

BUSINESS AND COMMERCE CODE

TITLE 6. SALE OR TRANSFER OF GOODS

CHAPTER 201. SALE OF ITEMS AT FLEA MARKETS

Sec. 201.001. DEFINITION. In this chapter, "flea market" means a location at which booths or similar spaces are rented or otherwise made temporarily available to two or more persons and at which the persons offer tangible personal property for sale. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 201.002. INAPPLICABILITY OF CHAPTER TO CERTAIN ITEMS. This chapter does not apply to the sale or offer for sale of a nutritional supplement or vitamin. Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 201.003. SALE OF CERTAIN ITEMS PROHIBITED. (a) A person commits an offense if the person sells or offers for sale at a flea market:

- (1) infant formula or baby food of a type usually consumed by children younger than two years of age;
- (2) a drug, as defined by Section 431.002, Health and Safety Code; or
- (3) contact lenses, including disposable contact lenses.

(b) It is a defense to prosecution under this section that the person selling the item:

- (1) is authorized in writing to sell the item at retail by the manufacturer of the item or the manufacturer's authorized distributor and the authorization states the person's name; and
- (2) provides the authorization for examination by any person at the flea market who requests to see the authorization.

(c) It is a defense to prosecution under this section that only a sample of the item or a catalog or brochure displaying the item was available at the flea market and the item sold was not delivered to the buyer at the flea market.

(d) An offense under this section is a misdemeanor punishable by a fine not to exceed \$100.

(e) The penalty provided by this section is in addition to any other sanction provided by law.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 201.004. FRAUDULENT AUTHORIZATION FOR SALE OF CERTAIN ITEMS AT RETAIL. (a) A person commits an offense if the person provides to another person an authorization under Section 201.003(b) and:

(1) the authorization is forged or contains a false statement; or

(2) the person displaying the authorization obtained the authorization by fraud.

(b) An offense under this section is a misdemeanor punishable by a fine not to exceed \$100.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 201.005. PROVISION OF BOOTH OR SIMILAR SPACE NOT AN OFFENSE. A person does not commit an offense under this chapter solely because the person provides booths or similar spaces at a flea market.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.

Sec. 201.006. INVESTIGATION RECORDS REQUIRED. A law enforcement agency investigating a violation of this chapter shall maintain a record of the investigation. The record is public information.

Added by Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 2.01, eff. April 1, 2009.