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FLEA MARKET SALES

House Bill 5677

Sponsor: Rep. Valde Garcia

Committee: Economic Development

Complete to 5-10-00

A SUMMARY OF HOUSE BILL 5677 AS INTRODUCED 4-25-00

The bill would amend the Michigan Penal Code to place certain restrictions on sales of merchandise at flea markets, swap meets, and similar events.

Prohibited sales. It would be a misdemeanor for an “unused property merchant” to sell certain items at an “unused property market” (flea market, swap meet, etc., defined in the bill to mean an event at which a fee is charged to merchants to sell or trade property, or a fee is charged to customers to enter such a sale, or an event held six or more times a year at which people offer property for sale or exchange). The bill would prohibit the sale at such events of food packaged and labeled specifically for consumption by a child less than two years of age; a cosmetic, toiletry, or personal care product; a nonprescription drug; or a medical device. A violation of this provision would be punishable by a fine of not more than \$100. (An “unused property market” would not include a trade show, an event organized to benefit a charitable organization, or an event at which all of the property offered for sale was new and offered for sale by the manufacturer.)

The prohibition would not apply if the merchant was authorized in writing to sell the item at retail by the manufacturer or the manufacturer’s authorized distributor. The authorization would have to contain the merchant’s name and the date the authorization expired, and the merchant would have to show the authorization to anyone at the sales event who requested to see it. However, providing a forged authorization, one containing a false statement, or one obtained by fraud would be a misdemeanor punishable by a fine of not more than \$100.

Required records. The bill would require an unused property merchant to obtain and keep for at least two years a purchase receipt for each item of new and unused property the merchant acquired. (“New and unused property” would be defined to mean tangible personal property obtained directly from a producer, manufacturer, wholesaler, or retailer in the ordinary course of business, and that has not been used since its production or manufacture, or is in its original and unopened package or container. It would not include: vehicles, firewood, ice, livestock, unused antique property, arts and crafts items sold by the person who made them, or property offered for future delivery through a catalog or brochure.)

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The required receipts would have to show the date of acquisition, name and address of the seller, an identification and description of each item, and the price paid. It would be a misdemeanor, punishable by a fine of not more than \$100, for a merchant to: falsify or obliterate a receipt; refuse to allow a law enforcement officer to inspect a receipt upon reasonable notice; or destroy or dispose of a receipt before the end of the two-year period.

Analyst: D. Martens

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.