



**Sub. S.B. 64\***

123rd General Assembly  
(As Reported by H. Criminal Justice)

**Sens. Wachtmann, Drake, Watts, Spada**

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**BILL SUMMARY**

- Requires that each person that offers new and unused personal property for sale to the general public at a flea market or other location must maintain for at least two years a record of the person's purchases of that property.
- Prohibits a person from doing any of the following: (1) knowingly falsifying, obliterating, or destroying the above-described required record, (2) knowingly refusing or otherwise failing, upon the request of a law enforcement officer, to make the record available for inspection within a period of time that is reasonable under the circumstances surrounding the request, or (3) failing to comply with the requirements of the new record-keeping provisions.
- Provides that it is not a defense to a charge of receiving stolen property that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense.

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\* *This analysis was prepared before the report of the House Criminal Justice Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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## CONTENT AND OPERATION

### Record required to be kept by persons that sell new personal property to the general public

#### Required record to be kept

The bill requires that each person that offers new and unused personal property for sale to the general public at a flea market or other location must maintain for at least two years a record of the person's purchases of that property. For each purchase transaction, the record must include at least all of the following (sec. 1349.06(B)(1) and (3)):

- (1) The date of the transaction;
- (2) The name and address of the individual from whom, or the entity from which, the property was purchased;
- (3) A full and accurate description of the property purchased, including any identifying letters or marks on the property;
- (4) The price paid for the property.

With respect to a single purchase of property for \$500 or more, a bill of sale associated with the purchase that contains the above information is sufficient to satisfy the record requirements (sec. 1349.06(B)(2)).

#### Lost, stolen, or destroyed records

If the required record is lost, stolen, or destroyed, and the circumstances surrounding the loss, theft, or destruction do not constitute a violation of the bill's prohibitions described below, the person must do both of the following (sec. 1349.06(D)(1)):

- (1) Within 30 days after the loss, theft, or destruction, give notice of the loss, theft, or destruction to the sheriff of the county in which the person's principal Ohio residence or principal place of business in Ohio is located;
- (2) Immediately begin maintaining a new record as required by the bill's record-keeping requirements.

A person that notifies the sheriff in accordance with paragraph (1), above, is in compliance with the record maintenance requirements as to any record that was lost, stolen, or destroyed and is a subject of the notice (sec. 1349.06(D)(2)).

### **Prohibitions**

The bill prohibits a person from doing any of the following (sec. 1349.06(C)):

(1) Knowingly falsifying, obliterating, or destroying the record required to be maintained by the bill;

(2) Knowingly refusing or otherwise failing, upon the request of a law enforcement officer, to make the record required to be maintained available for inspection within a period of time that is reasonable under the circumstances surrounding the request. The bill provides that nothing in this prohibition requires that a law enforcement officer be given immediate access to the record without reasonable notice.

(3) Failing to comply with the bill's record-keeping requirements or any of its prohibitions.

A person who violates any of these prohibitions is guilty of a minor misdemeanor (sec. 1349.99).

### **Exceptions**

The above-described provisions do not apply to any of the following (sec. 1349.06(E)):

(1) The sale of a motor vehicle, trailer, or semitrailer that is required to be registered under the Licensing of Motor Vehicle Laws or for which a certificate of title is required under the Certificate of Motor Vehicle Title Laws;

(2) The sale of food products, agricultural products, or forestry products;

(3) Any business conducted at an industry or association trade show;

(4) The sale of handmade or handcrafted items by the individual who produced the items.

### **Applicability**

The above provisions apply to all new and unused personal property that a person on or after the effective date of the bill purchases for sale to the general public (Section 3 of the bill).

## Receiving stolen property

### Existing law

Existing law prohibits a person from receiving, retaining, or disposing of property of another knowing or having reasonable cause to believe that the property has been obtained through commission of a theft offense. A person who violates this prohibition is guilty of receiving stolen property. Generally, receiving stolen property is a misdemeanor of the first degree. If the value of the property involved is \$500 or more and is less than \$5,000 or if the property involved is any of specified property, receiving stolen property is a felony of the fifth degree. If the property involved is a motor vehicle, a dangerous drug, or a firearm or dangerous ordnance or if the value of the property involved is \$5,000 or more and is less than \$100,000, receiving stolen property is a felony of the fourth degree. If the value of the property involved is \$100,000 or more, receiving stolen property is a felony of the third degree. (Sec. 2913.51.)

### Operation of the bill

The bill provides that it is not a defense to a charge of receiving stolen property that the property was obtained by means other than through the commission of a theft offense if the property was explicitly represented to the accused person as being obtained through the commission of a theft offense (sec. 2913.51(B)).

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## COMMENT

As used in the bill, "flea market" means 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. 1349.06(A), by reference to sec. 3715.52(B)(4)--not in the bill).

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## HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-16-99	p. 128
Reported, S. Economic Development, Technology, & Aerospace	05-05-99	pp. 389-390
Passed Senate (31-2)	05-05-99	p. 394
Reported, H. Criminal Justice	---	---

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