

Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 5677 (Substitute H-1 as reported by the Committee of the Whole)

Sponsor: Representative Valde Garcia

House Committee: Economic Development

Senate Committee: Local, Urban and State Affairs

CONTENT

The bill would amend the Michigan Penal Code to establish a misdemeanor penalty for an unused property merchant who sold or offered to sell, at an unused property market, food manufactured, packaged, and labeled specifically for sale or consumption by a child less than two years of age, a nonprescription drug that was past its expiration date, or a medical device, without authorization. A violation of the bill would be a punishable by up to 93 days' imprisonment and/or a maximum fine of \$1,000. (An unused property market would include an event commonly known as a swap meet, indoor swap meet, or flea market.)

The penalty would not apply if the merchant had written authorization to sell the item at retail by its manufacturer or distributor. The merchant would have to provide the authorization for examination to anyone at the unused property market who asked to see it. A merchant who provided an authorization that was forged, contained a false statement, or was obtained by fraud would be in violation of the bill.

An unused property merchant would have to obtain and retain for at least two years a purchase receipt for each item of new and unused property the merchant acquired. A merchant would be in violation of the bill if he or she falsified or obliterated a receipt, destroyed or disposed of a receipt before the end of the two-year period, or refused or failed to make a receipt available for inspection by a law enforcement official.

"Unused property market" would mean an event at which two or more persons offered tangible personal property for sale or exchange for a fee; at which a fee was charged to prospective buyers for admission; or at which persons offered or displayed tangible personal property for sale or exchange more than six times a year. It would not include an industry or association trade show; an event organized for the exclusive benefit of a community chest, fund, foundation, association, or corporation organized and operated for religious, educational, or charitable purposes, if no part of any fee charged vendors or prospective purchasers and none of the gross receipts or net earnings benefitted a private shareholder or someone participating in or organizing the event; or an event at which all of the personal property being sold or displayed was new and each person selling, exchanging, offering, or displaying property was the manufacturer or an authorized representative or distributor of the manufacturer.

The bill would take effect February 1, 2001.

Proposed MCL 750.411r

Legislative Analyst: N. Nagata

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on local government. There are no data available to indicate how many people could be convicted of violating the bill. A violation would result in a misdemeanor charge for which local units of government would incur the costs of incarceration and/or receive the fine revenue.

Date Completed: 10-4-00
floor/hb5677 (H-1)

Fiscal Analyst: K. Firestone

Analysis available @ <http://www.michiganlegislature.org>

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.