
SUBSTITUTE HOUSE BILL 2445

State of Washington

56th Legislature

2000 Regular Session

By House Committee on Commerce & Labor (originally sponsored by Representatives Constantine, Ballasiotes, O'Brien, Carrell, Huff and Edwards)

Read first time 02/03/2000. Referred to Committee on .

1 AN ACT Relating to unused property markets; adding a new chapter to
2 Title 19 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions set forth in this section
5 apply throughout this chapter.

6 (1)(a) "Unused property market" means an event, for which the
7 resale of new, unused, and used personal property is the primary
8 purpose of the event, at which two or more persons offer tangible
9 personal property for sale or exchange and (i) at which a fee is
10 charged by the event sponsor for sale or exchange of personal property,
11 or (ii) at which a fee is charged to prospective buyers for admission
12 to the area in which personal property is offered or displayed for sale
13 or exchange.

14 (b) The term unused property market does not include:

15 (i) An event that is organized for the exclusive benefit of a
16 community chest, fund, foundation, association, or corporation
17 organized and operated for religious, educational, or charitable
18 purposes, so long as no part of an admission fee or parking fee charged
19 vendors or prospective purchasers or the gross receipts or net earnings

1 from the sale or exchange of personal property, whether in the form of
2 a percentage of the receipts or earnings, as salary, or otherwise,
3 inures to the benefit of a private shareholder or person participating
4 in the organization or conduct of the event; or

5 (ii) An event at which all of the personal property offered for
6 sale or displayed is new, and all persons selling, exchanging, or
7 offering or displaying personal property for sale or exchange are
8 manufacturers or authorized representatives of manufacturers or
9 distributors.

10 (2) "Unused property merchant" means a person, other than a vendor
11 or merchant with an established retail store in the county, who
12 transports an inventory of goods to a building, vacant lot, or other
13 unused property market location and who, at that location, displays new
14 and unused goods for sale where at least five new or unused items are
15 identical and sells the goods at retail or offers the goods for sale at
16 retail where the total inventory of new or unused goods offered for
17 sale by the merchant at the event exceeds five hundred dollars in
18 retail value.

19 (3) "New and unused property" means tangible personal property that
20 was acquired by the unused property merchant directly from the
21 producer, manufacturer, wholesaler, or retailer in the ordinary course
22 of business that has never been used since its production or
23 manufacturing or that is in its original and unopened package or
24 container, if the personal property was so packaged when originally
25 produced or manufactured.

26 (4) "Baby food" or "infant formula" means food manufactured,
27 packaged, and labeled specifically for sale for consumption by a child
28 under the age of two years.

29 (5) "Nonprescription drug," which may also be referred to as an
30 "over the counter drug," means a nonnarcotic medicine or drug that may
31 be sold without a prescription and is prepackaged for use by the
32 consumer, prepared by the manufacturer or producer for use by the
33 consumer, properly labeled and unadulterated in accordance with the
34 requirements of the state food and drug laws and the federal Food, Drug
35 and Cosmetic Act. The term "nonprescription drug" does not include
36 herbal products, dietary supplements, botanical extracts, or vitamins.

37 (6) "Medical device" means an instrument, apparatus, implement,
38 machine, contrivance, implant, in vitro reagent, tool, or other similar
39 or related article, including a component part or accessory, required

1 under federal law to bear the label "Caution: Federal law requires
2 dispensing by or on the order of a physician"; or that is defined by
3 federal law as a medical device and that is intended for use in the
4 diagnosis of disease or other conditions or in the cure, mitigation,
5 treatment, or prevention of disease in man or other animals or is
6 intended to affect the structure or a function of the body of man or
7 other animals, that does not achieve any of its principal intended
8 purposes through chemical action within or on the body of man or other
9 animals, and that is not dependent upon being metabolized for
10 achievement of any of its principal intended purposes.

11 NEW SECTION. **Sec. 2.** An unused property merchant may not offer at
12 an unused property market for sale or knowingly permit the sale of baby
13 food, infant formula, cosmetics or personal care products, or any
14 nonprescription drug or medical device. This section does not apply to
15 a person who keeps available for public inspection a written
16 authorization identifying that person as an authorized representative
17 of the manufacturer or distributor of such a product, as long as the
18 authorization is not false, fraudulent, or fraudulently obtained.

19 NEW SECTION. **Sec. 3.** (1) An unused property merchant shall
20 maintain receipts for the purchase of new and unused property at a
21 location accessible to law enforcement officials. Receipts must
22 contain all of the following information or the information must be
23 discernible when used in conjunction with other readily accessible
24 information:

- 25 (a) Date of the transaction;
26 (b) Name and address of the person, corporation, or entity from
27 whom the new and unused property was acquired;
28 (c) An identification and description of the new and unused
29 property acquired;
30 (d) The price paid for the new and unused property.

31 (2) It is a violation of this chapter for an unused property
32 merchant required to maintain receipts under this section to knowingly:

- 33 (a) Falsify, obliterate, or destroy the receipts;
34 (b) Refuse or fail upon request to make the receipts available for
35 inspection within a period of time that is reasonable under the
36 individual circumstances surrounding the request; however, nothing
37 contained in this subsection requires the unused property merchant to

1 possess the receipt on or about his or her person without reasonable
2 notice; or

3 (c) Fail to maintain the receipts required by this section for at
4 least two years.

5 NEW SECTION. **Sec. 4.** This chapter does not apply to:

6 (1) The sale of a motor vehicle or trailer that is required to be
7 registered or is subject to the certificate of ownership laws of this
8 state;

9 (2) The sale of wood for fuel, ice, or livestock;

10 (3) Business conducted at an industry or association trade show;

11 (4) Property, although never used, whose style, packaging, or
12 material clearly indicates that the property was not produced or
13 manufactured within recent times;

14 (5) Anyone who sells by sample, catalog, or brochure for future
15 delivery;

16 (6) The sale of arts or crafts by the person who produced the arts
17 or crafts;

18 (7) Persons who make sales presentations under a prior,
19 individualized invitation issued to the consumer by the owner or legal
20 occupant of the premises; and

21 (8) The sale of firearms as defined under RCW 9.41.010 or business
22 conducted at a gun show.

23 NEW SECTION. **Sec. 5.** (1) The first violation of this chapter is
24 a misdemeanor.

25 (2) A second violation of this chapter is a gross misdemeanor.

26 (3) A third or subsequent violation of this chapter is a class C
27 felony.

28 NEW SECTION. **Sec. 6.** Sections 1 through 5 of this act constitute
29 a new chapter in Title 19 RCW.

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