

## **Black Friday ... a day Idahoans snub their noses at state law**

**By Wayne Hoffman**

My teenage son really wants a Playstation 4. Nothing will make Julian happier than a next generation video game console under our Christmas tree.

But I told him my willingness to buy something so pricy may depend entirely on the availability of steep discounts for consoles, games and controllers, the types of discounts that only Black Friday can offer.

Black Friday has long been a staple of the Hoffman family shopping experience. Clothes, games and gadgets all have found their way into our household because of Black Friday, the day Christmas shopping season traditionally starts.

And that tradition includes the sale and purchase of items sold illegally below cost. Did I just say, illegally? Yes, I did.

As I explained in my column a year ago at this time, Black Friday sales are technically against Idaho law. The Unfair Sales Act, which passed in the 1930s, bars the sale of items below cost. Indeed, the law generally requires a markup of 6 percent.

The injury to the free market is obvious. The strictness of the law is troubling on additional counts; rebates used to knock down prices are banned. And even the offer of an item at less than cost and less than the required mark up could land you in trouble.

The Unfair Sales Act says every violation, including the mere publishing of a product for below cost, could yield a \$500 fine. What if a merchant distributed 100,000 circulars containing 10 items offered below cost? Would that mean a \$500 million fine? That's left to prosecutors and the courts.

Retailers have reason to worry. Which is why merchants in Oklahoma, which had the same law on its books last year, did not offer Black Friday deals. They worried that their wanton willingness to flaunt Oklahoma law would give them several servings of trouble; shoppers had to go to neighboring states to catch a deal. Until now.

Earlier this year, Oklahoma's policymakers passed a law that allows the return of Black Friday. Items can be sold for 15 days in a row at below costs. The result: Shoppers in Sooner State border towns are no longer fleeing to other states to cash in on hot deals. Good for that state's economy, its citizens, its schools, just about everyone.

Meanwhile, here in Idaho, Black Friday sales could be perfectly legal, so long as the goods are not sold at prices so low, they violate state statute. The lesson: Make your sale as banal as possible, and you'll not have any trouble whatsoever with Johnny Law. Nor will you have customers. Or income.

Not only are consumers denied a great deal, but employees are denied the economic opportunities that come from a robust, vibrant marketplace full of willing buyers, willing sellers and a healthy dose of competition and innovative, crowd-pleasing promotions.

I want Idaho lawmakers to put an end to the anti-free market Unfair Sales Act, to recognize Black Friday sales as an important economic tool. Such massive discounts benefit businesses, their employees and, of course, consumers, including one teenage boy who can't wait to play the latest Call of Duty game with his dad.

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