

March 18, 2021

The Honorable Sean Tarwater, Chairperson
House Committee on Commerce, Labor and Economic Development
Statehouse, Room 151D-S
Topeka, Kansas 66612

Dear Representative Tarwater:

SUBJECT: Fiscal Note for HB 2433 by House Committee on Federal and State Affairs

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2433 is respectfully submitted to your committee.

Under HB 2433, an online marketplace would require a high-volume third-party seller to provide the online marketplace contact information, bank information, business tax identification number or taxpayer identification number within 24 hours of becoming a high-volume third-party seller. Sellers would also be required to disclose if they are exclusively advertising or offering the product on the online marketplace or if they are advertising or offering the product on any other internet websites. The online marketplace would be required to verify the information provided. On at least an annual basis, the online marketplace would notify the high-volume third-party seller that they must inform the online marketplace of any changes to the information provided or verify that the information is still valid. If the online marketplace becomes aware that a high-volume third-party seller has neither certified the information nor provided the changed information, the online marketplace would suspend the high-volume third-party seller's participation until the seller has provided the required information.

The online marketplace would require a high-volume third-party seller to provide and disclose to consumers in a conspicuous manner either on the product listing or through a conspicuously placed link on the product listing the seller's full name; the seller's physical address; if the seller engages in the manufacturing, importing, or reselling of consumer products; and the seller's contact information. An online marketplace would disclose to consumers a reporting mechanism that allows for electronic and telephonic reporting of suspicious marketplace activity.

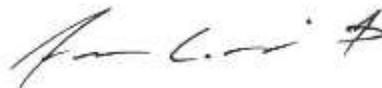
Violations of the bill would constitute a deceptive act or practice under the Kansas Consumer Protection Act. The Attorney General would enforce the provision on HB 2433 and could adopt rules and regulations as necessary. A political subdivision could not establish,

mandate, or require an online marketplace to verify information from high-volume third-party sellers on a one-time or ongoing basis or disclose information to consumers.

The Office of the Attorney General (OAG) indicates that the bill would result in an increase in complaints filed with the OAG's Consumer Protection Division. The OAG would need to develop complaint forms to obtain information needed to initiate enforcement actions. If violations of the bill are found, then violators would be subject to penalties under the Kansas Consumer Protection Act of up to \$10,000 per violation, which would be deposited into the State General Fund. The agency is unable to estimate the number of complaints it would receive and therefore a fiscal effect cannot be determined.

The Office of Judicial Administration states that the bill could increase the number of cases filed in district courts because it could bring additional actions alleging a Kansas Consumer Protection Act violation. The additional cases would increase the time spent by district court judicial and nonjudicial personnel in processing, researching, and hearing cases. In addition, the bill could result in the collection of additional docket fees. However, the agency cannot estimate how many additional cases would be heard and therefore a fiscal effect cannot be estimated. Any fiscal effect associated with HB 2433 is not reflected in *The FY 2022 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Willie Prescott, Office of the Attorney General
Debbie Thomas, Judiciary