

BILL ANALYSIS

Senate Research Center
76R14557 DWS-D

C.S.H.B. 749
By: Van de Putte (Nelson)
Economic Development
5/5/1999
Committee Report (Substituted)

DIGEST

Currently, flea markets can be outlets for the sale of stolen, adulterated, or expired merchandise or merchandise that is required to be dispensed by a licensed physician or pharmacist. C.S.H.B. 749 would set forth provisions regarding the sale of certain items at a flea market and provide a penalty.

PURPOSE

As proposed, C.S.H.B. 749 sets forth provisions regarding the sale of certain items at a flea market and provides a penalty.

RULEMAKING AUTHORITY

This bill does not grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 35D, Business & Commerce Code, by adding Section 35.55, as follows:

Sec. 35.55. SALE OF ITEMS AT FLEA MARKET. Defines "flea market." Sets forth the conditions under which a person commits an offense when selling or offering to sell certain items at a flea market, in addition to any other sanctions provided by law. Provides that a person does not commit an offense under this section solely because the person provides spaces at a flea market. Sets forth what is considered to be a defense to prosecution under Subsection (b). Sets forth the conditions under which a person commits an offense when providing to another person an authorization under Subsection (d) (1) and certain other actions. Provides that an offense under this section is a misdemeanor punishable by a fine of not more than \$100. Requires a law enforcement agency investigating a violation of this section to maintain a record of the investigation. Provides that the record is public information. Provides that this section does not apply to the sale or offer for sale of a nutritional supplement or vitamin.

SECTION 2. Effective date: September 1, 1999.

SECTION 3. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 35.55, Chapter 35D, Business & Commerce Code, to set forth the conditions under which a person commits an offense when selling or offering to sell certain items at a flea market, in addition to any other sanctions provided by law, including infant formula or baby food of a type usually consumed by children younger than two years of age; a drug, as defined by Section 431.002, Health and Safety Code; and contact lenses, including disposable contact lenses. Deletes proposed Subsection (b) (3).