

**REPORT OF THE
DEPARTMENT OF COMMERCE
ON**

The Need for the Regulation of Flea Market Operators

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



House Document No. 6

**COMMONWEALTH OF VIRGINIA
RICHMOND
1986**

HOUSE JOINT RESOLUTION NO. 197

Requesting the Board of Commerce to conduct a study of the desirability and feasibility of regulation of flea market operators.

Agreed to by the House of Delegates, February 4, 1985

Agreed to by the Senate, February 20, 1985

WHEREAS, the practice of certain professions and occupations is regulated by state law for the protection of the health, safety and welfare of the public; and

WHEREAS, § 54-1.25 of the Code of Virginia places upon the Board of Commerce the duty of evaluating professions and occupations not currently regulated for consideration of whether the profession or occupation should be regulated; and

WHEREAS, flea market are operated throughout the Commonwealth with little or no supervision; and

WHEREAS, stolen merchandise is sometimes sold through flea markets, and the identity of the sellers is not required to be recorded; and

WHEREAS, the public would be protected if certain information regarding the sellers at flea markets were recorded and retained for a reasonable period of time, including the seller's name, address, and social security number, the license number and description of the motor vehicle of the seller, and a description of the merchandise offered for sale on a particular date; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Board of Commerce is requested to study the desirability and feasibility of regulation of flea market operators; and, be it

RESOLVED FURTHER, That should the Board of Commerce determine that regulation of flea market operators is warranted, the Board shall recommend to the General Assembly a regulatory system necessary to conduct the degree of regulation required. The Board is requested to report the results of this study, together with any legislative recommendations, to the 1986 Session of the General Assembly.

Executive Summary

The Board of Commerce believes that flea markets provide a useful outlet for people who want to sell second hand merchandise or wares. The convenience of flea markets makes it easy for anyone desiring to sell goods to do so quickly and with a minimum of government regulation.

It is the recommendation of the Board of Commerce that only minimal regulation, such as that of recordkeeping, be considered for this activity by the General Assembly.

Background Information

House Joint Resolution 197, sponsored by Delegate Royston Jester, III, directed the Virginia Board of Commerce to study the need for the regulation of flea market operators. The Board of Commerce created a subcommittee for this purpose at its February 22, 1985 meeting. The committee members were John S. Weaver, Jr., Chairman and Rosalie B. Whitehead.

For the purpose of this study the Board recognized flea markets as shows or exhibits where a group of persons or merchants sell goods, wares, antiques, art works, crafts, second hand articles or any combination of these from booth or table space rented from the organizer or promoter of the event. It is not unusual for the event's organizer to also engage in the selling of merchandise he has purchased.

It is not known how many flea markets are in operation in Virginia. The nature of the business is such that it is not unlikely for those markets to move location. 38 flea markets were identified that advertise from fixed locations in Virginia. It is believed that there are significantly more in operation throughout the Commonwealth.

According to the Council of State Governments, no state currently regulates flea market operators in the traditional sense of occupational regulation (i.e., regulating board, profession entrance requirements, regulation by standards of conduct). Likewise, the Board of Commerce is not aware of any state which may regulate these operators in a manner similar to that of pawn shop operators or precious metal dealers where the basic requirements require that records be kept and made available to law enforcement officials.

Study Methodology

The primary concern behind the request for this study involves the selling of stolen merchandise at flea markets. To determine if this problem existed, to what extent, and to evaluate feasible solutions, two steps were taken by the Board of Commerce.

The first step involved a survey to over 400 law enforcement officials throughout Virginia. These officials were contacted by letter requesting their comments on the need for regulation of flea market operators. Commonwealth's Attorneys, Sheriffs and Chiefs of Police received this mailing.

The second step involved obtaining public input. The Board of Commerce held a public informational hearing August 22, 1985 at 1:00 p.m. in Richmond, Virginia. Notice of the hearing was published in the August 6, 1985 Richmond Times-Dispatch, the August 4, 1985 Roanoke Times and World News and the August 4, 1985 Lynchburg Daily Advance. Notices of the hearing were also included in the mailing to law enforcement officials and published in the August 19, 1985, Volume 1, Issue 23 (p.2046) edition of the Register of Regulations.

No statewide trade association representing the interests of flea market operators is known to exist in Virginia. Therefore, operators who advertised as such were individually identified (38 in number) and mailed a copy of the notice of hearing.

The Board of Commerce carefully considered all testimony and written comments received during the course of this study. Additionally, the Board considered the 1985 legislative report of the Joint Subcommittee Studying the Licensing of Itinerant Merchants and Peddlers, House Document Number 14.

Findings

1. Localities, based on state requirements, already require certain records be kept as to the identity of sellers of merchandise for tax purposes. This information, however, is not available to law enforcement officials.
2. Flea market operators believe themselves to already be regulated enough. The majority of those present at the public hearing were flea market operators. They were unanimous in their opposition to any additional form of regulation.
3. Law enforcement officials, unlike flea market operators, believe additional regulation is necessary. Over thirty responses were received from officials who felt that at a minimum, additional recordkeeping should be required.
4. Flea markets play a significant role in the selling of second hand goods. Additional regulation may defeat the purpose of flea markets (i.e. the ease of sale).

Recommendation

The Board of Commerce recommends that no additional regulatory program be created for flea market operators.

However, the General Assembly may wish to consider the implementation of legislation similar to that governing pawn shops and precious metals dealers which concern primarily record keeping.

STUDY PARTICIPANTS

1. John L. Andrews Acting Chief of Police,
City of Norfolk
2. R. K. Beach Investigator, City of Norfolk
S. Thorson Investigator, City of Norfolk
3. W. G. Briggs Investigator, County of
Prince William Police Department
4. Charles R. Cloud Chief Deputy Commonwealth Attorney
5. Captain D. A. Collins Investigative Division,
Pittsylvania County
6. W. F. Corvello Lt. Colonel Deputy Superintendent
Department of State Police
7. Lt. William Crawford Detective Division,
City of Bristol
8. Detective R. A. Davis Detective,
Newport News Police Department
9. Aubrey Davis, Jr. Commonwealth's Attorney,
City of Richmond
10. Colonel Frank S. Duling Chief of Police, Richmond
11. Captain U. C. Durham Commander, Services Division
City of Fairfax
12. J. Trigg Fields Sheriff, Russell County
13. William Gatling Sheriff, Gloucester County
14. Denwood Insley Sheriff, Essex County
15. Bonnie Jones Permits Examiner,
City of Newport News
16. Kenneth H. Jordan Sheriff, County of Mathews
17. E. S. Kitchen, Jr. Sheriff, County of Sussex
18. Captain G. Lesko Criminal Investigation Division
County of Prince William
19. William J. LoPorto Commonwealth's Attorney,
County of Northumberland
20. J. F. McKinney Chief of Police,
Town of Dublin

21. Colonel T. Neal Morris	Chief of Police, Danville
22. Lawrence Nowery	Chief of Police, City of Petersburg
23. W. Q. Overton	Sheriff, Franklin County
24. William Phillips	Chief of Police, Abingdon
25. G. Wayne Pike	Sheriff, Wytheville
26. W. S. Sexton	Chief, Town of Chilhowie
27. Leon P. Smith	Sheriff, Alleghany County and City of Covington
28. William Stoner	Chief of Police, Arlington County
29. L. O. Sutton	Chief of Police, City of Lexington
30. Charles Strobel	Public Director, City of Alexandria
31. Charles Wall	Chief of Police, City of Virginia Beach
32. Doris R. DeHart	Legislative Liaison for Chesterfield County
33. Robert A. Loving	Detective, Crime Against Property Unit Henrico County Police
34. John E. Granfield	Chief of Police County of Fairfax
35. Alvin T. Kline, Jr.	Bellwood Drive-In and Flea Market
36. Dr. G. Wayne Fralin	Roanoke, Virginia
37. John Hession	Vice President and General Manager RC Theaters
38. Dave C. Wann	Fort Entertainment Center Lynchburg, Virginia
39. Julie Ann Rountry	Rountrey's True Value Hardware, Inc. Altavista, Virginia

