

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**SENATE BILL**

**No. 1347** Session of  
1998

---

INTRODUCED BY COSTA, O'PAKE, STAPLETON, BELAN, KUKOVICH,  
SCHWARTZ, MELLOW AND MUSTO, MARCH 11, 1998

---

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,  
MARCH 11, 1998

---

AN ACT

1 Regulating the sale of autographed memorabilia; and providing  
2 for penalties.

3 The General Assembly of the Commonwealth of Pennsylvania  
4 hereby enacts as follows:

5 Section 1. Short title.

6 This act shall be known and may be cited as the Autographed  
7 Memorabilia Dealers Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall  
10 have the meanings given to them in this section unless the  
11 context clearly indicates otherwise:

12 "Autographed." Bearing the actual signature of a person  
13 signed by that individual's own hand.

14 "Collectible." An autographed item, including, but not  
15 limited to, a photograph, book, ticket, plaque, program, card,  
16 item of equipment or clothing, lithograph, print or other  
17 artwork, CD-ROM, laser disc, videotape, insert card or other

1 memorabilia sold or offered for sale in or from this  
2 Commonwealth by a dealer to a consumer for \$25 or more.

3 "Consumer." A natural person who purchases a collectible  
4 from a dealer for personal, family or household purposes. The  
5 term also includes a prospective purchaser meeting these  
6 criteria.

7 "Counterfeit." A copy of a collectible made without  
8 authority or right or with a view to deceive or defraud by  
9 passing the copy as original or genuine.

10 "Dealer." A person who is in the business of buying,  
11 selling, trading or offering for sale or trade collectibles in  
12 or from this Commonwealth, exclusively or nonexclusively, or a  
13 person who by his occupation holds himself out as having  
14 knowledge or skill peculiar to collectibles, or to whom that  
15 knowledge or skill may be attributed by his employment of an  
16 agent or other intermediary who by his occupation holds himself  
17 out as having that knowledge or skill. The term includes:

18 (1) An auctioneer who sells collectibles at public  
19 auction.

20 (2) A person who is a consignor, representative or agent  
21 of an auctioneer.

22 (3) A person engaged in a mail-order, computer or  
23 Internet network, telephone-order or cable television  
24 business for the sale of collectibles.

25 "Description."

26 (1) A representation in writing, including, but not  
27 limited to, a representation in an advertisement, brochure,  
28 computer network, CD-ROM, videotape, catalog, flyer, invoice,  
29 sign or other commercial or promotional material.

30 (2) An oral representation.

1 (3) A representation included in a radio or television  
2 broadcast to the public in or from this Commonwealth.

3 "Forgery." A signature on a collectible that is not made by  
4 the person purporting to be signing but made instead without  
5 that person's consent or authorization of the signature.

6 "Limited edition." A collectible that meets all of the  
7 following requirements:

8 (1) Production of 1,000 or fewer of an autographed  
9 collectible or 10,000 or fewer of any other collectible.

10 (2) Posting of a notice at the primary place of business  
11 of the producer, that the producer will provide a consumer,  
12 upon request, with a copy of a notice that states the exact  
13 number of a collectible produced in that series of limited  
14 edition.

15 (3) Making available by the producer, upon request of a  
16 consumer, evidence that the electronic encoding, films, molds  
17 or plates used to create the collectible have been destroyed  
18 after the specified number of collectibles has been produced.

19 "Mint condition." Any collectible sold on the open market or  
20 through a private transaction that meets all of the following  
21 requirements:

22 (1) The item has never been circulated, used or worn.

23 (2) The item exhibits little or no sign of aging or  
24 degradation caused by oxidation or exposure to sunlight as a  
25 result of its display.

26 (3) The item is otherwise free from creases, blemishes  
27 or marks that have not been tampered with, such as spot,  
28 wrinkle or crease removal, restoration, trimming or  
29 reprinting.

30 "Person." A natural person, partnership, corporation,

1 limited liability company, trust, association or other entity,  
2 however organized.

3 "Promoter." A person, or a designee of a person, who  
4 arranges, holds, organizes or presents a trade show featuring  
5 collectible or other memorabilia for sale or trade.

6 Section 3. Sales of autographed memorabilia.

7 (a) Certificate of autograph authenticity.--If a dealer, in  
8 selling or offering to sell to a consumer a collectible in or  
9 from this Commonwealth, provides a description of the  
10 collectible as being autographed, the dealer shall furnish a  
11 certificate of authenticity to the consumer at the time of the  
12 sale. The certificate of authenticity shall be in writing and  
13 shall be signed by the dealer or his or her authorized agent.  
14 The certificate of authenticity shall be in at least ten-point  
15 boldface type and shall contain the dealer's true legal name,  
16 street address and phone number.

17 (1) Each certificate of authenticity shall do all of the  
18 following:

19 (i) Describe the collectible and specify the name of  
20 the person or persons who autographed the collectible and  
21 an approximate date, as close to the actual date as  
22 possible, of the autograph or autographs.

23 (ii) Specify the purchase price and date of sale of  
24 the autographed collectible or be accompanied by a  
25 separate invoice setting forth that information.

26 (iii) Contain an express warranty, which shall be  
27 irrebuttably presumed to be part of the transaction, of  
28 the genuineness and authenticity of the autographed  
29 collectible. The warranty shall not be negated or limited  
30 by reason of the lack of words such as "warranty" or

1 "guarantee" or because the dealer does not have a  
2 specific intent or authorization to make the warranty or  
3 because any statement relevant to the collectible is,  
4 purports to be or is capable of being merely the dealer's  
5 opinion.

6 (iv) Specify if the autographed collectible is  
7 offered as genuine or one of a limited edition and, if  
8 so, indicate:

9 (A) how the collectible and edition are  
10 numbered; or

11 (B) the size of the edition and the size of any  
12 prior or anticipated future edition, if known, or, if  
13 not known, an explicit statement to that effect.

14 (v) Indicate whether the dealer is surety bonded or  
15 is otherwise insured to protect the consumer against  
16 errors and omissions of the dealer and, if bonded or  
17 insured, provide proof thereof.

18 (vi) Indicate whether the collectible was  
19 autographed in the presence of the dealer.

20 (vii) Indicate the name and address of the person  
21 who witnessed the signature along with the time, date and  
22 place the signature was placed on the collectible.

23 (viii) Indicate whether the collectible was obtained  
24 or purchased from a third party and the name and address  
25 of the third party.

26 (2) Any collectible that is physically altered or  
27 refurbished shall be accompanied by a certificate stating the  
28 exact nature of the work done to the collectible and, if  
29 known, the date the work was performed, the cost of the work  
30 and the name, telephone number and address of the person who

1 performed the work. The certificate shall be signed by the  
2 seller of the work.

3 (b) Representations.--No dealer shall represent an item as a  
4 collectible if it was not autographed by the person in his or  
5 her own hand.

6 (c) Notice of disclosure.--No dealer or promoter shall  
7 display or offer for sale a collectible in this Commonwealth  
8 unless at the location where the collectible is offered for sale  
9 and in close proximity to the collectible merchandise there is a  
10 conspicuous sign that reads as follows:

11 SALE OF AUTOGRAPHED MEMORABILIA. PENNSYLVANIA LAW  
12 REQUIRES A DEALER WHO SELLS FOR \$25 OR MORE MEMORABILIA  
13 DESCRIBED AS BEING AUTOGRAPHED MUST PROVIDE A WRITTEN  
14 CERTIFICATE OF AUTHENTICITY AT THE TIME OF THE SALE. THIS  
15 DEALER MAY BE SURETY BONDED OR OTHERWISE INSURED TO  
16 ENSURE THE AUTHENTICITY OF ANY COLLECTIBLE SOLD BY THIS  
17 DEALER.

18 (d) Order business sales.--A dealer engaged in a mail-order,  
19 computer or Internet network, telephone-order or cable  
20 television business for the sale of collectibles in or from this  
21 Commonwealth shall:

22 (1) Include the disclosure specified in subsection (c),  
23 in type of conspicuous size, in any written advertisement  
24 relating to a collectible.

25 (2) Include in each television advertisement relating to  
26 a collectible the following written on-screen message, which  
27 shall be prominently displayed, easily readable and clearly  
28 visible for not less than five seconds and shall be repeated  
29 for five seconds once during each four-minute segment of the  
30 advertisement following the initial four minutes:

1 A WRITTEN CERTIFICATE OF AUTHENTICITY IS PROVIDED WITH  
2 EACH AUTOGRAPHED COLLECTIBLE AS REQUIRED BY LAW. THIS  
3 DEALER MAY BE SURETY BONDED OR OTHERWISE INSURED TO  
4 ENSURE THE AUTHENTICITY OF ANY COLLECTIBLE SOLD BY THIS  
5 DEALER.

6 (3) Include as part of the oral message of each radio  
7 advertisement for a collectible the disclosure specified in  
8 subsection (c).

9 (e) Trade show sales.--No dealer shall display or offer for  
10 sale a collectible at any trade show or similar event primarily  
11 featuring sale of collectibles or other memorabilia which offers  
12 onsite admission ticket sales unless at each onsite location  
13 where admission tickets are sold there is prominently displayed  
14 a specimen example of a certificate of authenticity.

15 (f) Notice to trade show participants.--Whenever a promoter  
16 arranges or organizes a trade show featuring collectibles, the  
17 promoter shall notify in writing any dealer who has agreed to  
18 purchase or rent space in the trade show what the promoter will  
19 do if any laws of this Commonwealth are violated, including the  
20 fact that law enforcement officials will be contacted when those  
21 laws are violated. This notice shall be delivered to the dealer  
22 at his or her registered place of business and at the time the  
23 agreement to purchase space in the trade show is made. The  
24 following language shall be included in each notice:

25 AS A VENDOR AT THIS COLLECTIBLES TRADE SHOW, YOU ARE A  
26 PROFESSIONAL REPRESENTATIVE OF THIS HOBBY. AS A RESULT,  
27 YOU WILL BE REQUIRED TO FOLLOW THE LAWS OF THIS  
28 COMMONWEALTH, INCLUDING LAWS REGARDING THE SALE AND  
29 DISPLAY OF COLLECTIBLES, FORGED AND COUNTERFEIT  
30 COLLECTIBLES AND AUTOGRAPHS AND MINT AND LIMITED EDITION

1 COLLECTIBLES AS PROVIDED IN ACT . IF YOU DO NOT OBEY  
2 THE LAW, YOU MAY BE EVICTED FROM THIS TRADE SHOW, BE  
3 REPORTED TO LAW ENFORCEMENT AND BE HELD LIABLE FOR A  
4 CIVIL PENALTY OF TEN TIMES THE AMOUNT OF DAMAGES.

5 (g) Consumer's remedies.--A consumer injured by the failure  
6 of a dealer to provide a certificate of authenticity containing  
7 the information required under this section or by a dealer's  
8 furnishing of a false certificate of authenticity shall be  
9 entitled to recover, in addition to actual damages, a civil  
10 penalty in an amount equal to ten times actual damages, plus  
11 court costs and reasonable attorney fees incurred by the  
12 consumer in the action. The remedy specified in this section is  
13 in addition to and not in lieu of any other remedy that may be  
14 provided by law.

15 (h) Options for indemnity.--A dealer may be surety bonded or  
16 otherwise insured for purposes of indemnification against errors  
17 and omissions arising from the authentication, sale or resale of  
18 collectibles.

19 Section 4. Sales of altered or counterfeit memorabilia.

20 (a) Certificate of alteration or refurbishment.--Any  
21 memorabilia that is altered or refurbished shall be accompanied  
22 by a certificate stating the exact work done to the memorabilia  
23 and, if known, the date the work was performed, the cost of the  
24 work and the name, telephone number and address of the person  
25 who performed the work.

26 (b) Counterfeit memorabilia prohibited.--A person, or his  
27 agent, who knowingly manufactures, produces, sells, trades or  
28 distributes unlicensed or counterfeit memorabilia with the  
29 intent to deceive, injure or defraud another is liable to the  
30 buyer.



1 (c) Memorabilia cut from publications prohibited.--Any  
2 person who knowingly sells a cut, unlicensed item or items that  
3 have been produced by cutting the item or items from a  
4 publication in which unlicensed sports trading cards are bound  
5 without disclosing the source and the means of producing the  
6 card with the intent to deceive, injure or defraud another is  
7 civilly liable to the buyer.

8 Section 5. Penalties.

9 (a) Uncertificated memorabilia.--A person, or his agent, who  
10 knowingly sells or trades collectibles in violation of section 4  
11 shall:

12 (1) Refund to the buyer the full amount paid for the  
13 altered or refurbished item or items or the full retail value  
14 of any nonmonetary consideration received in exchange for the  
15 altered or refurbished memorabilia.

16 (2) Be liable to the buyer and person whose name was  
17 forged for a civil penalty of not more than \$5,000 for each  
18 violation. Each item or items sold represents a separate and  
19 distinct violation.

20 (b) Counterfeit memorabilia sales.--A person, or his agent,  
21 who violates section 4(b) shall:

22 (1) Refund to the buyer the full amount paid for the  
23 unlicensed or counterfeit memorabilia or the full retail  
24 value of any nonmonetary consideration received in exchange  
25 for the unlicensed or counterfeit memorabilia.

26 (2) Be liable to the buyer for a civil penalty of not  
27 more than \$5,000 for each violation. Each item or items sold  
28 represents a separate and distinct violation.

29 (c) Cut memorabilia sales.--A person who violates section  
30 4(c) shall:

1           (1) Refund to the buyer the full consideration paid or  
2           furnished for the cut, unlicensed memorabilia.

3           (2) Be liable to the buyer for a civil penalty of not  
4           more than \$5,000 for each violation. Each item or items sold  
5           represents a separate and distinct violation.

6 Section 6. Power of Attorney General.

7           The Attorney General is authorized to protect consumers who  
8           collect memorabilia sold or traded within this Commonwealth.

9 Section 7. Attorney fees and costs.

10          A person who obtains a judgment on the merits in a court  
11          proceeding to recover moneys or other consideration paid for  
12          memorabilia under section 3, 4, 5 or 6 shall be entitled to  
13          attorney fees and costs of prosecuting the action.

14 Section 8. Statute of limitations.

15          Any action to enforce a cause of action arising under this  
16          act shall be barred unless commenced within one year after  
17          discovery of the violation upon which it is based and in no  
18          event more than three years after the memorabilia was sold or  
19          traded.

20 Section 9. Effective date.

21          This act shall take effect in 60 days.