



John E. Rau

*Bill Analysis*  
Legislative Service Commission

## **S.B. 64**

123rd General Assembly  
(As Introduced)

Sens. Wachtmann, Drake

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### **BILL SUMMARY**

- Requires any person who offers certain kinds of new and unused personal property for sale to the general public at a flea market or at any other location to maintain for two years records of ownership of that property.
- Provides that failure to maintain the required records is a minor misdemeanor.

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### **CONTENT AND OPERATION**

#### **Persons offering new and unused personal property for sale must maintain certain records**

(sec. 1349.06(B)-(D))

The bill establishes a record-keeping requirement for persons who offer new and unused personal property for sale to the general public presumably to aid in the investigation of theft of merchandise offered for resale. By implication, the bill does not appear to apply to the sale of any used property. The bill requires any person who offers new and unused property for sale at a flea market or at any *other location* to maintain for two years records regarding that person's purchase and ownership of the property offered for sale.<sup>1</sup> The following records are required:

- (1) Date of purchase;

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<sup>1</sup> *The bill adopts the following definition of flea market: any location, other than a permanent retail store, at which space is rented or otherwise made available to others for the conduct of business as transient or limited vendors (sec. 3715.52(B)(4), not in the bill). However, since the bill uses the term "other location," it presumably applies also to any person selling new and unused personal property at a permanent retail store.*

- (2) Name and address of person or entity from whom the property was purchased;
- (3) Description of the property including any identifying marks;
- (4) Price paid for the property; and
- (5) Signatures of the seller and buyer.

If the property is valued at \$500 or more, a bill of sale containing the above required items is a sufficient record. Records are not required for property purchased before the bill's effective date.

Persons subject to the bill's requirements are also prohibited from knowingly falsifying, obliterating, or destroying any required records. In addition, subject to reasonable notice and a reasonable time to comply, persons offering new and unused personal property for sale must make the required records available to a law enforcement officer for inspection. Should the records required be lost, stolen, or inadvertently destroyed, a person subject to the bill's provisions will not be considered to be in failure to comply with those provisions if the person within 30 days of the loss, theft, or destruction notifies the sheriff of the county where the person's Ohio residence is located or where the person's principal place of business in the state is located and immediately resumes maintaining the required records. Although the bill does not directly address compliance by nonresidents, presumably it applies equally to residents and nonresidents who offer new and unused personal property for sale at flea markets and other locations in the state.

### **Exemptions**

(sec. 1349.06(F))

The bill exempts the following sales of personal property from its requirements:

- (1) Sales of motor vehicles, trailers, or semitrailers for which a certificate of title is required;
- (2) Sales of food, agricultural, or forestry products;
- (3) Sales at any industry or association trade show; and
- (4) Sales of any handmade or handcrafted items by the persons who produced them.

**Penalty**

(sec. 1349.06(E))

Failure to comply with the provisions of the bill is a minor misdemeanor.<sup>2</sup>

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**HISTORY**

| ACTION     | DATE     | JOURNAL ENTRY |
|------------|----------|---------------|
| Introduced | 02-19-99 | p. 128        |

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<sup>2</sup> A minor misdemeanor is punishable by a fine of no more than \$100 (see sec. 2929.21(D), not in the bill).