

1 H.287

2 Introduced by Representatives Lanpher of Vergennes, Russell of Rutland City,  
3 Yantachka of Charlotte, Grad of Moretown, Nuovo of  
4 Middlebury, Ralston of Middlebury, and Waite-Simpson of  
5 Essex

6 Referred to Committee on

7 Date:

8 Subject: Commerce and trade; precious metal dealers, pawnbrokers

9 Statement of purpose of bill as introduced: This bill proposes to require  
10 pawnbrokers and precious metal dealers to acquire a license, retain certain  
11 information, and hold property for a certain period prior to resale if the seller  
12 cannot prove ownership.

13 An act relating to modifying record retention and related requirements for  
14 pawnbrokers and precious metal dealers

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 9 V.S.A. chapter 97 is amended to read:

17 CHAPTER 97. PAWNBROKERS AND PRECIOUS METAL DEALERS

18 § 3861. ~~PAWNBROKER DEFINED~~ DEFINITIONS

19 ~~The word "pawnbroker" as used in this chapter includes any person,~~  
20 ~~partnership or corporation, loaning money on deposit or pledge of personal~~

1 ~~property, other than securities or written evidences of indebtedness; or doing~~  
2 ~~business as furniture storage warehousemen, and loaning and advancing~~  
3 ~~money upon goods, wares or merchandise pledged or deposited as collateral~~  
4 ~~security.~~

5 As used in this chapter:

6 (1) “Disqualifying offense” means:

7 (A) a felony;

8 (B) petit larceny in violation of 13 V.S.A. § 2502;

9 (C) receipt of stolen property in violation of 13 V.S.A. § 2561;

10 (D) false pretenses or tokens in violation of 13 V.S.A. § 2002; or

11 (E) false tokens in violation of 13 V.S.A. § 2003.

12 (2) “Pawnbroker” means a person who:

13 (A) lends money in exchange on a deposit or pledge of personal  
14 property, other than securities or written evidence of indebtedness; or

15 (B) is engaged in the business of furniture storage warehousing, and  
16 lends or advances money on goods, wares, or merchandise that is pledged or  
17 deposited as collateral security.

18 (3) “Precious metal” means gold, silver, platinum, or palladium.

19 (4) “Precious metal dealer” means a person who purchases or sells used  
20 precious metal, coins, jewelry, or similar items.

1           (5) "Principal" means a natural person who is a director, officer,  
2           member, manager, partner, or creditor.

3           § 3862. LICENSE REQUIRED

4           ~~(a) A person shall not carry on the business of pawnbroker unless he has~~  
5           ~~obtained a license so to do as hereinafter provided~~ An operating license shall  
6           be required for each person in this state who:

7                   (1) is engaged in the business of a pawnbroker; or

8                   (2) is engaged in the business of a precious metal dealer and who  
9           purchases or sells \$50,000.00 or more of used precious metal, coins, jewelry,  
10           or similar items.

11           ~~(b) The selectmen of a town or the aldermen of a city may grant to such~~  
12           ~~citizens as they deem proper, and who produce satisfactory evidence of their~~  
13           ~~good character, Notwithstanding any provision of 26 V.S.A. chapter 57 to the~~  
14           ~~contrary, the Office of Professional Regulation within the Office of the~~  
15           ~~Secretary of State shall have the authority to create an application process for,~~  
16           ~~and to grant, a license authorizing such citizens~~ a person ~~to carry on the~~  
17           ~~business of a pawnbroker or precious metal dealer, and to adopt rules~~  
18           ~~necessary to implement the provisions of this chapter. Such license shall~~  
19           ~~designate the place in which such a person shall carry on such business, and~~  
20           ~~such a person shall not carry on such business in any other place than the one~~  
21           ~~designated in such license.~~

1           (c) ~~A person who violates a provision of this section shall be fined \$10.00~~  
2 ~~for each day of such violation.~~ An application for a license to carry on the  
3 business of a pawnbroker or precious metal dealer shall include for each  
4 applicant and its principals:

5                 (1) the name and type of business conducted by the applicant;

6                 (2) the full name, age, and date and place of birth;

7                 (3) the residential addresses and places of employment;

8                 (4) any crime of which an individual has been convicted and the date  
9 and place of conviction; and

10                (5) any crime of which any employee of the applicant, at the time of the  
11 application, has been convicted and the date and place of conviction.

12           (d)(1) The Office of Professional Regulation shall not issue or renew a  
13 license if the applicant or one of its principals has been convicted, on or after  
14 July 1, 2013, of a disqualifying offense.

15                (2) The Office may require an applicant, its principals, and its  
16 employees to submit to state and national criminal history record checks and  
17 may charge the applicant a fee equal to the fees incurred by the Office to  
18 perform the criminal history record checks.

19           (e) A licensed pawnbroker or precious metal dealer shall not employ a  
20 person who has been convicted of a disqualifying offense.

1 § 3863. FEES; RENEWAL; BOND; REVOCATION OF LICENSE

2 ~~A person receiving such license shall pay therefor the sum of \$15.00~~  
3 ~~annually for the use of the town.~~ (a) A person issued a license pursuant to  
4 section 3862 of this section shall pay a license fee of \$50.00. ~~Such~~ A license  
5 shall expire one year from the date thereof it is issued, and may be renewed on  
6 approval of the Office of Professional Regulation within the Office of the  
7 Secretary of State and payment of ~~the same sum~~ \$50.00.

8 (b) ~~At the time of receiving such~~ he or she receives a license, a licensee  
9 ~~shall file a bond to the selectmen or aldermen of such town or city,~~ with the  
10 Office to be executed by the ~~person so licensed,~~ licensee and by two  
11 responsible sureties or a bonding company in the penal sum of ~~\$500.00,~~ which  
12 \$5,000.00. The bond shall be conditioned for the faithful performance of the  
13 duties and obligations pertaining to the business so licensed, and the selectmen  
14 or aldermen required by the license.

15 (c) The Office may revoke ~~such~~ the license for cause at any time during the  
16 period of the license after notice and a hearing pursuant to 3 V.S.A. chapter 25.

17 (d) The Office shall revoke the license of an applicant upon the conviction,  
18 on or after July 1, 2013, for a disqualifying offense by:

19 (1) a licensee or one of its principals; or

20 (2) an employee of the licensee acting within his or her scope of  
21 employment when he or she committed the offense.

1 § 3864. ACTION ON BOND

2 If a person is aggrieved by the misconduct of ~~such a~~ licensed pawnbroker or  
3 precious metal dealer, and recovers judgment against him or her therefor, after  
4 the return, unsatisfied, either in whole or in part, of an execution issued upon  
5 ~~such the~~ judgment, ~~such the~~ aggrieved person may maintain an action in his or  
6 her own name upon the bond of ~~such the~~ pawnbroker or precious metal dealer,  
7 provided the court, upon application made for that purpose, shall grant ~~such the~~  
8 leave to prosecute.

9 § 3865. RECORDS OF A PAWNBROKER OR ~~SECONDHAND~~

10 PRECIOUS METAL DEALER

11 (a) In each year a pawnbroker or ~~secondhand~~ precious metal dealer resells  
12 over \$500.00 but not more than \$49,999.00 of items pawned, pledged, or sold  
13 to the pawnbroker or secondhand dealer, he or she shall maintain the following  
14 records for each ~~transaction in that year~~ item or lot of items:

15 (1) a legible statement written at the time of the transaction stating the  
16 amount of money lent or paid for the ~~items pawned, pledged, or sold~~ item or  
17 lot of items, the time of the transaction, and the rate of interest to be paid on  
18 the loan, as applicable;

19 (2) a legible statement of the name, current address, telephone number,  
20 and vehicle license number of the person pawning, pledging, or selling the  
21 ~~items~~ item or lot of items;

1           (3) a distinct entry number and a legible written description and  
2 photograph, or alternatively a video, of the ~~items pawned, pledged, or sold~~  
3 item or lot of items;

4           (4) a photocopy of a government-issued identification card issued to the  
5 person pawning, pledging, or selling the ~~items~~ item or lot of items, if available.

6           (b) ~~At all reasonable times, the records required under subsection (a) of this~~  
7 ~~section shall be open to the inspection of law enforcement.~~

8           (c) ~~In this section:~~

9           (1) ~~“Precious metal” means gold, silver, platinum, or palladium.~~

10           (2) ~~“Secondhand dealer” means a person engaged in the business of~~  
11 ~~purchasing used or estate precious metal, coins, antiques, furniture, jewelry, or~~  
12 ~~similar items for the purpose of resale.~~

13           In each year a pawnbroker or precious metal dealer resells over \$50,000.00  
14 of items pawned, pledged, or sold to the pawnbroker or precious metal dealer,  
15 he or she shall maintain a computerized record-keeping system that includes  
16 for each item or lot of items a distinct entry number and the following  
17 information:

18           (1) The amount of money lent or paid for the item or lot of items, the  
19 date and time of the transaction, and the rate of interest to be paid on the loan,  
20 as applicable.

1           (2) The name, current address, telephone number, and vehicle license  
2           number of the person pawning, pledging, or selling the item or lot of items.

3           (3) A description written at the time of the transaction and a digital  
4           photograph or video of the item or lot of items. Prior to taking the digital  
5           photograph or video, the pawnbroker or precious metal dealer shall attach a tag  
6           to the item or lot of items in a visible location. The tag shall bear the entry  
7           number of the item or lot of items.

8           (A) The description of an item or lot of items required in this  
9           subdivision shall include all distinguishing marks and names of any kind,  
10           including brand and model names, model and serial numbers, engravings,  
11           etching, affiliation with any institution or organization, dates, initials, color,  
12           vintage, or image represented.

13           (B) A description of audio, video, or electronic media shall also  
14           include the title and artist or any other identifying information contained on the  
15           cover or external surface of the media.

16           (4) A photocopy or digital image of a government-issued identification  
17           card issued to the person pawning, pledging, or selling the item that contains a  
18           picture of that person, if available. If the person does not have a  
19           government-issued identification card, the pawnbroker or precious metal dealer  
20           shall take and retain a digital photograph of the person's face.



1           (5) Documentation of lawful ownership of the items, such as a bill of  
2           sale, receipt, letter of authorization, or similar evidence.

3           (c)(1) A pawnbroker or precious metal dealer shall retain the records  
4           required in this section for at least six years at his or her normal place of  
5           business or other readily accessible and secure location.

6           (2) At all reasonable times, the records required under this section shall  
7           be open to the inspection of law enforcement.

8           § 3866. ISSUANCE OF PAWN TICKET; LOST TICKETS

9           (a) At the time of making he or she makes a loan, a pawnbroker shall  
10           deliver to the person pawning or pledging any goods, articles or things, an item  
11           a memorandum or note signed by him or her, containing the substance of the  
12           entry information required to be made in his book by section 3865 of this title,  
13           and a charge shall not be made or received by the pawnbroker for such the  
14           entry, memorandum, or note. The holder of such the memorandum or note  
15           shall be presumed to be the person entitled to redeem the pledge, and the  
16           pawnbroker shall deliver such article the item to the person so presenting such  
17           the memorandum or note on payment of principal and interest.

18           (b) Should such ticket be lost or mislaid If a memorandum or note issued  
19           pursuant to subsection (a) of this section is lost, the pawnor shall at once apply  
20           to the pawnbroker by identifying himself or herself and describing the article  
21           item pawned, in which case it shall be the duty of the pawnbroker to permit

1 ~~such~~ the person to examine his ~~books~~ or her records, and, on finding the ~~entry~~  
2 ~~for such ticket~~, information on the note or memorandum so lost, the  
3 pawnbroker shall issue a second ~~or stop ticket for the same~~ memorandum  
4 or note.

5 (c) ~~In case such~~ If a pawnor neglects ~~to~~ apply and examine ~~such books~~  
6 the records and receive ~~such a~~ a memorandum or note ~~in the manner herein~~  
7 ~~provided~~ pursuant to subsection (b) of this section, the pawnbroker shall  
8 deliver the pledge to any person producing ~~such the~~ the original ticket for the  
9 redemption thereof.

10 (d) This section shall not be ~~so~~ construed ~~as~~ to limit or affect ~~such a~~ a  
11 pawnbroker's common law liability in cases where goods are stolen or other  
12 legal defects of title in the pledgor exist.

### 13 § 3867. RATE OF INTEREST ON LOANS

14 A pawnbroker shall not demand or receive a greater rate of interest than five  
15 percent per month or fraction of a month upon a loan not exceeding the sum of  
16 \$50.00, nor more than three percent per month upon a loan exceeding the sum  
17 of \$50.00; provided a charge of less than \$0.15 shall not be made on any loan  
18 or pledge.

### 19 § 3868. SALE OF PAWNED PROPERTY

20 A pawnbroker shall not sell pawned or pledged property until the ~~same~~  
21 property has remained six months in his or her possession without redemption,

1 and upon ~~such~~ sale, shall keep ~~a record of the date of such sale, the name and~~  
2 ~~address of the purchaser, and the price paid, and such record shall be subject to~~  
3 ~~inspection as other records of such pawnbroker~~ the records required pursuant  
4 to section 3865 of this title.

5 § 3869. APPLICATION OF PROCEEDS OF SALE

6 Surplus money, if any, arising from ~~such~~ the sale of pawned or pledged  
7 property, after deducting the amount of the loan and the interest then due on  
8 the ~~same~~ property, shall be paid over after three months by the pawnbroker to  
9 the person who would be entitled to redeem the pledge in case ~~such~~ the sale  
10 had not taken place.

11 § 3870. PAWNING PROPERTY OF PERSONS UNDER EIGHTEEN

12 A person carrying on the business of pawnbroker in this state shall not  
13 accept a pledge or article of personal property offered by a person under 18  
14 years of age, without written authority of the parents or guardians of ~~such~~ the  
15 minor.

16 § 3870a. METHOD OF PAYMENT

17 (a) A pawnbroker or precious metal dealer shall pay only by check, draft,  
18 or money order for an item or lot of items pawned, pledged, or purchased for  
19 the purpose of resale.

1       (b) A pawnbroker or precious metal dealer shall mark on each check, draft,  
2       or money order the entry number of the item or lot of items assigned in  
3       accordance with section 3865 of this chapter.

4       (c) A pawnbroker or precious metal dealer shall retain for at least three  
5       years a photo copy or electronic copy of each check, draft, or money order  
6       after it is processed and returned by a financial institution. The copy shall be  
7       open to inspection by law enforcement.

8       § 3870b. SUSPICIOUS ACTIVITY REPORTS

9       (a) Within 48 hours of the occurrence of one of the following events, a  
10       pawnbroker or precious metal dealer shall file with the local law enforcement  
11       agency having jurisdiction over the municipality in which he or she is located a  
12       suspicious activity report that contains the information recorded pursuant to  
13       section 3865 of this title:

14               (1) a single transaction in which the loan or purchase price, regardless of  
15               the number of items exchanged, totals \$1,000.00 or more.

16               (2) multiple transactions with one person within a 30-day time period in  
17               which the loan or purchase price for all transactions is \$1,000.00 or more.

18               (3) five or more transactions with one person within a five-day time  
19               period regardless of the total loan or purchase price.

1 § 3871. PENALTIES

2 ~~A licensee who violates a provision of sections 3863-3870 of this title, shall~~  
3 ~~be fined not more than \$100.00 nor less than \$10.00 for each offense.~~

4 (a) A pawnbroker or precious metal dealer who violates a provision of this  
5 chapter for the first time may be assessed a civil penalty of not more than  
6 \$1,000.00 nor less than \$100.00 for each transaction.

7 (b) A pawnbroker or precious metal dealer who violates a provision of this  
8 chapter for a second or subsequent time shall be fined not more than  
9 \$10,000.00 nor less than \$1,000.00 for each transaction.

10 § 3872. ~~SECONDHAND DEALERS;~~ RETENTION OF GOODS

11 A pawnbroker or ~~secondhand dealer, as defined in section 3865 of this title,~~  
12 precious metal dealer shall retain purchased property for no fewer than ~~40~~  
13 30 days before offering it for sale or for scrap.

14 Sec. 2. 4 V.S.A. § 1102 is amended to read:

15 § 1102. JUDICIAL BUREAU; JURISDICTION

16 (a) A ~~judicial bureau~~ Judicial Bureau is created within the ~~judicial branch~~  
17 Judicial Branch under the supervision of the ~~supreme court~~ Supreme Court.

18 (b) The ~~judicial bureau~~ Judicial Bureau shall have jurisdiction of the  
19 following matters:

20 \* \* \*

1           (17) Violations of 9 V.S.A. chapter 97, relating to the purchase and sale  
2           of precious metal, coins, jewelry, or similar items.

3   \* \* \*

4           Sec. 3. 13 V.S.A. § 4006 is amended to read:

5           § 4006. RECORD OF FIREARM SALES

6           All pawnbrokers and retail merchants dealing in firearms shall keep a  
7           record book in which they shall record the sale by them of all revolvers and  
8           pistols, and the purchase by them of all secondhand revolvers and pistols.  
9           ~~Such~~ The record shall include the date of the transaction, the marks of  
10           identification of the firearm, including the manufacturer's name, the caliber,  
11           model, and manufacturer's number of the firearm, the name, address,  
12           birthplace, occupation, age, height, weight, and color of eyes and hair of the  
13           purchaser or seller. ~~Such~~ The purchaser or seller shall sign his or her name to  
14           the record and the pawnbroker or merchant shall preserve ~~such the~~ the record book  
15           for six years after the date of last entry and shall permit all enforcement  
16           officers to inspect the ~~same records~~ records at all reasonable times. A person,  
17           ~~partnership or corporation~~ who violates a provision of this section shall be  
18           fined not more than ~~\$100.00~~ \$10,000.00 nor less than \$100.00 for each  
19           offense.

20           Sec. 4. EFFECTIVE DATE

21           This act shall take effect on July 1, 2013.