

1 AN ACT concerning regulation.

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

4 Section 1. Short title. This Act may be cited as the Resale
5 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 platinum, palladium, or rhodium or any combination of gold,
15 silver, platinum, palladium, or rhodium. "Precious metals" do
16 not include items containing any chemical or any automotive,
17 photographic, electrical, medical or dental materials, or
18 electronic parts, except for those containing precious metals.

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

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

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

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

23 (1) Residential garage sales.

24 (2) Sales conducted by governmental, civic, patriotic,
25 fraternal, educational, religious, or benevolent

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

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

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

12 (5) Auctioneers.

13 (6) Pawnbrokers.

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

16 (8) Coin dealers.

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

19 Section 15. Recordkeeping requirements.

20 (a) Every resale dealer shall keep a standard record book
21 that has been approved by the appropriate law enforcement
22 official. 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
13 completed entry in such book shall be erased, mutilated, or
14 changed.

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

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

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

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

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

1 appropriate law enforcement official.

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

8 (3) 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.

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

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

1 Section 40. Holding period.

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

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

13 Section 45. Hold order.

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

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

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

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

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

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

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

14 Section 50. Violations.

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

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

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

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

18 (205 ILCS 510/15 rep.)

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