

HOUSE BILL 831

C2

0lr0465

By: **Delegates Beidle, Love, and Sophocleus**

Introduced and read first time: February 9, 2010

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Flea Markets – Sale of Baby Food, Cosmetics, and Nonprescription Drugs –**
3 **Prohibited**

4 FOR the purpose of prohibiting a person from selling, offering to sell, or knowingly
5 permitting the sale of certain baby food, cosmetics, and nonprescription drugs at
6 a flea market; providing certain exceptions to the prohibition; providing for the
7 application of this Act; establishing a certain penalty for a violation of this Act;
8 defining certain terms; and generally relating to the sale of goods at flea
9 markets.

10 BY repealing and reenacting, without amendments,
11 Article – Business Regulation
12 Section 17–1801(a), (d), (f), and (g) and 17–1804(a)
13 Annotated Code of Maryland
14 (2004 Replacement Volume and 2009 Supplement)

15 BY adding to
16 Article – Business Regulation
17 Section 17–1817
18 Annotated Code of Maryland
19 (2004 Replacement Volume and 2009 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – Business Regulation**

23 17–1801.

24 (a) In this subtitle the following words have the meanings indicated.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (d) "Exhibitor" means a person who rents space from a promoter to display
2 and sell goods at a show.

3 (f) "Promoter" means a person who rents space at a show to an exhibitor.

4 (g) "Show" includes an antique show, coin show, flea market, gun show,
5 stamp show, and show of a temporary nature.

6 17-1804.

7 (a) Except as otherwise provided in this subtitle, a person must have a
8 trader's license whenever the person:

9 (1) does business as a trader in the State; or

10 (2) does business as an exhibitor in the State.

11 17-1817.

12 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE
13 MEANINGS INDICATED.

14 (2) (I) "BABY FOOD" MEANS FOOD MANUFACTURED,
15 PACKAGED, AND LABELED SPECIFICALLY FOR SALE FOR CONSUMPTION BY A
16 CHILD UNDER THE AGE OF 2 YEARS.

17 (II) "BABY FOOD" INCLUDES INFANT FORMULA.

18 (3) (I) "COSMETICS" MEANS MERCHANDISE THAT IS INTENDED
19 TO BE RUBBED, Poured, SPRINKLED, OR SPRAYED ONTO, INTRODUCED INTO,
20 OR OTHERWISE APPLIED TO THE HUMAN BODY OR ANY PART OF THE HUMAN
21 BODY FOR CLEANSING, BEAUTIFYING, PROMOTING ATTRACTIVENESS, OR
22 ALTERING THE APPEARANCE OF THE HUMAN BODY OR ANY PART OF THE
23 HUMAN BODY.

24 (II) "COSMETICS" INCLUDES RAZOR BLADES.

25 (III) "COSMETICS" DOES NOT INCLUDE SOAP.

26 (4) (I) "NONPRESCRIPTION DRUGS" MEANS NONNARCOTIC
27 MEDICINES AND DRUGS THAT MAY BE SOLD WITHOUT A PRESCRIPTION.

28 (II) "NONPRESCRIPTION DRUGS" INCLUDES DRUGS
29 COMMONLY KNOWN AS OVER-THE-COUNTER DRUGS, HERBAL PRODUCTS,
30 DIETARY SUPPLEMENTS, BOTANICAL EXTRACTS, VITAMINS, AND SUBSTANCES

1 RECOGNIZED AS DRUGS IN THE UNITED STATES PHARMACOPOEIA AND
2 NATIONAL FORMULARY, THE HOMEOPATHIC PHARMACOPOEIA OF THE UNITED
3 STATES, OR A SUPPLEMENT TO THOSE PUBLICATIONS.

4 (B) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBTITLE,
5 THIS SECTION APPLIES TO A FLEA MARKET SPONSORED BY A CHARITABLE
6 ORGANIZATION THAT IS EXEMPT FROM TAXATION UNDER § 501(C)(3) OF THE
7 INTERNAL REVENUE CODE.

8 (C) (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3) OF THIS
9 SUBSECTION, A PERSON MAY NOT SELL, OFFER FOR SALE, OR KNOWINGLY
10 PERMIT THE SALE OF BABY FOOD, COSMETICS, OR NONPRESCRIPTION DRUGS
11 AT A FLEA MARKET.

12 (2) A REPRESENTATIVE OF A MANUFACTURER, DISTRIBUTOR, OR
13 WHOLESALE MAY SELL BABY FOOD, COSMETICS, AND NONPRESCRIPTION
14 DRUGS AT A FLEA MARKET IF THE REPRESENTATIVE HAS WRITTEN PROOF OF
15 AUTHORITY TO SELL THE ITEMS AT RETAIL.

16 (3) A PERSON MAY SELL BABY FOOD, COSMETICS, AND
17 NONPRESCRIPTION DRUGS AT A FLEA MARKET IF THE PERSON HAS WRITTEN
18 PROOF OF OWNERSHIP OF THE ITEMS.

19 (D) A PERSON WHO KNOWINGLY VIOLATES THIS SECTION IS GUILTY OF
20 A MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING
21 \$250 FOR EACH VIOLATION.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.