
**Public Safety & Emergency Preparedness
Committee**

HB 1213

Brief Description: Regulating pawnbrokers and secondhand dealers who deal with precious metal property.

Sponsors: Representatives Asay, Miloscia, Armstrong, Hurst, Angel, Ladenburg, Fitzgibbon and Warnick.

Brief Summary of Bill

- Expands the definition of "secondhand dealers" to include transient secondhand businesses.
- Requires pawnbrokers and secondhand dealers to maintain specific detailed records for transactions involving precious metals for a total of three years.
- Prohibits the removal of any previous metal property bought or received in pledge or by consignment by a pawnbroker or secondhand dealer from the place of business for a period of 45 days after the receipt of that property, except when redeemed by or returned to the owner.
- Makes it a class C felony to commit a second or subsequent offense that involves property consisting of a precious metal.

Hearing Date: 1/28/11

Staff: Yvonne Walker (786-7841).

Background:

"Pawnbroker" is defined as every person engaged, in whole or in part, in the business of loaning money on the security of pledges, deposits or conditional sales of personal property, or the purchase and sale of personal property. "Secondhand dealer" is defined as every person engaged, in whole or in part, in the business of purchasing, selling, trading, consignment selling, or

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otherwise transferring for value, secondhand property.

Record Keeping.

Generally, records must be maintained for each transaction for three years after the date of the transaction. The records of each transaction kept by a pawnbroker or secondhand dealer must include the following additional information:

- date of the transaction;
- signature of the person with whom the transaction is made;
- the name, date of birth, height, weight, race, address and telephone number of the person with whom the transaction is made;
- a complete description of the property including brand name, serial number, or model name;
- type and identifying number of identification used by the person with whom the transaction is made;
- the nature of the transaction and number identifying the transaction;
- the name or identification number of the employee conducting the transaction;
- the price paid or amount loaned; and
- the store identification number or name and the address of the store.

Transcripts of the previous day's business, when requested by the police within the time-period required by the police, may be transmitted by facsimile, electronically, or by delivery of a computer disk.

Restrictions on Transfer of Property.

However, property bought or received in pledge or by consignment by a pawnbroker or secondhand dealer may not be removed from the place of business within 30 days after the receipt of that property, except when redeemed by or returned to the owner. The property must be available for inspection by the police.

Pawnbrokers may not sell property within at least a 90-day grace period after the term of the loan expires. After the grace period expires, the pawnbroker is not required to account to the person who received the loan for the proceeds from that item. Following notification from the police that an item of property has been reported as stolen, a pawnbroker or secondhand dealer must place an identifying tag on the property and keep it safe. A pawnbroker may not release that item for 120 days without the consent of the police or an order of the court.

If the police place a verbal hold on an item that has been reported as stolen, the police must give written notice confirming the hold to the pawnbroker or secondhand dealer holding the property within 10 business days. If the police do not give written notice, the hold order will cease. The pawnbroker or secondhand dealer must give the police written notice 20 days before the expiration of the 120-day period or the hold on the property will continue for an additional 120 days. The police may renew a hold for an additional 120-day period by giving written notice of an additional hold.

Prohibited Acts.

It is a gross misdemeanor offense:

- to alter a serial number or identifying mark on a piece of personal property that has been pledged;

- to accept for pledge or secondhand purchase personal property on which the manufacturer's serial number or identifying mark has been altered;
- to make or allow a false entry or misstatement of any material matter in records required to be maintained under pawnbroker and secondhand dealer laws;
- for a pawnbroker or secondhand dealer to accept property from anyone under 18 years of age, anyone who is under the influence of drugs or alcohol, or anyone known by the pawnbroker or secondhand dealer to be convicted of burglary, robbery, theft or possession of receiving stolen goods; or
- for a pawnbroker or secondhand dealer to engage in check cashing or selling without complying with the check casher and seller laws.

Summary of Bill:

The definition of "secondhand dealers" is expanded to include transient secondhand businesses such as those that may maintain a temporary place of business within the state.

Record Keeping for Receipt of Precious Metals.

Records must be maintained for each transaction involving precious metals for a total of three years after the date of the transaction. The records of each transaction kept by a pawnbroker or secondhand dealer must include the following additional information:

- date of the transaction;
- signature and photo of the person with whom the transaction is made (including the fingerprints of the person with whom the transaction is made if the amount paid or loaned is greater than \$100);
- the name, date of birth, sex, height, weight, race, address and telephone number of the person with whom the transaction is made;
- a complete description of the property including: brand name, serial number, model number, name, any initials or engraving, size, pattern, and color of stones. In the case of firearms, the caliber, barrel length, type of action, and whether it is a pistol, rifle, or shotgun must also be recorded;
- price paid or amount loaned (however, if the amount paid or loan is greater than \$100 then the amount must be paid by a written instruction to pay instead of cash);
- type and identifying number of identification used by the person with whom the transaction is made, which must consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency;
- the nature of the transaction and number identifying the transaction;
- the name or identification number of the employee conducting the transaction; and
- the store identification number or name and the address of the store.

Restrictions on Transfer of Property.

Property consisting of a precious metal bought or received in pledge or by consignment by a pawnbroker or secondhand dealer may not be removed from the place of business for 45 days after the receipt of that property, except when redeemed by or returned to the owner. If the secondhand dealer does not have a permanent place of business in the state, the precious metal property must be held within the city or county in which the property was received within 45 days after the receipt of the property, except consigned property returned to the owner. All previous metal property received by a pawnbroker or secondhand dealer must be available for inspection by the police.

Theft Crimes.

A person is guilty of an unranked class C felony offense if he or she has previously been convicted of a gross misdemeanor offense relating to a transaction involving a precious metal and a pawnbroker or secondhand dealer.

If a law enforcement agency has compiled and published a list of persons who have been convicted of a theft offense, then pawnbrokers and secondhand dealers must use the list for any transactions involving property. If the property involved is a precious metal then the secondhand dealer may not engage or continue with the transaction with the (theft) offender on the list.

Law enforcement has the authority to arrest any person where there is probable cause to believe that the person has committed or is committing a violation relating to pawnbrokers and secondhand dealers transactions.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.