

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

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**Senate Bill 717 (Substitute S-3 as passed by the Senate)****Sponsor: Senator Norm Shinkle****Committee: Commerce and Technology****Date Completed: 3-10-88****RATIONALE**

Recently there has been an increase in the number of transient merchants who set up roadside or parking lot businesses for short periods of time. Although these merchants often sell many of the same products found in retail stores (cut flowers, T-shirts, etc.), there is no way to ensure that they collect and pay sales tax on the merchandise. Since merchants who do not collect and pay sales tax can sell their merchandise for less than what it would cost to purchase the merchandise from a merchant who does collect the tax, the merchant who does not collect the tax enjoys an unfair competitive advantage over a merchant who does. It has been suggested, therefore, that some mechanism be enacted to ensure that transient merchants collect and pay sales tax.

**CONTENT**

The bill would amend Public Act 51 of 1925, which provides for the licensure and regulation of transient merchants, to increase the amount of information required on a license application, permit the impoundment and public sale of goods offered for sale by unlicensed merchants, and broaden the category of merchants not covered by the Act. The bill would take effect July 1, 1988. Specifically, the bill would:

- Require applicants for a transient merchant license to include on their application to the county treasurer their Federal taxpayer and State employer identification numbers and number of employees, and to attach a copy of their Michigan sales tax license to the application.
- Require the county treasurer to send a copy of the license and completed application to the State Treasurer within 10 days after issuing a license.
- Delete current misdemeanor penalty provisions, and instead allow the county sheriff to assume custody and impound all goods offered for sale by the transient merchant if the sheriff had probable cause to believe the merchant did not have a license. The goods would remain impounded until the matter was adjudicated in court. The transient merchant could obtain the goods by paying all fees plus \$1,000 after impoundment or within seven days after his or her conviction. If the merchant were convicted of violating the bill and failed to pay the fees, the sheriff would have to sell the goods by publishing a notice describing the property and stating the time and place of the sale at which the property could be sold to the highest bidder, in a general circulation newspaper in the county at least five days before the sale. The sheriff would have to conduct the sale and deposit 30% of the sale proceeds with the State

Treasurer and 70% with the county treasurer. A sheriff disposing of impounded property would not be liable to the transient merchant for the sale.

- Exempt from the Act persons who solicit orders by sample, brochure or sales catalog for future delivery or make sales at residential premises by invitation of the owner or legal occupant of the premises.

MCL 445.371 et al.

**FISCAL IMPACT**

Senate Bill 717 would result in an indeterminate increase in revenue for the State and counties. The revenue would result from unlicensed vendors' goods being seized and sold by the county sheriff. The bill provides that 30% of the revenue generated from such a sale would go to the State and 70% to the county. The actual revenue would depend on the number and size of such sales of seized goods.

**ARGUMENTS****Supporting Argument**

By requiring transient merchants to possess a sales tax license, the bill would help reduce unfair competition for retailers who pay sales tax on goods sold, and would ensure that the State was not deprived of important sales tax income from the sales of goods by transient merchants.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

S.B. 717 (3-10-88)