

AMENDED IN ASSEMBLY JULY 1, 2024
AMENDED IN ASSEMBLY JUNE 20, 2024
AMENDED IN ASSEMBLY JUNE 5, 2024
AMENDED IN SENATE MAY 16, 2024
AMENDED IN SENATE APRIL 4, 2024
AMENDED IN SENATE MARCH 19, 2024

SENATE BILL

No. 1144

Introduced by Senator Skinner
(Coauthors: Senators Atkins, Blakespear, Bradford, Cortese, Dodd,
McGuire, Min, Rubio, Stern, and Wiener)
(Coauthors: Assembly Members Connolly, Haney, Kalra, and
McKinnor)

February 14, 2024

An act to amend, repeal, and add Sections 1749.8 and 1749.8.4 of, and to add ~~and repeal~~ Section 1749.8.9 ~~of, to, the Civil Code, relating to business, and declaring the urgency thereof, to take effect immediately.~~ *business.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1144, as amended, Skinner. Marketplaces: online marketplaces. Existing law generally requires an online marketplace to require a high-volume third-party seller on the online marketplace to make certain disclosures. Existing law requires an online marketplace to suspend future sales activity of a high-volume third-party seller that is not in compliance with those information sharing requirements, as specified. Existing law imposes certain information retention and security

requirements on an online marketplace and prohibits specified uses of that information.

Existing law generally defines a “high-volume third-party seller,” for purposes of the above-described provisions, as a third-party seller who has entered into a certain number of consumer product sales transactions through an online marketplace for which payment is processed by the online marketplace, as specified. Existing law defines an “online marketplace,” for purposes of those provisions, as a consumer-directed, electronically accessed platform that includes features that allow for, facilitate, or enable, and are used by, a third-party seller to engage in the sale, purchase, payment, storage, shipment, or delivery of a consumer product and that has a contractual relationship with consumers governing their use of the platform to purchase consumer products.

This bill would revise the types of transactions that qualify a third-party seller as a “high-volume third-party seller,” for those purposes. Specifically, the bill would remove the conditions that the transactions be made through an online marketplace and that the online marketplace process the payment and, instead, would add the condition that the transactions were made utilizing an online marketplace. The bill would also revise the definition of “online marketplace” by removing the conditions that the above-described features be used by third-party sellers, and that the platform have the above-described contractual relationship with consumers.

Existing law requires a high-volume third-party seller to disclose and certify to the online marketplace certain identification, contact, and payment information of the seller, as specified.

This bill would require an online marketplace to establish and maintain a policy prohibiting the sale of stolen goods on the marketplace and to provide a mechanism to notify the marketplace of the sale of stolen goods, as specified. The bill would require an online marketplace ~~to, on and after July 1, 2025, to~~ alert local, regional, or state law enforcement agencies in California if it knows or should know that a third-party seller is selling or attempting to sell stolen goods to a California resident, except as specified.

Existing law requires a person or entity who violates the above-described provisions to be liable for a civil penalty not to exceed \$10,000 for each violation and reasonable attorney’s fees and costs and to be subject to preventive relief, as specified. Existing law limits recovery and relief to a civil action brought by the Attorney General, as specified.

This bill ~~would, on and after July 1, 2025, would~~ expand recovery and relief to a civil action brought by a district attorney in any county, a city attorney in any city or city and county, or a county counsel in any county.

The bill would make these changes ~~inoperative if a specified initiative is approved by the voters. operative on July 1, 2025.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~$\frac{2}{3}$~~ majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares that it is the
2 intent of the Legislature to stop theft from retail stores and
3 community theft by curtailing the sale of stolen property on online
4 marketplaces.

5 SEC. 2. ~~Section 1749.8 of the Civil Code is amended to read:~~
6 ~~1749.8. For purposes of this title:~~

7 (a) ~~“Consumer product” means tangible personal property that~~
8 ~~is distributed in commerce and normally used for personal, family,~~
9 ~~or household purposes, including property intended to be attached~~
10 ~~to or installed in real property regardless of whether it is actually~~
11 ~~attached or installed.~~

12 (b) ~~“High-volume third-party seller” means a third-party seller~~
13 ~~on an online marketplace who, in any continuous 12-month period~~
14 ~~during the previous 24 months, has entered into 200 or more~~
15 ~~discrete transactions utilizing the online marketplace for the sale~~
16 ~~of new or unused consumer products to buyers located in California~~
17 ~~resulting in the accumulation of an aggregate total of five thousand~~
18 ~~dollars (\$5,000) or more in gross revenues.~~

19 (c) ~~“Online marketplace” means a consumer-directed,~~
20 ~~electronically accessed platform that includes features that allow~~
21 ~~for, facilitate, or enable a third-party seller to engage in the sale,~~
22 ~~purchase, payment, storage, shipment, or delivery of a consumer~~
23 ~~product in this state.~~

24 (d) ~~“Third-party seller” means a person or entity, independent~~
25 ~~of an online marketplace, who sells, offers to sell, or contracts with~~
26 ~~an online marketplace to sell a consumer product in the state by~~
27 ~~utilizing an online marketplace.~~

1 (e) “Verify” means to confirm that information provided to an
2 online marketplace pursuant to this title is accurate. Methods of
3 confirmation include the use of one or more methods that enable
4 the online marketplace to reliably determine that the information
5 and documents are valid, correspond to the seller or an individual
6 acting on the seller’s behalf, are not misappropriated, and are not
7 falsified.

8 (f) If the proposed initiative measure titled “The Homelessness,
9 Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)
10 is approved by the voters at the statewide general election on
11 November 5, 2024, this section shall become inoperative on the
12 fifth day after the Secretary of State files the statement of the vote
13 for the election, and shall be repealed on January 1, 2025.

14 SEC. 3. Section 1749.8 is added to the Civil Code, to read:

15 1749.8. (a) “Consumer product” means tangible personal
16 property that is distributed in commerce and normally used for
17 personal, family, or household purposes, including property
18 intended to be attached to or installed in real property regardless
19 of whether it is actually attached or installed.

20 (b) (1) “High-volume third-party seller” means a third-party
21 seller who, in any continuous 12-month period during the previous
22 24 months, has entered into 200 or more discrete transactions
23 through an online marketplace for the sale of new or unused
24 consumer products to buyers located in California resulting in the
25 accumulation of an aggregate total of five thousand dollars (\$5,000)
26 or more in gross revenues.

27 (2) The number of discrete transactions referenced in paragraph
28 (1) includes only those transactions through the online marketplace
29 for which payment is processed by the online marketplace directly
30 or through its payment processor.

31 (c) “Online marketplace” means a consumer-directed,
32 electronically accessed platform for which all of the following are
33 true:

34 (1) The platform includes features that allow for, facilitate, or
35 enable third-party sellers to engage in the sale, purchase, payment,
36 storage, shipping, or delivery of a consumer product in this state.

37 (2) The features described in paragraph (1) are used by
38 third-party sellers.

39 (3) The platform has a contractual relationship with consumers
40 governing their use of the platform to purchase consumer products.

1 (d) ~~“Third-party seller” means a person or entity, independent~~
2 ~~of an online marketplace, who sells, offers to sell, or contracts with~~
3 ~~an online marketplace to sell a consumer product in the state by~~
4 ~~or through an online marketplace.~~

5 (e) ~~“Verify” means to confirm that information provided to an~~
6 ~~online marketplace pursuant to this title is accurate. Methods of~~
7 ~~confirmation include the use of one or more methods that enable~~
8 ~~the online marketplace to reliably determine that the information~~
9 ~~and documents are valid, correspond to the seller or an individual~~
10 ~~acting on the seller’s behalf, are not misappropriated, and are not~~
11 ~~falsified.~~

12 (f) ~~If the proposed initiative measure titled “The Homelessness,~~
13 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
14 ~~is approved by the voters at the statewide general election on~~
15 ~~November 5, 2024, this section shall become operative on the fifth~~
16 ~~day after the Secretary of State files the statement of the vote for~~
17 ~~the election.~~

18 ~~SEC. 4. Section 1749.8.4 of the Civil Code is amended to read:~~

19 ~~1749.8.4. (a) (1) A person or entity who violates any provision~~
20 ~~of this title prior to July 1, 2025, shall be liable for a civil penalty~~
21 ~~not to exceed ten thousand dollars (\$10,000) for each violation,~~
22 ~~which may be assessed and recovered only in a civil action brought~~
23 ~~in the name of the people of the State of California by the Attorney~~
24 ~~General.~~

25 ~~(2) A person or entity who violates any provision of this title~~
26 ~~on or after July 1, 2025, shall be liable for a civil penalty not to~~
27 ~~exceed ten thousand dollars (\$10,000) for each violation, which~~
28 ~~may be assessed and recovered only in a civil action brought in~~
29 ~~the name of the people of the State of California by the Attorney~~
30 ~~General, a district attorney in any county, a city attorney in any~~
31 ~~city or city and county, or a county counsel in any county.~~

32 ~~(b) In addition to the civil penalty provided by subdivision (a),~~
33 ~~the Attorney General, and as of July 1, 2025, a district attorney, a~~
34 ~~city attorney in any city or city and county, or county counsel who~~
35 ~~prevails in an action to enforce this title shall be entitled to the~~
36 ~~following relief:~~

37 ~~(1) Reasonable attorney’s fees and costs, including expert~~
38 ~~witness fees and other litigation expenses.~~

~~(2) Preventive relief, including a permanent or temporary injunction, restraining order, or other order against any person responsible for the conduct.~~

~~(c) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become inoperative on the fifth day after the Secretary of State files the statement of the vote for the election, and shall be repealed on January 1, 2025.~~

SEC. 5. Section 1749.8.4 is added to the Civil Code, to read:

1749.8.4. (a) A person or entity who violates any provision of this title shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) for each violation, which may be assessed and recovered only in a civil action brought in the name of the people of the State of California by the Attorney General.

(b) In addition to the civil penalty provided by subdivision (a), the Attorney General who prevails in an action to enforce this title shall be entitled to the following relief:

(1) Reasonable attorney’s fees and costs, including expert witness fees and other litigation expenses.

~~(2) Preventive relief, including a permanent or temporary injunction, restraining order, or other order against any person responsible for the conduct.~~

~~(c) If the proposed initiative measure titled “The Homelessness, Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1) is approved by the voters at the statewide general election on November 5, 2024, this section shall become operative on the fifth day after the Secretary of State files the statement of the vote for the election.~~

SEC. 2. Section 1749.8 of the Civil Code is amended to read:

1749.8. For purposes of this title:

(a) “Consumer product” means tangible personal property that is distributed in commerce and normally used for personal, family, or household purposes, including property intended to be attached to or installed in real property regardless of whether it is actually attached or installed.

(b) (1) “High-volume third-party seller” means a third-party seller who, in any continuous 12-month period during the previous 24 months, has entered into 200 or more discrete transactions through an online marketplace for the sale of new or unused

1 consumer products to buyers located in California resulting in the
2 accumulation of an aggregate total of five thousand dollars (\$5,000)
3 or more in gross revenues.

4 (2) The number of discrete transactions referenced in paragraph
5 (1) includes only those transactions through the online marketplace
6 for which payment is processed by the online marketplace directly
7 or through its payment processor.

8 (c) “Online marketplace” means a consumer-directed,
9 electronically accessed platform for which all of the following are
10 true:

11 (1) The platform includes features that allow for, facilitate, or
12 enable third-party sellers to engage in the sale, purchase, payment,
13 storage, shipping, or delivery of a consumer product in this state.

14 (2) The features described in paragraph (1) are used by
15 third-party sellers.

16 (3) The platform has a contractual relationship with consumers
17 governing their use of the platform to purchase consumer products.

18 (d) “Third-party seller” means a person or entity, independent
19 of an online marketplace, who sells, offers to sell, or contracts with
20 an online marketplace to sell a consumer product in the state by
21 or through an online marketplace.

22 (e) “Verify” means to confirm that information provided to an
23 online marketplace pursuant to this title is accurate. Methods of
24 confirmation include the use of one or more methods that enable
25 the online marketplace to reliably determine that the information
26 and documents are valid, correspond to the seller or an individual
27 acting on the seller’s behalf, are not misappropriated, and are not
28 falsified.

29 (f) *This section shall become inoperative on July 1, 2025, and*
30 *shall be repealed on January 1, 2026.*

31 *SEC. 3. Section 1749.8 is added to the Civil Code, to read:*

32 *1749.8. For purposes of this title:*

33 (a) “Consumer product” means tangible personal property that
34 is distributed in commerce and normally used for personal, family,
35 or household purposes, including property intended to be attached
36 to or installed in real property regardless of whether it is actually
37 attached or installed.

38 (b) “High-volume third-party seller” means a third-party seller
39 on an online marketplace who, in any continuous 12-month period
40 during the previous 24 months, has entered into 200 or more

1 *discrete transactions utilizing the online marketplace for the sale*
2 *of new or unused consumer products to buyers located in*
3 *California resulting in the accumulation of an aggregate total of*
4 *five thousand dollars (\$5,000) or more in gross revenues.*

5 (c) “Online marketplace” means a consumer-directed,
6 electronically accessed platform that includes features that allow
7 for, facilitate, or enable a third-party seller to engage in the sale,
8 purchase, payment, storage, shipment, or delivery of a consumer
9 product in this state.

10 (d) “Third-party seller” means a person or entity, independent
11 of an online marketplace, who sells, offers to sell, or contracts
12 with an online marketplace to sell a consumer product in the state
13 by utilizing an online marketplace.

14 (e) “Verify” means to confirm that information provided to an
15 online marketplace pursuant to this title is accurate. Methods of
16 confirmation include the use of one or more methods that enable
17 the online marketplace to reliably determine that the information
18 and documents are valid, correspond to the seller or an individual
19 acting on the seller’s behalf, are not misappropriated, and are not
20 falsified.

21 (f) *This section shall become operative on July 1, 2025.*

22 SEC. 4. *Section 1749.8.4 of the Civil Code is amended to read:*

23 1749.8.4. (a) A person or entity who violates any provision
24 of this title shall be liable for a civil penalty not to exceed ten
25 thousand dollars (\$10,000) for each violation, which may be
26 assessed and recovered only in a civil action brought in the name
27 of the people of the State of California by the Attorney General.

28 (b) In addition to the civil penalty provided by subdivision (a),
29 the Attorney General who prevails in an action to enforce this title
30 shall be entitled to the following relief:

31 (1) Reasonable attorney’s fees and costs, including expert
32 witness fees and other litigation expenses.

33 (2) Preventive relief, including a permanent or temporary
34 injunction, restraining order, or other order against any person
35 responsible for the conduct.

36 (c) *This section shall become inoperative on July 1, 2025, and*
37 *shall be repealed on January 1, 2026.*

38 SEC. 5. *Section 1749.8.4 is added to the Civil Code, to read:*

39 1749.8.4. (a) A person or entity who violates any provision of
40 this title shall be liable for a civil penalty not to exceed ten

1 thousand dollars (\$10,000) for each violation, which may be
2 assessed and recovered only in a civil action brought in the name
3 of the people of the State of California by the Attorney General, a
4 district attorney in any county, a city attorney in any city or city
5 and county, or a county counsel in any county.

6 (b) In addition to the civil penalty provided by subdivision (a),
7 the Attorney General, a district attorney, a city attorney in any
8 city or city and county, or county counsel who prevails in an action
9 to enforce this title shall be entitled to the following relief:

10 (1) Reasonable attorney's fees and costs, including expert
11 witness fees and other litigation expenses.

12 (2) Preventive relief, including a permanent or temporary
13 injunction, restraining order, or other order against any person
14 responsible for the conduct.

15 (c) This section shall become operative on July 1, 2025.

16 SEC. 6. Section 1749.8.9 is added to the Civil Code, to read:

17 1749.8.9. (a) ~~On and after July 1, 2025, an~~ An online
18 marketplace shall alert local, regional, or state law enforcement
19 agencies in California if it knows or should know that a third-party
20 seller is selling or attempting to sell stolen goods to a California
21 resident, unless the online marketplace has received a notice from
22 the law enforcement agency that the same third-party seller is
23 suspected of selling or attempting to sell the same stolen goods on
24 the online marketplace to a California resident.

25 (b) (1) An online marketplace shall do all of the following:

26 (A) Establish and maintain a policy prohibiting the sale of stolen
27 goods on the online marketplace, which shall include consequences
28 for knowingly selling stolen goods on the online marketplace,
29 including, but not limited to, suspension or termination of the
30 seller's account.

31 (B) Provide a mechanism on the online marketplace that allows
32 any individual to notify the online marketplace that a seller is or
33 may be selling stolen goods.

34 (C) Provide a mechanism on the online marketplace that allows
35 the online marketplace and law enforcement to communicate in a
36 timely and confidential manner, including by means of a link to a
37 dedicated web page, online portal, or point of contact and ensure
38 timely replies to law enforcement requests, including warrants,
39 subpoenas, and other legal processes.

1 (D) Maintain internal written policies, systems, and staff to
2 monitor listings in order to affirmatively prevent and detect
3 organized retail crime.

4 (2) The policy and mechanism required by this subdivision shall
5 be publicly posted and readily accessible to users.

6 ~~(c) If the proposed initiative measure titled “The Homelessness,~~
7 ~~Drug Addiction, and Theft Reduction Act” (Initiative 23-0017A1)~~
8 ~~is approved by the voters at the statewide general election on~~
9 ~~November 5, 2024, this section shall become inoperative on the~~
10 ~~fifth day after the Secretary of State files the statement of the vote~~
11 ~~for the election, and shall be repealed on January 1, 2025.~~

12 ~~(c) This section shall become operative on July 1, 2025.~~

13 ~~SEC. 7. This act is an urgency statute necessary for the~~
14 ~~immediate preservation of the public peace, health, or safety within~~
15 ~~the meaning of Article IV of the California Constitution and shall~~
16 ~~go into immediate effect. The facts constituting the necessity are:~~

17 ~~To address the increase in community-based crime and retail~~
18 ~~theft and to provide broader public safety, it is necessary that this~~
19 ~~act take effect immediately.~~