

1 HB506
2 210496-2
3 By Representative Shaver
4 RFD: Judiciary
5 First Read: 04-MAR-21

SYNOPSIS: This bill would provide for a specific remedy for the fraudulent sale of a collectible item.

This bill would authorize a consumer or other person to recover the purchase price plus a penalty if a collectible item is purchased based on a representation that the collectible item is authentic and the collectible item is in fact not authentic.

A BILL
TO BE ENTITLED
AN ACT

Relating to the sale of collectibles; to authorize a consumer or other person to recover the purchase price plus a penalty if a collectible item is purchased based on a false representation that the collectible item is authentic; to authorize civil actions; and to provide for civil penalties for false representations.

1 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

2 Section 1. As used in this act, the following terms
3 shall have the following meanings:

4 (1) AUTHENTICATE. The representation by a dealer or
5 other person that a collectible is authentic.

6 (2) AUTOGRAPHED ITEM. A sports item or entertainment
7 media item bearing the signature of a particular person that
8 is sold or offered for sale for fifty dollars (\$50) or more,
9 excluding sales tax and shipping fees, when the dealer offers
10 the signed item at a higher price than the dealer would charge
11 for a comparable item without the signature.

12 (3) COLLECTIBLE. An autographed item, entertainment
13 media item, historical artifact, limited edition item, item of
14 memorabilia, sports item, or similar item represented to have
15 value based on the collectible nature of the item.

16 (4) CONSUMER. A natural person who purchases an
17 autographed collectible from a dealer for personal, family, or
18 household purposes. The term includes a prospective purchaser
19 meeting these criteria.

20 (5) DEALER. A person who is in the business of
21 selling or offering for sale collectibles and has sold three
22 or more collectibles in the preceding 12 months. The term
23 includes a person engaged in a mail-order, telephone-order,
24 online, or television business for the sale of collectibles.
25 The term does not include any of the following:

26 a. A pawnbroker that acquired the collectible
27 through a foreclosure on a collateral loan, provided that the

1 pawnbroker does not hold himself or herself out as having
2 knowledge or skill peculiar to autographed collectibles.

3 b. The person who autographed the collectible.

4 (6) ENTERTAINMENT MEDIA ITEM. An item related to
5 music, television, and films, including, but not limited to, a
6 picture, photo, record, compact disc, digital video disc,
7 ticket, program, playbill, clothing, hat, poster, toy, plaque,
8 trading card, musical instrument, or other entertainment
9 memorabilia.

10 (7) HISTORICAL ARTIFACT. An object, such as a tool,
11 or the remains of one, such as a shard of pottery, or a
12 historical writing, manuscript, or document, characteristic of
13 an earlier time or cultural stage, valued for its historical
14 significance and authenticity.

15 (8) LIMITED EDITION. An autographed collectible that
16 meets all of the following requirements:

17 a. A person has produced a specific quantity of an
18 autographed collectible and placed it on the open market.

19 b. The person has posted a notice, at its primary
20 place of business, that it will provide any consumer, upon
21 request, with a copy of a notice that states the exact number
22 of an autographed collectible produced in that series of
23 limited editions.

24 c. The person makes available, upon request of a
25 consumer, evidence that the electronic encoding, films, molds,
26 or plates used to create the autographed collectible have been

1 destroyed after the specified number of autographed
2 collectibles have been produced.

3 d. The sequence number of the autographed
4 collectible and the number of the total quantity produced in
5 the limited edition are printed on the autographed
6 collectible.

7 (9) MEMORABILIA. Objects kept or collected because
8 of their historical interest, particularly those deriving
9 value from their connection to a particular memorable person
10 or event, and also deriving value from authenticity.

11 (10) REPRESENTATION. Any written representation,
12 including, but not limited to, a representation in an
13 advertisement, brochure, catalog, flyer, invoice, sign, online
14 communication, Internet web page, email, or other commercial
15 or promotional material.

16 (11) SPORTS ITEM. A photograph, ticket, plaque,
17 sports program, trading card, item of sports equipment or
18 clothing, or other sports memorabilia.

19 Section 2. This act does not apply to a collectible
20 if purchased based on any of the following:

21 (1) The collectible was purchased by barter or trade
22 for other items.

23 (2) The collectible was sold by one dealer to
24 another dealer.

25 Section 3. (a) A consumer who purchases an
26 authenticated collectible from a dealer based on a
27 representation that the collectible is authentic is entitled

1 to recover from the dealer the full the purchase price of the
2 collectible plus a penalty of 10 percent of the purchase price
3 within three years of the purchase if the consumer presents
4 substantial evidence to the dealer that the collectible is in
5 fact not authentic.

6 (b) A consumer may file a civil action to enforce
7 the rights provided by this act.

8 (c) A consumer may recover court costs, reasonable
9 attorney's fees, interest, and expert witness fees, if
10 applicable, pursuant to an action provided for in subsection
11 (b).

12 (d) The remedies specified in this section are in
13 addition to, and not in lieu of, any other remedy that may be
14 provided by law.

15 Section 4. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.