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ENGROSSED SUBSTITUTE SENATE BILL 5054

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State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Law & Justice (originally sponsored by Senators A. Smith, Winsley and Erwin)

Read first time 02/01/93.

1 AN ACT Relating to sports collectibles; adding a new chapter to  
2 Title 19 RCW; prescribing penalties; and providing an effective date.

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

4 NEW SECTION. **Sec. 1.** The business of sports memorabilia is a  
5 commercial enterprise of significance. Many people, and in particular  
6 many children, are entering the sports collectible market for the first  
7 time. Autographed items and other items believed to be authentic often  
8 command a premium price far in excess of the original cost of the item.  
9 Without a method to protect the public from the sale of counterfeit  
10 sports collectibles, the opportunity for fraud in such sales is great.

11 Therefore, the legislature finds that sales of sports collectibles  
12 by unscrupulous sports collectible dealers who make false claims of  
13 authenticity threatens the legitimate business and hobby of sports  
14 memorabilia collecting, and that a requirement that sellers certify the  
15 authenticity of more expensive items is necessary to protect the  
16 public.

1        NEW SECTION.     **Sec. 2.**     Unless the context clearly requires  
2 otherwise, the definitions in this section apply throughout this  
3 chapter.

4        (1) "Authentic" means that an item is the actual item that it is  
5 represented to be.

6        (2) "Autographed" means bearing the actual signature of a sports  
7 personality, signed by such individual's own hand.

8        (3) "Collectible" means a sports item including, but not limited  
9 to, a photograph, book, ticket, plaque, sports program, item of sports  
10 equipment or clothing, or other sports memorabilia sold or offered for  
11 sale in or from this state by a dealer to a consumer for one hundred  
12 dollars or more.

13       (4) "Consumer" means a natural person who purchases a collectible  
14 from a dealer for a noncommercial purpose.

15       (5) "Dealer" means a person, including an auctioneer, who is in the  
16 business of selling or offering for sale in or from this state any  
17 collectible to consumers. "Dealer" does not include a person making a  
18 casual or isolated sale as defined in RCW 82.04.040.

19       (6) "Description" means a written or verbal representation,  
20 including but not limited to a representation contained in an  
21 advertisement, invoice, catalog, flyer, sign, brochure, or other  
22 commercial or promotional material. The term shall also include a  
23 representation contained in a prepared script and made for the purpose  
24 of selling a collectible in a radio or television broadcast to the  
25 public in or from this state.

26       (7) "Person" means a natural person, partnership, corporation,  
27 company, trust, association, or other entity, however organized.

28       NEW SECTION.     **Sec. 3.**     Whenever a dealer, in selling or offering to  
29 sell in or from this state a collectible to a consumer, provides a  
30 description of the collectible as being autographed or authentic, or  
31 both, the dealer shall furnish to the consumer at the time of sale a  
32 certificate of authenticity. The certificate of authenticity shall be  
33 in writing, dated, and signed by the dealer or authorized agent. The  
34 certificate shall be in at least ten-point boldface type and shall  
35 contain the dealer's true legal name and street address. Each  
36 certificate of authenticity shall:

37       (1) Describe the collectible and the name of the sports personality  
38 who autographed it and specify the purchase price;

1 (2) Contain an express warranty, which shall be presumed to be part  
2 of the basis of the bargain, of the authenticity of the collectible.  
3 The warranty shall not be negated or limited because the dealer in the  
4 certificate does not use formal words such as "warranty," or  
5 "guarantee," or because the dealer does not have a specific intention  
6 or authorization to make a warranty or because a statement relevant to  
7 the collectible is, or purports to be, or is capable of being, merely  
8 the dealer's opinion. The warranty shall state that the dealer will  
9 make a full cash refund upon request within thirty days of the sale.  
10 A full cash refund is contingent on whether the returned item is in the  
11 same condition as when sold, and if the returned item is accompanied by  
12 the certificate of authenticity that was supplied during the original  
13 transaction;

14 (3) Should the description include a claim that the collectible is  
15 autographed, state the place, and date, when the sports personality  
16 autographed the collectible, if known; however, if either the place or  
17 date, or both, is not known, the certificate shall contain an explicit  
18 statement to the effect; and

19 (4) Specify whether the collectible is offered as one of a limited  
20 edition and, if so:

21 (a) How the collectible and the edition is numbered; and

22 (b) The size of the edition and the size of a prior or anticipated  
23 future edition.

24 NEW SECTION. **Sec. 4.** (1) No dealer shall represent that a  
25 collectible is autographed if it was signed other than by the sports  
26 personality in his or her own hand.

27 (2) No dealer shall sell or offer for sale in or from this state a  
28 collectible to a consumer unless, at the location where the sale  
29 occurs, in close proximity to the merchandise, the dealer places a  
30 conspicuous sign that reads:

31 **SALE OF SPORTS MEMORABILIA**

32 WASHINGTON STATE LAW REQUIRES THAT A DEALER WHO SELLS TO A  
33 CONSUMER ANY SPORTS MEMORABILIA DESCRIBED AS BEING AUTHENTIC OR  
34 PERSONALLY AUTOGRAPHED, FOR ONE HUNDRED DOLLARS OR MORE, MUST  
35 PROVIDE A WRITTEN CERTIFICATE OF AUTHENTICITY AT THE TIME OF  
36 SALE.

1 (3) A dealer engaged in a mailorder or telephone order business who  
2 sells or offers for sale in or from this state a collectible to a  
3 consumer shall include in an advertisement relating to an item the  
4 disclosure required by subsection (2) of this section. With respect to  
5 a written advertisement, the disclosure shall be made in type of  
6 conspicuous size.

7 NEW SECTION. **Sec. 5.** A person violating this chapter is guilty of  
8 a gross misdemeanor and shall incur the penalties set forth in RCW  
9 9.92.020.

10 NEW SECTION. **Sec. 6.** The legislature finds that the practices  
11 covered by this chapter are matters vitally affecting the public  
12 interest for the purpose of applying the consumer protection act,  
13 chapter 19.86 RCW. Violations of this chapter are not reasonable in  
14 relation to the development and preservation of business. A violation  
15 of this chapter is an unfair or deceptive act in trade or commerce and  
16 an unfair method of competition for the purpose of applying the  
17 consumer protection act, chapter 19.86 RCW.

18 NEW SECTION. **Sec. 7.** Sections 1 through 6 of this act shall  
19 constitute a new chapter in Title 19 RCW.

20 NEW SECTION. **Sec. 8.** This act shall take effect July 1, 1995.

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