

961194442

HOUSE BILL NO. 1116

Offered January 22, 1996

A BILL to amend the Code of Virginia by adding in Title 54.1 a chapter numbered 43, consisting of sections numbered 54.1-4300 through 54.1-4307, relating to the regulation of peddlers; penalty.

Patrons—Ruff, Albo, Katzen, Mims, Moran and O'Brien; Senators: Quayle and Waddell

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 54.1 a chapter numbered 43, consisting of sections numbered 54.1-4300 through 54.1-4307, as follows:

CHAPTER 43.

PEDDLERS, ITINERANT MERCHANTS, AND SPECIALTY MARKET VENDORS.

§ 54.1-4300. Definitions.

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

"Itinerant merchant" means a merchant, other than a merchant with an established retail store, who transports an inventory of goods to a building, vacant lot, or other location and who, at that location, displays the goods for sale and sells or offers to sell the goods at retail.

"Merchant" means an itinerant merchant, peddler or specialty market vendor.

"Peddler" means a natural person who travels from place to place with an inventory of goods, who sells or offers to sell the goods at retail, and who delivers the identical goods he carries with him.

"Specialty market" means a location, other than a permanent retail store, where space is rented to others for the purpose of selling or offering to sell goods at retail.

"Specialty market vendor" means a merchant, other than a merchant with an established retail store, who transports an inventory of goods to a specialty market and who, at that location, displays the goods for sale and sells or offers to sell the goods at retail.

§ 54.1-4301. Exemptions.

The provisions of this chapter shall not apply to:

1. A peddler or itinerant merchant who:

- a. Sells farm or nursery products produced by him;
- b. Sells crafts or goods made by him or his own household personal property;
- c. Is a nonprofit charitable, educational, religious, scientific, or civic organization; or
- d. Sells printed material, wood for fuel, ice, seafood, meat, poultry, livestock, eggs, dairy products, bread, cakes, or pies;

2. A peddler who maintains a fixed permanent location from which he makes at least ninety percent of his sales, but who sells some goods in the county of his fixed location by peddling.

3. An itinerant merchant who:

- a. Locates at a farmer's market;
- b. Is part of the State Fair or an agriculture fair which is licensed by the Commissioner of Agriculture; or
- c. Sells goods at an auction conducted by an auctioneer licensed pursuant to Chapter 6 (§ 54.1-600 et seq.) of this title.

§ 54.1-4302. Records to be kept.

Each merchant shall keep an accurate and legible record of the source of new merchandise that he offers for sale, for three years after the merchandise is sold. The record shall be a receipt or an invoice from the person who sold the merchandise to the merchant. The invoice or receipt shall specifically identify the product being sold by product name and quantity purchased, and shall contain the complete business name of the seller and a description of the type of business. If the seller is a natural person, the receipt or invoice shall contain the seller's driver's license number, its state of issuance and expiration date, and the seller's date of birth.

§ 54.1-4303. Officers may examine records or property; warrantless search and seizure authorized.

Upon the request of any law-enforcement officer of the local, state or federal government, a merchant shall permit the officer to (i) examine all records required by this chapter and any article listed in a record which has not been sold by the merchant and which is believed by the officer to be missing or stolen and (ii) search for and take into possession any article known to him to be missing, or known or believed by him to have been stolen.

§ 54.1-4304. Prohibited purchases.

No merchant shall purchase merchandise from any seller who the merchant believes or has reason to

INTRODUCED

HB1116

60 believe is not the owner of such items, unless the seller has written and duly authenticated authorization
61 from the owner permitting and directing such sale.

62 § 54.1-4305. Permit required; method of obtaining permit; no convictions of certain crimes.

63 A. No person shall engage in the activities of a merchant without first obtaining a permit from the
64 chief law-enforcement officer of each county, city, or town in which he proposes to engage in business.

65 B. To obtain a permit, the merchant shall file with the proper chief law-enforcement officer an
66 application form which includes the dealer's full name, any aliases, address, age, date of birth, sex, and
67 fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the
68 locations where the merchant proposes to conduct his business. Upon filing this application and the
69 payment of a \$25 application fee, the merchant shall be issued a permit by the chief law-enforcement
70 officer or his designee, provided that the applicant has not been convicted of a felony or crime of moral
71 turpitude within seven years prior to the date of application. The permit shall be denied if the applicant
72 has been denied a permit or has had a permit revoked under any ordinance similar in substance to the
73 provisions of this chapter.

74 C. This permit shall be valid for one year from the date issued and may be renewed in the same
75 manner as such permit was initially obtained with an annual permit fee of \$25. No permit shall be
76 transferable.

77 § 54.1-4306. Penalties; first and subsequent offenses.

78 A. Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2
79 misdemeanor for the first offense. Upon conviction of any subsequent offense he shall be guilty of a
80 Class 1 misdemeanor.

81 B. Upon the first conviction of a merchant for violation of any provision of this chapter, the chief
82 law-enforcement officer may revoke the merchant's permit for one full year from the date the conviction
83 becomes final. Such revocation shall be mandatory upon a second conviction.

84 § 54.1-4307. Local ordinances.

85 Nothing in this chapter shall prevent any county, city, or town in the Commonwealth from enacting
86 an ordinance regulating peddlers, itinerant merchants and specialty market vendors which parallels this
87 chapter, or which imposes terms, conditions, and fees that are stricter, more comprehensive, or larger
88 than those imposed by this chapter. In any event, the terms, conditions, and fees imposed by this chapter
89 shall constitute minimum requirements in any local ordinance. Any fee in excess of the one specified in
90 § 54.1-4108 shall be reasonably related to the cost of enforcement of such local ordinance.