

By Senator Lee

23-740A-98

1 A bill to be entitled
 2 An act relating to sales by itinerant
 3 merchants; defining the term "itinerant
 4 merchant"; requiring that an itinerant merchant
 5 retain the invoice or receipt for any
 6 merchandise intended for resale; specifying
 7 information to be included on the invoice or
 8 receipt; requiring that an itinerant merchant
 9 retain an invoice or receipt for a specified
 10 period following sale of the merchandise;
 11 providing that failure to produce the invoice
 12 or receipt upon the request of a law
 13 enforcement officer is prima facie evidence
 14 that the merchandise is stolen; providing for
 15 confiscation of stolen merchandise until proof
 16 of purchase is provided; providing for a sworn
 17 affidavit to constitute proof that merchandise
 18 is not stolen merchandise; providing a penalty;
 19 providing that selling or offering for sale
 20 stolen merchandise constitutes the offense of
 21 dealing in stolen property; providing an
 22 effective date.

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 24 Be It Enacted by the Legislature of the State of Florida:
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26 Section 1. Sales by itinerant merchants; definition;
 27 invoice or receipt required; penalties.--

28 (1) As used in this section, the term "itinerant
 29 merchant" means a person engaged in the business of making
 30 sales at retail or for distribution, or use, or consumption,
 31 or storage to be used or consumed in this state, and who

1 solicits, engages in, transacts, or offers for sale any new or
2 used merchandise either in one location or while traveling
3 from place to place in this state. The term includes any
4 person who does not intend to become or who does not become a
5 permanent merchant at any one location and who, for the
6 purpose of transacting such business, rents, hires, leases,
7 occupies, or uses any building, structure, lot, tract, motor
8 vehicle, sample case, display case, or any portion thereof,
9 for the exhibition and sale of goods, wares, or merchandise.
10 The term does not include a person who occasionally sells
11 tangible personal property from his or her place of residence
12 if the person does not hold himself or herself out as engaged
13 in business and if the person does not conduct more than two
14 sales events per year.

15 (2)(a) An itinerant merchant must retain a legitimate
16 invoice or receipt for any merchandise purchased or obtained
17 by the itinerant merchant with the intent to resell. The
18 invoice or receipt must have been issued by the person who
19 sold the merchandise to the itinerant merchant. The invoice or
20 receipt must specifically identify the merchandise being sold
21 or offered for sale by name of the merchandise, quantity
22 purchased, date sold, and price, and must contain the complete
23 business name, the business address, and a description of the
24 type of business operated by the person who sold the
25 merchandise to the itinerant merchant. If the person who sold
26 the merchandise to the itinerant merchant was an individual,
27 the invoice or receipt must contain such person's driver's
28 license number or the identification number issued to the
29 person by the state, the dates of issuance and expiration of
30 the driver's license or identification card, and such person's
31 date of birth.

1 (b) An itinerant merchant shall keep the invoice or
2 receipt required under paragraph (a) at the location where the
3 merchandise is sold or offered for sale and shall retain such
4 record for 1 year after the date the merchandise is sold.

5 (3)(a) If a law enforcement officer reasonably
6 believes that merchandise sold or offered for sale by an
7 itinerant merchant may have been stolen, the law enforcement
8 officer may request the itinerant merchant to produce the
9 invoice or receipt that shows the source of the merchandise
10 sold or offered for sale. Failure to produce the invoice or
11 receipt is prima facie evidence that the merchandise is
12 stolen. If an itinerant merchant fails to produce proof of
13 purchase for merchandise, the law enforcement officer may
14 confiscate the merchandise until such proof of purchase is
15 provided.

16 (b) In lieu of an invoice or receipt that shows the
17 source of merchandise, an itinerant merchant may provide a
18 sworn affidavit that contains the information required to be
19 contained in the invoice or receipt under paragraph (2)(a).

20 (4)(a) An itinerant merchant who fails to retain an
21 invoice or receipt as required in paragraph (2)(a) or
22 paragraph (2)(b) commits a misdemeanor of the first degree,
23 punishable as provided in section 775.082 or section 775.083,
24 Florida Statutes.

25 (b) An itinerant merchant who sells or offers for sale
26 stolen merchandise commits the offense of dealing in stolen
27 property, prohibited under section 812.019, Florida Statutes.

28 Section 2. This act shall take effect July 1, 1998.

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SENATE SUMMARY

Defines the term "itinerant merchant" to mean a person who sells merchandise without intending to become a permanent merchant at any one location. Requires that an itinerant merchant retain the invoice or receipt for any merchandise that the itinerant merchant intends to resell and retain for 1 year the invoice or receipt for any merchandise sold. Requires that specified information be included on the invoice or receipt. Authorizes a law enforcement officer to request that an itinerant merchant produce an invoice or receipt if the officer reasonably believes that the merchandise may have been stolen. Provides that failure to produce the invoice or receipt upon such request is prima facie evidence that the merchandise is stolen. Provides that it is a first-degree misdemeanor to fail to retain an invoice or receipt as required. Provides that an itinerant merchant who sells or offers stolen merchandise for sale commits the second-degree felony of dealing in stolen property.