

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

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

"Precious metals" means any item containing gold, silver, platinum, palladium, or rhodium or any combination of gold, silver, platinum, palladium, or rhodium. "Precious metals" do not include items containing any chemical or any automotive, photographic, electrical, medical or dental materials, or electronic parts, except for those containing precious metals.

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

"Resale dealer" means any individual, firm, corporation, or partnership engaged in the business of operating a business for profit, which buys, sells, possesses on consignment for

sale, or trades jewelry, stamps, electronic equipment, or any precious metals that have been previously owned by a consumer. The term "resale dealer" includes without limitation businesses commonly known as swapshop operators, cash for gold operators, and jewelers that purchase and resell items from persons other than dealers possessing a federal employee identification number and suppliers and engage in disassembling for purposes other than appraisals, melting, or otherwise altering jewelry. The term "resale dealer" does not include pawnbrokers, coin dealers, providers of commercial mobile services as defined in 47 U.S.C. 332(d) or their authorized dealers, or retail merchants that do not purchase previously owned items directly from the public at the retail location. The fact that any business does any of the following acts shall be prima facie proof that such business is a resale dealer: (i) advertises in any fashion, including through media advertisements, websites, telephone listings, or signs on the exterior or interior of buildings, that it buys or sells used items and (ii) devotes a significant segment or section of the business premises to the purchase or sale of used items.

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

- (1) Residential garage sales.
- (2) Sales conducted by governmental, civic, patriotic, fraternal, educational, religious, or benevolent

organizations that have been active and in continuous existence for at least one year prior to the holding of the sale or that are exempt from taxation under Section 501(c) of the federal Internal Revenue Code.

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

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

(5) Auctioneers.

(6) Pawnbrokers.

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

(8) Coin dealers.

(9) Providers of commercial mobile services as defined in 47 U.S.C. 332(d) or their authorized dealers.

Section 15. Recordkeeping requirements.

(a) Every resale dealer shall keep a standard record book that has been approved by the appropriate law enforcement official. At the time of each sale, an accurate account and description, in the English language, of all the goods, articles, and other things purchased, the amount of money, value, or thing loaned thereon, the time of sale, and the name

and address of the person selling such items shall be printed, typed, or written in ink in the record book. Such entry shall include the serial number or identification number of the items received. Except for items purchased from dealers possessing a federal employee identification number who have provided a receipt to the resale dealer, every resale dealer shall also record in his or her book an accurate account and description, in the English language, of all goods, articles and other things purchased or received by the resale dealer from any source, the time of such purchase or receipt, and the name and address of the person or business that sold or delivered such goods, articles, or other things to the resale dealer. No completed entry in such book shall be erased, mutilated, or changed.

(b) Every resale dealer shall require and keep a record of identification to be shown by each person selling any goods, articles, or other things to the resale dealer. If the identification shown is a driver's license or a State identification card issued by the Secretary of State and contains a photograph of the person being identified, only one form of identification must be shown. If the identification shown is not a driver's license or a State identification card issued by the Secretary of State and does not contain a photograph, 2 forms of identification must be shown, and one of the 2 forms of identification must include his or her address. These forms of identification shall include, but not be limited

to, any of the following: a driver's license, utility bill, employee or student identification card, credit card, or a civic, union, or professional association membership card. In addition, in a municipality with a population of 1,000,000 or more inhabitants, if the seller does not have a form of identification issued by a governmental entity containing a photograph of the person being identified, the resale dealer shall photograph the seller in color and record the seller's name, address, date of birth, gender, height, and weight on the reverse side of the photograph. All resale dealers regulated by this Act shall maintain transaction records for 3 years.

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

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

Section 20. Daily report. It shall be the duty of every resale dealer to make out and deliver to the appropriate law enforcement official where such resale dealer does business, on each day before the hours of 12 o'clock noon, a legible and exact copy from the standard record book, as required in Section 15. Such report may be made by means authorized by the

appropriate law enforcement official.

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

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

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

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

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

Section 35. Inspection of records and premises of resale dealers. The required records of each resale dealer are subject to inspection during regular business hours by the appropriate law enforcement official for compliance purposes only on an annual basis or more frequently if needed to investigate a matter or to respond to any complaint expressed by the public or by a law enforcement official.

Section 40. Holding period.

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

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

Section 45. Hold order.

(a) For the purposes of this Section, "hold order" means a written legal instrument issued to a resale dealer by a law enforcement officer commissioned by the appropriate law enforcement official of the municipality or county that licenses and regulates the resale dealer ordering the resale dealer to retain physical possession of pledged goods in the possession of the resale dealer or property purchased by and in the possession of the resale dealer and not to return, sell, or otherwise dispose of such property on the basis that the property is believed to be misappropriated goods.

(b) Upon receipt of written notice from the appropriate law

enforcement official indicating that property in the possession of the resale dealer and subject to a hold order is needed for the purpose of furthering a criminal investigation and prosecution, the resale dealer shall release the property to the custody of the law enforcement official for such purpose and the officer shall provide a written acknowledgment that the property has been released to the official. The release of the property to the custody of the appropriate law enforcement official shall not be considered a waiver or release of the resale dealer's property rights or interest in the property. Upon completion of the criminal investigation, the property shall be returned to the resale dealer; except that, if the appropriate law enforcement official has not completed the criminal investigation within 120 days after the property's release, the official shall immediately return the property to the resale dealer or obtain and furnish to the resale dealer a warrant for the continued custody of the property.

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

In cases where criminal charges have been filed and the property may be needed as evidence, the prosecuting attorney shall notify the resale dealer in writing. The notice shall contain the case number, the style of the case, and a description of the property. The resale dealer shall hold such property until receiving notice of the disposition of the case

from the prosecuting attorney. The prosecuting attorney shall notify the resale dealer and claimant in writing within 15 days after the disposition of the case. When such other disposition is ordered, the court shall additionally order the person from whom the resale dealer acquired the property to pay restitution to the resale dealer in the amount that the resale dealer paid for the property together with reasonable attorney's fees and costs.

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

Section 50. Violations.

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

(b) Any person who knowingly fails to obey, observe, or comply with the provisions of Sections 30, 40, or 45 of this Act shall be: (i) guilty of a petty offense for which a \$750 fine shall be imposed for a first or second offense; (ii)

guilty of a Class A misdemeanor for a third offense; and (iii) guilty of a Class 4 felony for a fourth or subsequent offense.

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

(205 ILCS 510/15 rep.)

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