

**ASSEMBLY BILL**

**No. 434**

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**Introduced by Assembly Member Rainey**

February 15, 1995

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An act to amend Section 1739.7 of the Civil Code, relating to collectibles.

LEGISLATIVE COUNSEL'S DIGEST

AB 434, as introduced, Rainey. Collectibles.

Existing law regulates the sale of autographed sports memorabilia by, among other things, requiring dealers who make sales of items represented as autographed sports items, and priced over \$50, in or from this state, to provide a prescribed certificate of authenticity.

This bill would make a technical, nonsubstantive change to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1739.7 of the Civil Code is  
2 amended to read:

3 1739.7. (a) As used in this section:

4 (1) "Autographed" means bearing the actual  
5 signature of a sports personality signed by that  
6 individual's own hand.

7 (2) "Collectible" means an autographed sports item,  
8 including, but not limited to, a photograph, book, ticket,

1 plaque, sports program, trading card, item of sports  
2 equipment or clothing, or other sports memorabilia sold  
3 or offered for sale in or from this state by a dealer to a  
4 consumer for fifty dollars (\$50) or more.

5 (3) “Consumer” means any natural person who  
6 purchases a collectible from a dealer for personal, family,  
7 or household purposes. “Consumer” also includes a  
8 prospective purchaser meeting these criteria.

9 (4) “Dealer” means a person who is in the business of  
10 selling or offering for sale collectibles in or from this state,  
11 exclusively or nonexclusively, or a person who by his or  
12 her occupation holds himself or herself out as having  
13 knowledge or skill peculiar to collectibles, or to whom  
14 that knowledge or skill may be attributed by his or her  
15 employment of an agent or other intermediary that by his  
16 or her occupation holds himself or herself out as having  
17 that knowledge or skill. “Dealer” includes an auctioneer  
18 who sells collectibles at a public auction, and also includes  
19 persons who are consignors or representatives or agents  
20 of auctioneers.

21 (5) “Description” means any of the following:

22 (A) Any representation in writing, including, but not  
23 limited to, a representation in an advertisement, ~~invoice,~~  
24 ~~catalog, flyer, sign,~~ brochure, *catalog, flyer, invoice, sign,*  
25 or other commercial or promotional material.

26 (B) Any oral representation.

27 (C) Any representation included in a radio or  
28 television broadcast to the public in or from this state.

29 (6) “Person” means any natural person, partnership,  
30 corporation, limited liability company, company, trust,  
31 association, or other entity, however organized.

32 (b) Whenever a dealer, in selling or offering to sell to  
33 a consumer a collectible in or from this state, provides a  
34 description of that collectible as being autographed, the  
35 dealer shall furnish a certificate of authenticity to the  
36 consumer at the time of sale. The certificate of  
37 authenticity shall be in writing and shall be signed by the  
38 dealer or his or her authorized agent. The certificate of  
39 authenticity shall be in at least 10-point boldface type and  
40 shall contain the dealer’s true legal name and street



1 address. Each certificate of authenticity shall do all of the  
2 following:

3 (1) Describe the collectible and specify the name of  
4 the sports personality who autographed it.

5 (2) Either specify the purchase price and date of sale  
6 or be accompanied by a separate invoice setting forth that  
7 information.

8 (3) Contain an express warranty, which shall be  
9 conclusively presumed to be part of the bargain, of the  
10 authenticity of the collectible. This warranty shall not be  
11 negated or limited by reason of the lack of words such as  
12 “warranty” or “guarantee” or because the dealer does not  
13 have a specific intent or authorization to make the  
14 warranty or because any statement relevant to the  
15 collectible is or purports to be, or is capable of being,  
16 merely the dealer’s opinion.

17 (4) Specify if the collectible is offered as one of a  
18 limited edition and, if so, shall specify (A) how the  
19 collectible and edition are numbered and (B) the size of  
20 the edition and the size of any prior or anticipated future  
21 edition, if known, or if not known, the certificate shall  
22 contain an explicit statement to that effect.

23 (c) No dealer shall represent an item as a collectible if  
24 it was not autographed by the sports personality in his or  
25 her own hand.

26 (d) No dealer shall display or offer for sale a collectible  
27 in this state, unless at the location where the collectible  
28 is offered for sale, and in close proximity to the collectible  
29 merchandise, there is a conspicuous sign that reads as  
30 follows:

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1           “SALE OF AUTOGRAPHED SPORTS  
 2           MEMORABILIA AS REQUIRED BY LAW, A  
 3           DEALER WHO SELLS TO A CONSUMER ANY  
 4           SPORTS MEMORABILIA DESCRIBED AS BEING  
 5           AUTOGRAPHED FOR FIFTY DOLLARS (\$50) OR  
 6           MORE MUST PROVIDE A WRITTEN CERTIFICATE  
 7           OF AUTHENTICITY AT THE TIME OF SALE.”

8  
 9  
 10       (e) Any dealer engaged in a mail-order or  
 11 telephone-order business for the sale of collectibles in or  
 12 from this state:

13       (1) Shall include the disclosure specified in paragraph  
 14 (d), in type of conspicuous size, in any written  
 15 advertisement relating to a collectible.

16       (2) Shall include in each television advertisement  
 17 relating to a collectible the following written on-screen  
 18 message, which shall be prominently displayed, shall be  
 19 easily readable, and shall be clearly visible for no less than  
 20 five seconds and shall be repeated for five seconds once  
 21 during each four-minute segment of the advertisement  
 22 following the initial four minutes:

23                   “A written certificate of authenticity is provided with  
 24                   each autographed collectible, as required by law.”

25  
 26  
 27       (3) Shall include as part of the oral message of each  
 28 radio advertisement for a collectible the disclosure  
 29 specified in subdivision (d).

30       (f) No dealer shall display or offer for sale a collectible  
 31 in this state at any trade show or similar event primarily  
 32 featuring sales of collectibles or other sports memorabilia  
 33 which offers onsite admission ticket sales, unless at each  
 34 onsite location where admission tickets are sold, there is  
 35 prominently displayed a specimen example of a  
 36 certificate of authenticity.

37       (g) Any consumer injured by the failure of a dealer to  
 38 provide a certificate of authenticity containing the  
 39 information required by this section, or by a dealer’s  
 40 furnishing of a certificate of authenticity that is false, shall



1 be entitled to recover, in addition to actual damages, a  
2 civil penalty in an amount equal to three times actual  
3 damages, plus court costs and reasonable attorney's fees  
4 incurred by the consumer in the action. The remedy  
5 specified in this section is in addition to, and not in lieu of,  
6 any other remedy that may be provided by law.

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