



**DEPARTMENT OF JUSTICE**  
CIVIL ENFORCEMENT DIVISION

**MEMORANDUM**

DATE: February 14, 2013

TO: Honorable Paul Holvey, Chair  
House Consumer Protection and Government Efficiency Committee

FROM: Aaron Knott, Legislative Director  
Eva Novick, Assistant Attorney General, Financial Fraud/Consumer Protection

SUBJECT: HB 2059 – Consignment Sales

**RECOMMENDED ACTION**

This testimony is presented in support of HB 2059. We recommend that the Committee approve HB 2059 with a do pass recommendation.

**BACKGROUND ON CONSIGNMENT SALES**

- Individuals consign personal property for many reasons – they are moving, they need money, they no longer need/want the property. They also consign many different types of items, including furniture, jewelry, china, silverware, toys and clothes.
- Consignment sales take place at different locations.
  - Some consignees (the business that facilitates the consignment sale) operate retail locations (store fronts) where they place items on consignment for sale.
  - Some consignees operate the consignment sale at the consignor's home; sometimes these sales are estate sales and sometimes they are other sales of property in a home. (An estate sale is the sale of a decedent's property. Sales to facilitate, for example, a move to a nursing home may be called "estate sales" but in fact, are not.)
  - Some consignees sell some property at the consignor's home and then take unsold items to their retail location to try to sell for a period of time following the sale at the home.

- Some estate sales (or other sales at a home) are conducted by auction, others by consignment and others by a mix of methods depending on the type of property being offered for sale.
- Each year, we receive complaints from individuals that they have not received the proceeds of a consignment sale and cannot get an accounting of the items that were sold from the consignee. Oftentimes, thousands of dollars are in dispute. HB 3267 ensures that individuals selling personal property will receive the same protections regardless of the method (auction or consignment) being used to conduct the sale.
- Since January 1, 2007, the Oregon Department of Justice (DOJ) received 94 contacts about used merchandise stores, 114 contacts about auctioneers and 273 contacts where a consignee failed to pay a consignor. Without reviewing each contact, we cannot determine if the conduct raised in each contact would be addressed by HB 2059, but we believe that much of it would be.

#### **HOW HB 2059 WILL PROTECT CONSUMERS WHO CONSIGN PROPERTY**

- This bill adds consignment sales to the protections currently required by law for auction sales, auctioneers and auction marts.
- By adding consignment sales to ORS 698.640, a person who conducts consignment sales will need to:
  - State its name in advertisements;
  - Not avoid selling property that is offered for sale;
  - Not use a straw purchaser to make a purchase on behalf of itself; and
  - Keep a trust account, provide an accounting of the money received during the sale, pay out the money within 21 days (or as otherwise agreed upon), if it is not paid at the time of the sale, and return unsold property within 21 days (or as otherwise agreed upon).
- HB 2059 exempts consignment sales that are subject to other regulations, such as fine art, manufactured dwellings, motor vehicles, wholesale produce and shellfish.
- A violation of ORS 698.640 is currently a violation of the Unlawful Trade Practices Act.

#### **THERE IS NO KNOWN FISCAL IMPACT FOR DEPARTMENT OF JUSTICE**

#### **DOJ CONTACT**

For further information, please contact Aaron Knott at [Aaron.D.Knott@state.or.us](mailto:Aaron.D.Knott@state.or.us) or 503-378-6002.