

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 138

An Act to amend and reenact § 54.1-4300 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 43 of Title 54.1 a section numbered 54.1-4305, relating to itinerant merchants; regulated products; penalty.

[S 24]

Approved March 22, 2002

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-4300 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 43 of Title 54.1 a section numbered 54.1-4305 as follows:

§ 54.1-4300. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Infant formula" or "baby formula" means any food manufactured, packaged and labeled specifically for sale for consumption by a child under the age of two years.

"Itinerant merchant" means a merchant, other than a merchant with an established store, regularly open to the public or a licensed merchant with a regularly serviced supply route or location who transports an inventory of new merchandise to a building, vacant lot, or other location and who, at that location, displays, sells or offers to sell the new merchandise to the public. Itinerant merchant shall not include a merchant with an established store, regularly open to the public; a licensed merchant with a regularly serviced supply route or location; or a merchant who purchases merchandise directly from a manufacturer.

"New merchandise" means goods or products which are not used but are in a similar condition as the goods or products wholesaled by manufacturers or suppliers to established retail stores for first-time purchase by consumers. New merchandise shall not include (i) crafts or goods made by the seller or his own household; (ii) food stuffs; (iii) the seller's own household personal property; (iv) merchandise sold by nonprofit charitable, educational or religious organizations or at events sponsored by such organizations; or (v) merchandise sold during parades, festivals, sporting or entertainment events, civic or fundraising activities sponsored by nonprofit charitable, educational or religious organizations.

"Nonprescription drug" means any substances or mixture of substances containing medicines or drugs for which no prescription is required and which are generally sold for internal or topical use in the cure, mitigation, treatment, or prevention of disease in human beings.

§ 54.1-4305. Prohibited sale of certain merchandise; penalty.

A. No itinerant merchant shall offer for sale or knowingly permit the sale of any infant formula, baby formula or nonprescription drugs. This section shall not apply to any person who maintains for public inspection a valid authorization identifying such person as an authorized representative of the manufacturer or distributor of the prohibited merchandise.

B. Any person convicted of violating this section shall be guilty of a Class 3 misdemeanor on the first offense. Upon conviction of any subsequent offense he shall be guilty of a Class 2 misdemeanor.