

State of Arizona
House of Representatives
Forty-fourth Legislature
Second Regular Session
2000

HB 2002

Introduced by
Representative Kyle

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 26; RELATING TO SWAP MEETS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding
3 chapter 26, to read:

4 CHAPTER 26

5 SWAP MEETS

6 ARTICLE 1. GENERAL PROVISIONS

7 44-7001. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "MANUFACTURER'S OR DISTRIBUTOR'S REPRESENTATIVE" MEANS ANY PERSON
10 WHO HAS AVAILABLE FOR PUBLIC INSPECTION WRITTEN PROOF OF AUTHORIZATION FROM
11 THE MANUFACTURER OR DISTRIBUTOR OF A PRODUCT TO OFFER THAT PRODUCT FOR PUBLIC
12 RETAIL SALE.

13 2. "NEW AND UNUSED PERSONAL PROPERTY" MEANS TANGIBLE PERSONAL PROPERTY
14 THAT HAS ALL OF THE FOLLOWING CHARACTERISTICS:

15 (a) WAS ACQUIRED BY THE VENDOR DIRECTLY FROM THE PRODUCER,
16 MANUFACTURER, WHOLESALER OR RETAILER OF THAT PROPERTY IN THE ORDINARY COURSE
17 OF BUSINESS.

18 (b) HAS NEVER BEEN USED SINCE THE PROPERTY WAS ORIGINALLY PRODUCED OR
19 MANUFACTURED.

20 (c) IS IN ITS ORIGINAL AND UNOPENED PACKAGE OR CONTAINER, IF THE
21 PROPERTY WAS PACKAGED WHEN IT WAS ORIGINALLY PRODUCED OR MANUFACTURED.

22 3. "SWAP MEET":

23 (a) MEANS ANY EVENT, INCLUDING A FLEA MARKET, AT WHICH PERSONAL
24 PROPERTY IS OFFERED FOR SALE OR EXCHANGE:

25 (i) BY AT LEAST TWO PERSONS AND A FEE IS CHARGED TO VENDORS FOR THE
26 PRIVILEGE OF OFFERING OR DISPLAYING THE PERSONAL PROPERTY OR TO PROSPECTIVE
27 BUYERS FOR ADMISSION TO THE AREA WHERE THE PERSONAL PROPERTY IS OFFERED OR
28 DISPLAYED FOR SALE.

29 (ii) REGARDLESS OF THE NUMBER OF PERSONS WHO OFFER OR DISPLAY PERSONAL
30 PROPERTY OR THE ABSENCE OF FEES, IF THE EVENT IS HELD MORE THAN SIX TIMES IN
31 ANY TWELVE MONTH PERIOD.

32 (b) DOES NOT INCLUDE ANY EVENT:

33 (i) THAT IS HELD FOR THE EXCLUSIVE BENEFIT OF ANY COMMUNITY CHEST,
34 FUND, FOUNDATION, ASSOCIATION OR CORPORATION THAT IS ORGANIZED AND OPERATED
35 EXCLUSIVELY FOR RELIGIOUS, EDUCATIONAL OR CHARITABLE PURPOSES.

36 (ii) AT WHICH ALL OF THE PERSONAL PROPERTY THAT IS OFFERED FOR SALE OR
37 DISPLAYED IS NEW AND UNUSED PERSONAL PROPERTY AND ALL OF THE PERSONS WHO
38 SELL, EXCHANGE, OFFER OR DISPLAY THE PERSONAL PROPERTY ARE MANUFACTURER'S OR
39 DISTRIBUTOR'S REPRESENTATIVES.

40 4. "VENDOR" MEANS A PERSON WHO OFFERS FOR SALE OR EXCHANGE AT LEAST
41 SIX LIKE ITEMS OF NEW AND UNUSED PERSONAL PROPERTY AT A SWAP MEET IN THIS
42 STATE.

43 44-7002. Prohibited sales

1 A VENDOR WHO IS NOT A MANUFACTURER'S OR DISTRIBUTOR'S REPRESENTATIVE
2 SHALL NOT SELL OR OFFER FOR SALE OR EXCHANGE AT A SWAP MEET ANY OF THE
3 FOLLOWING ITEMS:

4 1. FOOD PRODUCTS THAT ARE MANUFACTURED AND PACKAGED SPECIFICALLY FOR
5 CONSUMPTION BY A CHILD WHO IS LESS THAN TWO YEARS OF AGE.

6 2. NONPRESCRIPTION OR OVER-THE-COUNTER DRUGS OR MEDICATIONS OTHER THAN
7 HERBAL PRODUCTS, DIETARY SUPPLEMENTS, BOTANICAL EXTRACTS OR VITAMINS.

8 3. COSMETIC OR PERSONAL CARE PRODUCTS THAT HAVE NO EXPIRATION DATE.

9 44-7003. Exemptions

10 THIS CHAPTER DOES NOT APPLY TO:

11 1. THE SALE OF A MOTOR VEHICLE OR TRAILER THAT IS REQUIRED TO BE
12 REGISTERED OR IS SUBJECT TO THE CERTIFICATE OF TITLE LAWS OF THIS STATE.

13 2. THE SALE OF AGRICULTURAL PRODUCTS, FORESTRY PRODUCTS, LIVESTOCK OR
14 FOOD PRODUCTS OTHER THAN THOSE PRODUCTS THAT ARE MANUFACTURED AND PACKAGED
15 SPECIFICALLY FOR CONSUMPTION BY A CHILD WHO IS LESS THAN TWO YEARS OF AGE.

16 3. BUSINESS THAT IS CONDUCTED AT ANY INDUSTRY OR ASSOCIATION TRADE
17 SHOW.

18 4. THE SALE OF ARTS OR CRAFTS BY THE PERSON WHO PRODUCED THOSE ARTS
19 AND CRAFTS.

20 5. ANY PERSON WHO DISPLAYS ONLY SAMPLES, CATALOGS OR BROCHURES AND WHO
21 SELLS PROPERTY FOR FUTURE DELIVERY.

22 44-7004. Transaction receipts and records; retention

23 A. EVERY VENDOR SHALL MAINTAIN RECEIPTS OR A PERMANENT RECORD BOOK FOR
24 ALL TRANSACTIONS OF NEW AND UNUSED PERSONAL PROPERTY THAT CONTAINS ALL OF THE
25 FOLLOWING INFORMATION:

26 1. THE DATE OF THE TRANSACTION WHEN THE PROPERTY WAS ACQUIRED.

27 2. THE NAME AND ADDRESS OF THE PERSON FROM WHOM THE PROPERTY WAS
28 ACQUIRED.

29 3. AN IDENTIFICATION AND DESCRIPTION OF THE ACQUIRED PROPERTY.

30 4. THE PRICE PAID FOR THE ACQUIRED PROPERTY.

31 5. THE SIGNATURES OF THE PERSON WHO SOLD THE PROPERTY AND THE VENDOR.

32 B. THE VENDOR SHALL MAINTAIN THE RECEIPTS OR RECORD BOOK PRESCRIBED IN
33 SUBSECTION A FOR AT LEAST ONE YEAR AFTER THE DATE OF THE TRANSACTION.

34 C. ANY VENDOR WHO IS REQUIRED TO MAINTAIN RECEIPTS OR A RECORD BOOK
35 PURSUANT TO THIS SECTION SHALL NOT KNOWINGLY:

36 1. FALSIFY, OBLITERATE OR DESTROY THE RECEIPTS OR RECORD BOOK.

37 2. REFUSE OR FAIL TO MAKE THE RECEIPTS OR RECORD BOOK AVAILABLE FOR
38 INSPECTION ON THE REQUEST OF A LAW ENFORCEMENT OFFICER WITHIN A REASONABLE
39 PERIOD OF TIME UNDER THE CIRCUMSTANCES AT THE TIME OF THE REQUEST.

40 3. PRESENT CREDENTIALS PURSUANT TO THIS CHAPTER THAT ARE FALSE,
41 FRAUDULENT, FORGED OR FRAUDULENTLY OBTAINED.

42 D. THIS SECTION DOES NOT REQUIRE A VENDOR TO POSSESS THE RECEIPTS OR
43 RECORD BOOK ON OR ABOUT THE VENDOR'S PERSON WITHOUT REASONABLE NOTICE.

44 44-7005. Violation; classification

45 A PERSON WHO VIOLATES THIS CHAPTER IS GUILTY OF A CLASS 3 MISDEMEANOR.