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**Gail Cole** • Jan. 25, 2022



To help prevent someone from selling stolen goods on a marketplace, California and several other states want marketplaces to obtain and share the names and contact information of high-volume marketplace sellers.

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California [Senate Bill 301](#) seeks to thwart marketplace sales of stolen goods by requiring the online marketplace platform providers to verify the identity of third-party sellers. According to the [Senate Judiciary Committee](#), “organized retail theft is on the rise. One potential factor in this unfortunate phenomenon is the ease of reselling stolen goods on online marketplaces — online platforms that host third-party sellers and connect those sellers with consumers, but do not directly conduct oversight into the sellers’ businesses.”

Marketplace facilitators often know very little about individual sellers. As a result, the rise of marketplace transactions has led to a rise in stolen or knockoff goods. According to [analysis by the Senate Judiciary Committee](#), there’s more than \$500 billion in stolen and counterfeit items sold through online marketplaces worldwide each year.

[Writing in support of California Senate Bill 301](#), the California Retailers Association (CRA) said online marketplace platforms have “helped fuel a recent, dramatic rise in organized retail crime (ORC) and counterfeit goods. The anonymity that some platform operators afford their third-party sellers provides an easy ‘fence’ for unscrupulous actors to resell illegitimate goods to unsuspecting consumers.”

SB 301 and similar measures in other states would make it more difficult for marketplace sellers to remain anonymous.

### **Bill would create additional responsibilities for marketplace facilitators**

Marketplace facilitators would be required to verify that information provided by certain third-party sellers is valid and corresponds to the seller or to an individual acting on the seller’s behalf (i.e., not misappropriated or falsified).

To that end, the marketplace facilitator would need to obtain (and retain for five

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- A bank account number (or the name of the payee in the event the seller has no bank account)
- The seller's name (if an individual) or a copy of a valid government-issued identification (or a copy of a valid government record or tax document that includes the business name and physical address of the seller) for an individual acting on behalf of the seller
- A business tax identification number or taxpayer identification number
- A valid email address and telephone number for the seller

Scott Peterson, vice president of government relations at Avalara, says asking sellers to provide taxpayer identification numbers is an interesting requirement. “[California does not require a person who only sells on a marketplace to have a license](#). Will the state have to change that requirement? If so, I assume it will be a requirement they must impose on out-of-state sellers.”

Additional requirements would be imposed on higher-volume marketplace sellers with at least \$20,000 of gross annual revenues in California derived from the online marketplace platform. Such sellers would need to disclose the following information to the marketplace platform provider and consumers:

- The seller's full name or company name, physical address, and direct contact information
- Whether the seller used a different seller to supply the product to the consumer upon purchase

Marketplace sellers operating out of their residence would be able to request the marketplace “make only a partial disclosure” of identifying information.

Regarding the second point above, Peterson wonders how a marketplace that doesn't fulfill the delivery would know whether the seller used a different seller to supply the

products. This is something the drop shipment industry does all the time.

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have given the marketplace verified tax and payment information.

Should fraudulent activity be detected, an online marketplace would have to suspend future sales activity. Any person or entity found to be in violation of any provision contained in SB 301 would be liable for a civil penalty of up to \$10,000 for each violation. If enacted as written, the requirements established by SB 301 would take effect July 1, 2023.

### **Proposal stands in stark contrast to California's policy toward in-store theft**

Marketplace facilitators facing growing compliance demands may question why California isn't taking similarly strident measures to prevent in-store theft.

According to the [Hoover Institution](#), shoplifting is "rampant" in California. Stealing merchandise worth \$950 or less is a misdemeanor, "which means that law enforcement probably won't bother to investigate, and if they do, prosecutors will let it go." If you Google "Shoplifting in San Francisco," it continues, you can watch videos of thieves walking or even biking through stores, plucking items off shelves, and exiting unimpeded.

Walgreens has closed numerous stores in the state, [reportedly due to "organized retail crime."](#) CVS is also closing stores in San Francisco, [reportedly to focus on online sales.](#)

### **Growing interest in preventing marketplace sales of stolen and counterfeit goods**

California certainly isn't the only state interested in cracking down on marketplace sales of stolen and counterfeit goods. Similar bills are currently under consideration in the following states:

- Florida ([SB 944](#), [HB 1227](#))

- Massachusetts ([H.138](#))

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marketplace sellers is a far cry from the real-time VAT reporting requirements taking hold in much of the world. However, it can be seen as a baby step in that direction. If mandatory identification measures can be imposed on marketplaces today, perhaps mandatory electronic invoicing requirements will follow tomorrow.

Learn about the digitalization of tax compliance and more in [Avalara Tax Changes 2022](#).

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Gail Cole is a Senior Writer at [Avalara](#). She's on a mission to uncover unusual tax facts and make complex laws and legislation more digestible for accounting and business professionals.

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