

SENATE BILL REPORT

SB 5054

AS REPORTED BY COMMITTEE ON LAW & JUSTICE, JANUARY 29, 1993

Brief Description: Requiring the sellers of sports memorabilia to authenticate the merchandise.

SPONSORS: Senators A. Smith, Winsley and Erwin

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: That Substitute Senate Bill No. 5054 be substituted therefor, and the substitute bill do pass.

Signed by Senators A. Smith, Chairman; Quigley, Vice Chairman; Hargrove, McCaslin, Nelson, Rinehart, and Spanel.

Staff: Jon Carlson (786-7459)

Hearing Dates: January 20, 1993; January 29, 1993

BACKGROUND:

The collecting of sports memorabilia is a hobby that has grown dramatically over the past ten years. Autographed sports items and other items believed to be authentic often command a premium price far in excess of the original value of the item. It is not unusual for consumers to pay hundreds or even thousands of dollars for autographed collectibles. The sale of autographed sports collectibles at sports memorabilia shows, through mail and catalog sales, at private businesses, and through cable television is reportedly now a billion-dollar-a year industry.

Because the purchase of autographed sports memorabilia has increased at a rapid pace, the sale of forged autographs is becoming a serious consumer protection issue. All too often consumers are easily defrauded by unscrupulous dealers selling unauthentic autographed sports collectibles. If such collectibles are not authentic, consumers are left with virtually worthless purchases, and often with little or no legal recourse.

It is recommended that a specific statutory enactment be provided to protect the public from the sale of counterfeit sports collectibles.

SUMMARY:

A dealer who sells to a consumer, for \$50 or more, any sports memorabilia described as being authentic or personally autographed must provide a written certificate of authenticity at the time of sale. The certificate of authenticity must be dated, signed by the dealer or authorized agent, and contain the dealer's true legal name and street address.

The certificate must also: 1) describe the collectible and the name of the sports personality who autographed it, as well as the purchase price; 2) contain an express warranty of the authenticity of the collectible. The warranty must state that the dealer is required to make a full cash refund upon request within 90 days of the sale; 3) state the place and date where the personality autographed the collectible, if known. If either the place or date, or both, is not known, the certificate must contain an explicit statement to that effect; and 4) specify whether the collectible is offered as one of a limited edition.

A dealer is prohibited from representing that a collectible is autographed if it is signed other than by the sports personality in his or her own hand. In addition, a dealer is required to disclose, by a conspicuous sign at the location where the sale occurs, that the consumer is entitled to receive a written certificate of authenticity. Mail order and telephone order businesses must also provide disclosure in their advertisements.

A violation of these provisions is a gross misdemeanor, and also constitutes an unfair or deceptive act in trade or commerce and an unfair method of competition for the purpose of applying the Consumer Protection Act (Chapter 19.86 RCW).

EFFECT OF PROPOSED SUBSTITUTE:

The price at which a piece of sports memorabilia qualifies as a collectible is raised from \$50 to \$100.

The period within which a dealer is obligated to make a full refund upon return of the collectible is changed from 90 days to 30 days.

A full cash refund is contingent upon return of the sports collectible in the same condition as sold, along with the certificate of authenticity that was supplied during the original transaction.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR: None

TESTIMONY AGAINST: None

TESTIFIED: No one