed on or through a particular online marketplace.ⁱ

Disclosure of Seller Identification. Within 10 days after qualifying as a high-volume third-party seller through their sales or transactions on the online marketplace, the online marketplaces must require such sellers to provide the following information:ⁱⁱ

- bank account number, or, if the high-volume third-party seller has no bank account, the name of the recipient for payments delivered by the online marketplace;

¹ Nothing in this Public Advisory constitutes legal advice to any party by the Colorado Attorney General or the Department of Law. High-volume third-party sellers should consult legal counsel to ensure compliance with the provisions of House Bill 22-1099.

- contact information—including: (1) the seller’s individual name; or (2) if not an individual, a copy of a valid government-issued photo identification for a person acting on behalf of the seller, or a copy of a valid government-issued record or tax document that shows the seller’s business name and physical address;
- business tax identification number or an individual taxpayer identification number; and
- current working e-mail address and phone number for the seller.

Online marketplaces are required by law to: (1) periodically notify high-volume third-party sellers on their marketplace of the obligation to keep the seller’s information current; and (2) require sellers to electronically certify whether or not changes to their identification information have occurred.ⁱⁱⁱ If a seller fails to provide required identification information as required by law, after receiving a 10 day notice to come into compliance the online marketplace must suspend the seller’s future sales activity on the online marketplace.^{iv}

Online marketplaces are required to verify information collected from sellers within 10 days.^v Data collected may only be used for the purposes of complying with HB 22-1099, and the online marketplace must ensure reasonable security procedures and practices to ensure the data is not misused.^{vi}

Seller Disclosures to Consumers. Subject to certain exceptions, online marketplaces must require sellers that collect \$20,000 or more in annual gross revenues on the online marketplace to provide in customer purchase confirmation messages the following information:^{vii}

- the seller’s full name, the seller’s company name, or the name which the seller or company operates on the online marketplace;
- the seller’s physical address;
- the seller’s contact information, including a current working phone number, e-mail address, or other means of direct electronic messaging provided through the online marketplace; and
- whether the seller used a different seller to supply the consumer product to the consumer upon purchase.

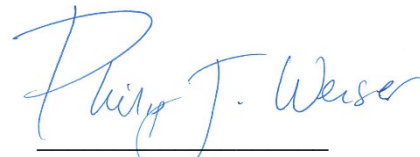
Consumer Reporting Mechanism. Online marketplaces must provide a clear and conspicuous reporting mechanism allowing consumers to report suspicious marketplace activity to the online marketplace.^{viii}

Failure to Comply. Online marketplaces must provide high-volume third-party sellers that fail to comply with HB 22-1099 a notice communicating the seller’s noncompliance. After 10 days of issuance of the notice, if the seller remains in

noncompliance, the online marketplace must suspend all future sales activity of the seller until the seller comes into compliance.^{ix}

ENFORCEMENT

The Attorney General and district attorneys of the State of Colorado are authorized to enforce the requirements the provisions of HB 22-1099. Violations constitute an unfair and deceptive act or practice barred by the Colorado Consumer Protection Act.^x



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ⁱ COLO. REV. STAT. § 6-1-1401(2).

ⁱⁱ *Id.* at § 1402(1).

ⁱⁱⁱ *Id.* at § 1402(2)(a), (b).

^{iv} *Id.* at § 1402(2)(c).

^v *Id.* at § 1402(3).

^{vi} *Id.* at § 1402(3)(c), (d).

^{vii} *Id.* at § 1402(4).

^{viii} *Id.* at § 1402(5).

^{ix} *Id.* at § 1402(6).

^x *Id.* at § 1403.