
By: **Delegate Boston**
Introduced and read first time: February 13, 1998
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Flea Markets - Sales of Infant Formula, Food for Young Children, and**
3 **Nonprescription Drugs**

4 FOR the purpose of prohibiting the sale or offer for sale of infant formula, certain food
5 for children under a certain age, and nonprescription drugs at flea markets;
6 authorizing certain law enforcement authorities to seize infant formula, certain
7 food for children under a certain age, and nonprescription drugs sold or offered
8 for sale at flea markets; establishing certain penalties for certain violations of
9 this Act; establishing a certain task force; and generally relating to sales of
10 infant formula, food for young children, and nonprescription drugs at flea
11 markets.

12 BY adding to
13 Article - Business Regulation
14 The new subtitle "Subtitle 1. Tourism Services" to immediately precede Section
15 19-101; and 19-201 through 19-204, inclusive, to be under the new
16 subtitle "Subtitle 2. Sales of Infant Formula, Food for Consumption by
17 Young Children, and Nonprescription Drugs at Flea Markets"
18 Annotated Code of Maryland
19 (1992 Volume and 1997 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article - Business Regulation
22 Section 19-101(a)
23 Annotated Code of Maryland
24 (1992 Volume and 1997 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Business Regulation**

2 SUBTITLE 1. TOURISM SERVICES.

3 19-101.

4 (a) A person other than as an agent or employee of the United States or a state
5 or a political subdivision of the United States or a state may not use the word
6 "official", or its equivalent, in connection with a tourist or travelers' guide or
7 information service or with related advertising or publicity.

8 SUBTITLE 2. SALES OF INFANT FORMULA, FOOD FOR CONSUMPTION BY YOUNG
9 CHILDREN, AND NONPRESCRIPTION DRUGS AT FLEA MARKETS.

10 19-201.

11 (A) IN THIS SUBTITLE, "FLEA MARKET" MEANS AN EVENT:

12 (1) AT WHICH PERSONAL PROPERTY IS OFFERED OR DISPLAYED FOR
13 SALE OR EXCHANGE; AND

14 (2) (I) AT WHICH A FEE IS CHARGED FOR THE PRIVILEGE OF
15 OFFERING OR DISPLAYING PERSONAL PROPERTY FOR SALE OR EXCHANGE;

16 (II) AT WHICH A FEE IS CHARGED TO PROSPECTIVE BUYERS FOR
17 ADMISSION TO THE AREA WHERE PERSONAL PROPERTY IS OFFERED OR DISPLAYED
18 FOR SALE OR EXCHANGE;

19 (III) THAT IS HELD MORE THAN THREE TIMES IN ANY 12-MONTH
20 PERIOD; OR

21 (IV) THAT IS LONGER THAN 2 CONSECUTIVE DAYS.

22 (B) "FLEA MARKET" INCLUDES ANY EVENT THAT MEETS THE DESCRIPTION IN
23 SUBSECTION (A) OF THE SECTION WHETHER IT IS CALLED A FLEA MARKET OR ANY
24 OTHER NAME.

25 (C) "FLEA MARKET" DOES NOT INCLUDE:

26 (1) AN EVENT THAT IS ORGANIZED FOR THE EXCLUSIVE BENEFIT OF A
27 COMMUNITY FUND, OR A FUND, FOUNDATION, ASSOCIATION, OR CORPORATION
28 THAT IS ORGANIZED AND OPERATED FOR RELIGIOUS, EDUCATIONAL, OR
29 CHARITABLE PURPOSES; OR

30 (2) AN EVENT AT WHICH ALL OF THE PERSONAL PROPERTY OFFERED OR
31 DISPLAYED FOR SALE OR EXCHANGE IS NEW AND ALL PERSONS SELLING OR
32 EXCHANGING PERSONAL PROPERTY OR OFFERING OR DISPLAYING PERSONAL
33 PROPERTY FOR SALE OR EXCHANGE ARE MANUFACTURERS, WHOLESALERS,
34 DISTRIBUTORS, OR RETAILERS AUTHORIZED BY MANUFACTURERS, WHOLESALERS,
35 OR DISTRIBUTORS TO SELL PERSONAL PROPERTY.

1 19-202.

2 A PERSON MAY NOT SELL OR OFFER FOR SALE INFANT FORMULA, FOOD
3 MANUFACTURED AND PACKAGED FOR SALE AND CONSUMPTION BY A CHILD UNDER
4 THE AGE OF 2 YEARS, AND NONPRESCRIPTION DRUGS AT A FLEA MARKET.

5 19-203.

6 (A) A LAW ENFORCEMENT OFFICER MAY SEIZE AND HOLD IN CUSTODY AS
7 EVIDENCE INFANT FORMULA, FOOD MANUFACTURED AND PACKAGED FOR SALE AND
8 CONSUMPTION BY A CHILD UNDER THE AGE OF 2 YEARS, AND NONPRESCRIPTION
9 DRUGS THAT ARE SOLD OR OFFERED FOR SALE AT A FLEA MARKET.

10 (B) (1) ALL RIGHTS, TITLE, AND INTEREST IN THE PROPERTY SEIZED UNDER
11 THIS SECTION SHALL VEST IMMEDIATELY IN THE LOCAL GOVERNMENT, IF THE
12 PROPERTY IS SEIZED BY A LAW ENFORCEMENT OFFICER OF A LOCAL GOVERNMENT,
13 OR THE STATE, IF THE PROPERTY IS SEIZED BY STATE LAW ENFORCEMENT
14 AUTHORITIES.

15 (2) THE SEIZED PROPERTY MAY BE RETURNED ONLY TO:

16 (I) THE PERSON FROM WHOM IT WAS SEIZED; OR

17 (II) THE RIGHTFUL OWNER OF THE PROPERTY, IF THE OWNER CAN
18 BE IDENTIFIED FROM A MARK OR OTHER FORM OF IDENTIFICATION ON THE
19 PROPERTY OR CAN OTHERWISE PROVE OWNERSHIP OF THE PROPERTY.

20 (3) A CONVICTION, PLEA OF GUILTY OR NOLO CONTENDERE, OR
21 PROBATION UNDER ARTICLE 27, § 641 OF THE CODE IS PRIMA FACIE EVIDENCE THAT
22 THE PROPERTY IS CONTRABAND.

23 (C) THIS SECTION SHALL BE ENFORCED BY STATE OR LOCAL LAW
24 ENFORCEMENT AUTHORITIES.

25 19-204.

26 (A) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
27 OF A MISDEMEANOR AND ON CONVICTION FOR A FIRST OFFENSE IS SUBJECT TO A
28 FINE NOT EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 30 DAYS OR BOTH.

29 (B) A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY
30 OF A MISDEMEANOR AND ON CONVICTION FOR A SECOND OR FURTHER OFFENSE IS
31 SUBJECT TO A FINE OF NOT LESS THAN \$1,000 AND NOT EXCEEDING \$5,000 OR
32 IMPRISONMENT OF NOT LESS THAN 30 DAYS AND NOT EXCEEDING 60 DAYS OR BOTH.

33 SECTION 2. AND BE IT FURTHER ENACTED, That the Speaker of the House
34 of Delegates and the President of the Senate shall appoint a task force to study the
35 need to expand this Act to other personal property offered for sale at flea markets.
36 The task force shall consist of four representatives of State and local law enforcement
37 agencies, one flea market vendor, one flea market promoter or owner, two retailers,

1 and one member of the public, who shall serve as chairman. The task force shall
2 report to the appropriate standing committees of the House of Delegates and the
3 Senate on or before October 1, 1999.

4 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 1998.