



Rep. Anna Moeller

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1 AMENDMENT TO SENATE BILL 1778

2 AMENDMENT NO. _____. Amend Senate Bill 1778 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Resale Dealers Act.

6 Section 5. Definitions. For the purposes of this Act:

7 "Appropriate law enforcement official" means the sheriff
8 of the county where a resale dealer is located or, if the
9 resale dealer is located within a municipality, the police
10 chief of the municipality, provided, however, that the sheriff
11 or police chief may designate an appropriate official of the
12 county or municipality as applicable.

13 "Precious metals" means any item containing gold, silver,
14 or platinum or any combination of gold, silver, or platinum.

15 "Precious metals" do not include items containing any chemical
16 or any automotive, photographic, electrical, medical or dental

1 materials, or electronic parts, except for those containing
2 precious metals.

3 "Recyclable metal" means items made of copper, brass, or
4 aluminum.

5 "Resale dealer" means any individual, firm, corporation,
6 or partnership engaged in the business of operating a business
7 for profit, which buys, sells, possesses on consignment for
8 sale, or trades jewelry, stamps, electronic equipment, or any
9 precious metals that have been previously owned by a consumer.
10 The term "resale dealer" includes without limitation
11 businesses commonly known as swapshop operators, cash for gold
12 operators, and jewelers that purchase and resell items from
13 persons other than dealers possessing a federal employee
14 identification number and suppliers and engage in
15 disassembling, melting, or otherwise altering jewelry. The
16 term "resale dealer" does not include pawnbrokers, coin
17 dealers, or retail merchants that do not purchase
18 previously-owned items directly from the public at the retail
19 location. The fact that any business does any of the following
20 acts shall be prima facie proof that such business is a resale
21 dealer: (i) advertises in any fashion, including through media
22 advertisements, websites, telephone listings, or signs on the
23 exterior or interior of buildings, that it buys or sells used
24 items and (ii) devotes a significant segment or section of the
25 business premises to the purchase or sale of used items.

1 Section 10. Exemptions. The following shall be exempt from
2 the requirements of this Act:

3 (1) Residential garage sales.

4 (2) Sales conducted by governmental, civic, patriotic,
5 fraternal, educational, religious, or benevolent
6 organizations that have been active and in continuous
7 existence for at least one year prior to the holding of the
8 sale or that are exempt from taxation under Section 501(c)
9 of the federal Internal Revenue Code.

10 (3) Sales or purchases that are regulated by the
11 licensing laws of this State, including automobile
12 dealers, used parts dealers, and automotive parts
13 recyclers.

14 (4) Consumer shows or exhibitions of collectibles
15 other than a show or convention that offers to buy second
16 hand jewelry from attendees.

17 (5) Auctioneers.

18 (6) Pawnbrokers.

19 (7) Sales of recyclable metal by a recyclable metal
20 dealer.

21 (8) Coin dealers.

22 Section 15. Recordkeeping requirements.

23 (a) Every resale dealer shall keep a standard record book
24 that has been approved by the appropriate law enforcement
25 official. At the time of each sale, an accurate account and

1 description, in the English language, of all the goods,
2 articles, and other things purchased, the amount of money,
3 value, or thing loaned thereon, the time of sale, and the name
4 and address of the person selling such items shall be printed,
5 typed, or written in ink in the record book. Such entry shall
6 include the serial number or identification number of the items
7 received. Except for items purchased from dealers possessing a
8 federal employee identification number who have provided a
9 receipt to the resale dealer, every resale dealer shall also
10 record in his or her book an accurate account and description,
11 in the English language, of all goods, articles and other
12 things purchased or received by the resale dealer from any
13 source, the time of such purchase or receipt, and the name and
14 address of the person or business that sold or delivered such
15 goods, articles, or other things to the resale dealer. No
16 completed entry in such book shall be erased, mutilated, or
17 changed.

18 (b) Every resale dealer shall require and keep a record of
19 identification to be shown by each person selling any goods,
20 articles, or other things to the resale dealer. If the
21 identification shown is a driver's license or a State
22 identification card issued by the Secretary of State and
23 contains a photograph of the person being identified, only one
24 form of identification must be shown. If the identification
25 shown is not a driver's license or a State identification card
26 issued by the Secretary of State and does not contain a

1 photograph, 2 forms of identification must be shown, and one of
2 the 2 forms of identification must include his or her address.
3 These forms of identification shall include, but not be limited
4 to, any of the following: a driver's license, utility bill,
5 employee or student identification card, credit card, or a
6 civic, union, or professional association membership card. In
7 addition, in a municipality with a population of 1,000,000 or
8 more inhabitants, if the seller does not have a form of
9 identification issued by a governmental entity containing a
10 photograph of the person being identified, the resale dealer
11 shall photograph the seller in color and record the seller's
12 name, address, date of birth, gender, height, and weight on the
13 reverse side of the photograph. All resale dealers regulated by
14 this Act shall maintain transaction records for 3 years.

15 (c) A resale dealer may maintain the records required by
16 subsection (a) in computer form if the computer form has been
17 approved by the appropriate law enforcement official.

18 (d) Every resale dealer shall maintain an inventory system
19 of all property purchased or received in such a manner that
20 members of the appropriate law enforcement agency making an
21 inspection of such property can readily locate such property on
22 the licensed premises.

23 Section 20. Daily report. It shall be the duty of every
24 resale dealer to make out and deliver to the appropriate law
25 enforcement official where such resale dealer does business, on

1 each day before the hours of 12 o'clock noon, a legible and
2 exact copy from the standard record book, as required in
3 Section 15. Such report may be made by means authorized by the
4 appropriate law enforcement official.

5 Section 25. Prohibited purchases. No resale dealer under
6 this Act shall purchase or accept any goods or articles if:

7 (1) the seller is less than 18 years of age;

8 (2) the seller fails to present the appropriate form of
9 identification as required by subsection (b) of Section 15;

10 or

11 (3) the article to be purchased had an original
12 manufacturer's serial number at the time it was new, but no
13 longer legibly exhibits such number.

14 Section 30. Removal of identifying marks prohibited. No
15 resale dealer shall remove, alter, or obliterate any
16 manufacturer's make, model or serial number, personal
17 identification number, or identifying marks engraved or etched
18 upon an item of personal property that was purchased or
19 received by the resale dealer.

20 Section 35. Inspection of records and premises of resale
21 dealers. The required records of each resale dealer are
22 subject to inspection during regular business hours by the
23 appropriate law enforcement official for compliance purposes

1 only on an annual basis or more frequently if needed to
2 investigate a matter or to respond to any complaint expressed
3 by the public or by a law enforcement official.

4 Section 40. Holding period.

5 (a) No resale dealer shall expose for sale, sell, trade,
6 barter, melt, crush or compact, destroy, or otherwise dispose
7 of any individually identifiable article within 10 days after
8 the date of purchasing or receiving the article. No resale
9 dealer shall expose for sale, sell, trade, barter, melt, crush
10 or compact, destroy, or otherwise dispose of any
11 non-identifiable article within 3 days after the date of
12 purchasing or receiving the article.

13 (b) All items subject to this Section shall be stored at
14 the location in which they were purchased during the holding
15 period.

16 Section 45. Hold order.

17 (a) For the purposes of this Section, "hold order" means a
18 written legal instrument issued to a resale dealer by a law
19 enforcement officer commissioned by the appropriate law
20 enforcement official of the municipality or county that
21 licenses and regulates the resale dealer ordering the resale
22 dealer to retain physical possession of pledged goods in the
23 possession of the resale dealer or property purchased by and in
24 the possession of the resale dealer and not to return, sell, or

1 otherwise dispose of such property on the basis that the
2 property is believed to be misappropriated goods.

3 (b) Upon receipt of written notice from the appropriate law
4 enforcement official indicating that property in the
5 possession of the resale dealer and subject to a hold order is
6 needed for the purpose of furthering a criminal investigation
7 and prosecution, the resale dealer shall release the property
8 to the custody of the law enforcement official for such purpose
9 and the officer shall provide a written acknowledgment that the
10 property has been released to the official. The release of the
11 property to the custody of the appropriate law enforcement
12 official shall not be considered a waiver or release of the
13 resale dealer's property rights or interest in the property.
14 Upon completion of the criminal investigation, the property
15 shall be returned to the resale dealer; except that, if the
16 appropriate law enforcement official has not completed the
17 criminal investigation within 120 days after the property's
18 release, the official shall immediately return the property to
19 the resale dealer or obtain and furnish to the resale dealer a
20 warrant for the continued custody of the property.

21 The resale dealer shall not release or dispose of the
22 property except pursuant to a court order or the expiration of
23 the holding period of the hold order, including all extensions.

24 In cases where criminal charges have been filed and the
25 property may be needed as evidence, the prosecuting attorney
26 shall notify the resale dealer in writing. The notice shall

1 contain the case number, the style of the case, and a
2 description of the property. The resale dealer shall hold such
3 property until receiving notice of the disposition of the case
4 from the prosecuting attorney. The prosecuting attorney shall
5 notify the resale dealer and claimant in writing within 15 days
6 after the disposition of the case. When such other disposition
7 is ordered, the court shall additionally order the person from
8 whom the resale dealer acquired the property to pay restitution
9 to the resale dealer in the amount that the resale dealer paid
10 for the property together with reasonable attorney's fees and
11 costs.

12 When any person is found to be the owner of stolen property
13 that has been sold to resale dealer, the property shall be
14 returned to the owner without the payment of the money paid by
15 the resale dealer or any costs or charges of any kind that the
16 resale dealer may have placed on the property.

17 Section 50. Violations.

18 (a) Any person who knowingly fails to obey, observe, or
19 comply with the provisions of Sections 15, 20, 25, or 35 of
20 this Act shall be: (i) guilty of a petty offense for which a
21 \$750 fine shall be imposed for a first or second offense; (ii)
22 guilty of a Class B misdemeanor for a third offense; and (iii)
23 guilty of a Class A misdemeanor for a fourth or subsequent
24 offense.

25 (b) Any person who knowingly fails to obey, observe, or

1 comply with the provisions of Sections 30, 40, or 45 of this
2 Act shall be: (i) guilty of a petty offense for which a \$750
3 fine shall be imposed for a first or second offense; (ii)
4 guilty of a Class A misdemeanor for a third offense; and (iii)
5 guilty of a Class 4 felony for a fourth or subsequent offense.

6 Section 55. Local regulation. Nothing in this Act shall be
7 construed to impair the power of a county or municipality,
8 including home rule units, to enforce the provisions of this
9 Act or to license, regulate, suppress, or prohibit resale
10 dealers, provided that any such actions are no less restrictive
11 than required by this Act. This Section is a limitation under
12 subsection (i) of Section 6 of Article VII of the Illinois
13 Constitution on the concurrent exercise by home rule units of
14 the powers and functions exercised by the State. Such local
15 licensing regulation may include the requirement to install,
16 operate, and maintain a video camera surveillance system
17 capable of recording clear and unobstructed photographic
18 representations of the resale dealer's customers. Such
19 videotape recording may be subject to inspection by the
20 appropriate law enforcement official.

21 (205 ILCS 510/15 rep.)

22 Section 70. The Pawnbroker Regulation Act is amended by
23 repealing Section 15."