

Department of Legislative Services
Maryland General Assembly
2007 Session

FISCAL AND POLICY NOTE

House Bill 1008
Economic Matters

(Delegate Feldman)

Commercial Law - Internet Auction Sales Act

This bill establishes requirements for offers to sell specified products through Internet auctions.

Fiscal Summary

State Effect: The bill would not materially affect the workload of the Judiciary.

Local Effect: None.

Small Business Effect: Minimal.

Analysis

Bill Summary: A person may not knowingly publish or cause to be published in an Internet auction an offer to sell a product in violation of this bill (the Internet Auction Sales Act).

A person may not sell or offer to sell the following products via an Internet action:

- infant formula or baby food that is subject to expiration dating requirements by the U.S. Food and Drug Administration (USFDA);
- any nonprescription drug, cosmetic, or infant formula or baby food that is not subject to expiration dating requirements by USFDA, with limited exceptions;
- a value loaded card, with limited exceptions; or

- a product containing pseudoephedrine sold in quantities exceeding that allowed under federal law.

If, in contemporaneous Internet auctions conducted by an Internet auctioneer, a person sells or offers to sell an aggregate of five or more value loaded cards that are issued by or on behalf of a retailer, the auctioneer, within 24 hours after the sale or offer must: (1) notify the retailer of the sale or offer by specified means; and (2) provide the retailer with information about the person, including the person's sales history and all aliases and accounts used by the person in Internet auctions conducted by that auctioneer. An Internet auctioneer does not violate these requirements if the auctioneer can demonstrate affirmatively that the auctioneer notified the retailer and provided the required information to the retailer.

An Internet auctioneer must terminate an auction immediately on receiving information that provides a reasonable basis to conclude that the auction violates a provision of the bill or the product offered for sale is stolen. An Internet auctioneer does not violate this provision if the auctioneer can demonstrate affirmatively: (1) the receipt of a record or document about the product in accordance with the bill; and (2) termination of an auction as required above.

A person who violates any provision of the bill is liable to the person affected by the violation for actual damages, a fine of up to \$5,000, and reasonable attorney's fees.

Also, a person affected by a violation may bring an action for an injunction against a violator and seek any other remedy available at law.

Current Law: Internet auction sales are not specifically regulated.

Generally, knowingly selling stolen merchandise is a theft crime that is punishable as a felony or misdemeanor depending on the value of the merchandise.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Judiciary (Administrative Office of the Courts), Office of the Attorney General (Consumer Protection Division), Department of Legislative Services

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bfl/jr

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