

SENATE BILL 71

By Bunch

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 14, Part 1 and Title 47, Chapter 25, Part 5, relative to liability for the sale of certain items at flea markets.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-25-512, is amended by designating the existing language as subsection (a) and by adding the following new subsection (b):

(b)

(1) If a retailer, as defined in § 67-6-102(72), violates this part; title 47, chapter 18, part 1; title 47, chapter 25, part 11; or § 39-14-152, by using, selling, displaying, offering for sale or possessing at a flea market, as defined in § 67-6-102(37), an item that bears or is identified by a copy, reproduction, counterfeit or colorable imitation of a registered mark, the flea market operator, as defined in § 67-6-102(38), shall not be vicariously liable to the owner of the registered mark for any damages resulting from the violation.

(2) The immunity from civil damages granted the flea market operator by this subsection shall not apply if the operator knew that the registered mark on the item being used, sold, displayed, offered for sale or possessed was a copy, reproduction, counterfeit or colorable imitation of the original mark and the operator made no reasonable effort to report or prevent the violation.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it and shall apply to all applicable violations occurring on or after the effective date.