87R22923 MLH-D

By:  Raney H.B. No. 3852

Substitute the following for H.B. No. 3852:

By:  Turner of Tarrant C.S.H.B. No. 3852

A BILL TO BE ENTITLED

AN ACT

relating to a study by the attorney general of the online resale of consumer goods obtained illegally and the online sale or distribution of counterfeit goods.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  DEFINITIONS. In this Act:

(1)  "Internet website" includes an online marketplace.

(2)  "Online marketplace" means an electronically based or accessed platform that:

(A)  includes features that allow for, facilitate, or enable third-party sellers to engage in the sale, purchase, storage, shipping, or delivery of or processing payments for consumer goods in the United States; and

(B)  hosts one or more third-party sellers.

(3)  "Seller" means a person who sells, offers to sell, or contracts to sell consumer goods in the United States through an online marketplace.

(4)  "Third-party seller" means a seller that is independent of a facilitator, owner, or operator of an online marketplace through which the seller sells consumer goods.

SECTION 2.  STUDY. (a) The attorney general shall conduct a study regarding the online resale of retail merchandise and other consumer goods obtained illegally in this state and the online sale or distribution of counterfeit goods.

(b)  In conducting the study, the attorney general shall:

(1)  gather data on the incidence of persons who illegally obtain retail merchandise and other consumer goods in this state and resell the merchandise or other consumer goods through the use of an Internet website;

(2)  evaluate and review existing cases of:

(A)  the purchase, sale, or distribution through the use of an Internet website of illegally obtained consumer goods in this state, including illegally obtained merchandise from a retail establishment in this state; and

(B)  the sale or distribution of counterfeit goods through the use of an Internet website;

(3)  get files and other information on any investigations of persons involved in illegal activity described by Subdivision (1) or (2) of this section from local prosecuting attorneys and local law enforcement agencies;

(4)  analyze and evaluate trends in illegal activity in and potential methods for mitigating:

(A)  the purchase, sale, or distribution through the use of an Internet website of illegally obtained property from a retail establishment in this state; and

(B)  the sale or distribution of counterfeit goods through the use of an Internet website;

(5)  gather data on the extent to which a third-party seller selling or offering to sell consumer goods online to residents of this state has made the seller's name, business address, and working contact information available to the public; and

(6)  determine the frequency with which an online marketplace verifies any identifying information provided by third-party sellers selling or offering to sell consumer goods to residents of this state.

(c)  Local prosecuting attorneys and local law enforcement agencies, on request of the attorney general, shall provide data for purposes of the study.

(d)  The attorney general shall solicit and accept input from the public in conducting the study.

(e)  The attorney general may collaborate with the appropriate standing committees of the house of representatives and the senate in conducting the study.

SECTION 3.  REPORT. Not later than August 31, 2022, the attorney general shall submit to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature a written report on the study required under this Act that includes any legislative recommendations based on the study.

SECTION 4.  EXPIRATION. This Act expires September 30, 2022.

SECTION 5.  EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.