HOUSE DOCKET, NO. 1507 FILED ON: 1/20/2011

HOUSE . . . . . No. 1011

The Commonwealth of Massachusetts

PRESENTED BY:

Colleen M. Garry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act restricting the sale of certain items at flea markets.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Colleen M. Garry	*36th Middlesex*

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HOUSE . . . . . No. 1011

By Ms. Garry of Dracut, a petition (accompanied by bill, House, No. 1011) of Colleen M. Garry for legislation to restrict sales of certain items and products at flea markets, so-called. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *252* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act restricting the sale of certain items at flea markets.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 101 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by deleting section 18A and inserting in place thereof the following section:—

Section 18A. (A) No person, except an authorized manufacturer's or distributor's representative possessing on his or her person written proof of that authorization for public retail sales, shall sell, offer for sale, or knowingly permit the sale at any flea market, so-called, any of the following items:

(i) food manufactured and packaged for sale for consumption by a child under the age of two years;

(ii) drugs and cosmetics, as those terms are defined in section one of chapter ninety-four;

(iii) any product which has an expiration date.

(B) In this section, "manufacturer's or distributor's representative" shall mean a person who has on his person and available for public inspection written proof that he or she is authorized by the manufacturer or distributor for the public retail sale of those products which are offered for sale. Such credentials shall include the seller's name and may include a date upon which such authorization shall expire.

17 (C) In this section, “flea market” shall mean any location other than a permanent retail
18 store at which space is rented or otherwise made available to others for the conduct of business
19 as transient or limited vendors; Transient or limited vendors shall not include those persons who
20 sell by sample, catalogue or brochure for future delivery, or those persons who make sales
21 presentations pursuant to a prior invitation issued by the owner or the legal occupant of the
22 premises.

23 (D) Any person who violates the provisions of this section shall be punished by a fine of
24 not less than $100 or more than $1,000 per violation. The sale of each product unit shall
25 constitute a separate offense, and all such product shall be seized and forfeited to the
26 Massachusetts Department of Public Health.

27 (E) The presenting of credentials pursuant to the requirements of this section which are
28 false, fraudulent, forged, fraudulently obtained or the nature of which is misrepresented shall also
29 be considered a prohibited act punishable by the same means as subsection (D) of this section.

30 (F) The appropriate law enforcement agency investigating any violation of this Act shall
31 maintain a record of such violation available for public inspection.