



Rep. Anna Moeller

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LRB098 15523 ZMM 58492 a

1 AMENDMENT TO HOUSE BILL 3964

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3964 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, both the police  
10 chief of the municipality and the sheriff, provided, however,  
11 that the sheriff or police chief may designate an appropriate  
12 official of the 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.

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

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

22 (1) Residential garage sales.

23 (2) Sales conducted by governmental, civic, patriotic,  
24 fraternal, educational, religious, or benevolent  
25 organizations that have been active and in continuous

1 existence for at least one year prior to the holding of the  
2 sale or that are exempt from taxation under Section 501(c)  
3 of the federal Internal Revenue Code.

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

8 (4) Consumer shows or exhibitions of collectibles.

9 (5) Auctioneers.

10 (6) Pawnbrokers.

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

13 (8) Coin dealers.

14 Section 15. Recordkeeping requirements.

15 (a) Except in municipalities located in counties having  
16 3,000,000 or more inhabitants, every resale dealer shall keep a  
17 standard record book that has been approved by the sheriff of  
18 the county where the resale dealer does business. In  
19 municipalities located in counties with 3,000,000 or more  
20 inhabitants, the record book shall be approved by the police  
21 department of the municipality where the resale dealer does  
22 business. At the time of each sale, an accurate account and  
23 description, in the English language, of all the goods,  
24 articles, and other things purchased, the amount of money,  
25 value, or thing loaned thereon, the time of sale, and the name

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

14 (b) Every resale dealer shall require and keep a record of  
15 identification to be shown by each person selling any goods,  
16 articles, or other things to the resale dealer. If the  
17 identification shown is a driver's license or a State  
18 identification card issued by the Secretary of State and  
19 contains a photograph of the person being identified, only one  
20 form of identification must be shown. If the identification  
21 shown is not a driver's license or a State identification card  
22 issued by the Secretary of State and does not contain a  
23 photograph, 2 forms of identification must be shown, and one of  
24 the 2 forms of identification must include his or her address.  
25 These forms of identification shall include, but not be limited  
26 to, any of the following: a driver's license, social security

1 card, utility bill, employee or student identification card,  
2 credit card, or a civic, union, or professional association  
3 membership card. In addition, in a municipality with a  
4 population of 1,000,000 or more inhabitants, if the seller does  
5 not have a form of identification issued by a governmental  
6 entity containing a photograph of the person being identified,  
7 the resale dealer shall photograph the seller in color and  
8 record the seller's name, address, date of birth, gender,  
9 height, and weight on the reverse side of the photograph.

10 (c) A county or municipality, including home rule units,  
11 may regulate a resale dealer's identification requirements for  
12 persons selling goods, articles, or other things to the resale  
13 dealer in a manner that is not less restrictive than the  
14 regulation by the State of a resale dealer's identification  
15 requirements for persons selling goods, articles, or other  
16 things. A home rule unit may not regulate a resale dealer's  
17 identification requirements for persons selling goods,  
18 articles, or other things to the resale dealer in a manner less  
19 restrictive than the regulation by the State of a resale  
20 dealer's identification requirements for persons selling  
21 goods, articles, or other things. This Section is a limitation  
22 under subsection (i) of Section 6 of Article VII of the  
23 Illinois Constitution on the concurrent exercise by home rule  
24 units of the powers and functions exercised by the State.

25 (d) A resale dealer may maintain the records required by  
26 subsection (a) in computer form if the computer form has been

1 approved by the sheriff of the county where the shop is located  
2 and the police department of the municipality where the shop is  
3 located.

4 Section 20. Daily report.

5 (a) Except as provided in subsection (b), it shall be the  
6 duty of every resale dealer to make out and deliver to the  
7 sheriff of the county where such resale dealer does business,  
8 on each day before the hours of 12 o'clock noon, a legible and  
9 exact copy from the standard record book, as required in  
10 Section 10, that lists all personal property and any other  
11 valuable item purchased during the preceding day, including the  
12 exact time when the personal property or valuable item was  
13 received or purchased and a description of the person or  
14 persons that sold or left in pledge the personal property or  
15 valuable item. In municipalities having 25,000 or more  
16 inhabitants, a copy of the report shall also be delivered to  
17 the superintendent of police or the chief police officer of  
18 such city or town. The report may be made by computer printout  
19 or input memory device if the format has been approved in the  
20 manner provided in subsection (d) of Section 10.

21 (b) In counties with more than 3,000,000 inhabitants, a  
22 resale dealer shall provide the daily report to the sheriff if  
23 the resale dealer is located in an unincorporated area of the  
24 county. Resale dealers located in municipalities in such  
25 counties shall deliver such reports to the chief police

1 official of such municipality.

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

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

5 (2) the seller is intoxicated;

6 (3) the seller fails to present the appropriate form of  
7 identification as required by subsection (b) of Section 10;

8 (4) the article to be purchased had an original  
9 manufacturer's serial number at the time it was new, but no  
10 longer legibly exhibits such number; or

11 (5) the seller is known to be a thief or has been  
12 convicted of theft, burglary, robbery, or possession of  
13 stolen property.

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.

22 (a) The entire registered premises and required records of  
23 each resale dealer are subject to inspection during regular

1 business hours by any law enforcement officer having  
2 jurisdiction.

3 (b) The inspection authorized by subsection (a) shall  
4 consist of an examination on the premises as required by this  
5 Act and an examination to determine whether the holding period  
6 required by this Act is being complied with.

7 Section 40. Video camera surveillance required. Each  
8 resale dealer shall be required to install, operate, and  
9 maintain a video camera surveillance system capable of  
10 recording clear and unobstructed photographic representations  
11 of the resale dealer's customers and shall retain the videotape  
12 recordings produced for at least 30 days after production. All  
13 videotape recordings shall be subject to inspection and copying  
14 by members of the appropriate law enforcement agency during the  
15 resale dealer's business hours.

16 Section 45. Holding period.

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



1           (b) All resale dealers shall maintain transaction records  
2 for 3 years after the date of transaction.

3           Section 50. Inventory system. Every resale dealer shall  
4 maintain an inventory system of all property purchased or  
5 received in such a manner that members of the appropriate law  
6 enforcement agency making an inspection of the property can  
7 readily locate such property on the licensed premises.

8           Section 55. Hold order.

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

19           (b) Upon receipt of written notice from a law enforcement  
20 officer indicating that property in the possession of the  
21 resale dealer and subject to a hold order is needed for the  
22 purpose of furthering a criminal investigation and  
23 prosecution, the resale dealer shall release the property to  
24 the custody of the law enforcement officer for such purpose and

1 the officer shall provide a written acknowledgment that the  
2 property has been released to the officer. The release of the  
3 property to the custody of the law enforcement officer shall  
4 not be considered a waiver or release of the resale dealer's  
5 property rights or interest in the property. Upon completion of  
6 the criminal investigation, the property shall be returned to  
7 the resale dealer; except that, if the law enforcement officer  
8 has not completed the criminal investigation within 120 days  
9 after the property's release, the officer shall immediately  
10 return the property to the resale dealer or obtain and furnish  
11 to the resale dealer a warrant for the continued custody of the  
12 property.

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

16 In cases where criminal charges have been filed and the  
17 property may be needed as evidence, the prosecuting attorney  
18 shall notify the resale dealer in writing. The notice shall  
19 contain the case number, the style of the case, and a  
20 description of the property. The resale dealer shall hold such  
21 property until receiving notice of the disposition of the case  
22 from the prosecuting attorney. The prosecuting attorney shall  
23 notify the resale dealer and claimant in writing within 15 days  
24 after the disposition of the case. When such other disposition  
25 is ordered, the court shall additionally order the person from  
26 whom the resale dealer acquired the property to pay restitution

1 to the resale dealer in the amount that the resale dealer paid  
2 for the property together with reasonable attorney's fees and  
3 costs.

4 Section 60. Violations. A first or second violation of this  
5 Act is a petty offense for which a \$750 fine shall be imposed.  
6 A third violation of this Act is a Class C misdemeanor. A  
7 fourth or subsequent violation of this Act is a Class A  
8 misdemeanor.

9 Section 65. Local regulation. Except as provided in  
10 subsection (c) of Section 15, nothing in this Act shall be  
11 construed to impair the power of a county or municipality,  
12 including home rule units, to enforce the provisions of this  
13 Act or to license, regulate, suppress, or prohibit resellers,  
14 provided that any such actions are no less restrictive than  
15 required by this Act. This Section is a limitation under  
16 subsection (i) of Section 6 of Article VII of the Illinois  
17 Constitution on the concurrent exercise by home rule units of  
18 the powers and functions exercised by the State.".